**DIVISION 208**

**VISIBLE EMISSIONS AND NUISANCE REQUIREMENTS**

**340-208-0010**

**Definitions**

The definitions in OAR 340-200-0020, 340-204-0010 and this rule apply to this division. If the same term is defined in this rule and OAR 340-200-0020 or 340-204-0010, the definition in this rule applies to this division.

(1) "Abate" means to eliminate the nuisance or suspected nuisance by reducing or managing the emissions using reasonably available practices. The degree of abatement will depend on an evaluation of all of the circumstances of each case and does not necessarily mean completely eliminating the emissions.

(2) "Nuisance" means a substantial and unreasonable interference with another's use and enjoyment of real property, or the substantial and unreasonable invasion of a right common to members of the general public.

 (4) "Special Control Area" means an area designated in OAR 340-204-0070.

**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 468 & 468A
Stats. Implemented: ORS 468.020 & 468A.025
Hist.: [DEQ 16, f. 6-12-70, ef. 7-11-70; DEQ 1-1984, f. & ef. 1-16-84; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 3-1996, f. & cert. ef. 1-29-96]; [DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 3-1996, f. & cert. ef. 1-29-96]; [DEQ 4-1978, f. & ef. 4-7-78; DEQ 9-1979, f. & ef. 5-3-79; DEQ 3-1980, f. & ef. 1-28-80; DEQ 14-1981, f. & ef. 5-6-81; DEQ 22-1989, f. & cert. ef. 9-26-89; DEQ 23-1991, f. & cert. ef. 11-13-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 10-1995, f. & cert. ef. 5-1-95; DEQ 4-1995, f. & cert. ef. 2-17-95; DEQ 10-1995, f. & cert. ef. 5-1-95; DEQ 3-1996, f. & cert. ef. 1-29-96]; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-021-0005, 340-021-0050, 340-030-0010; DEQ 2-2001, f. & cert. ef 2-5-01; DEQ 8-2007, f. & cert. ef. 11-8-07

**Visible Emissions**

**340-208-0100**

**Applicability**

OAR 340-208-0100 through 340-208-0110 apply in all areas of the state to air contaminant sources except for sources of fugitive emissions. OAR 340-208-0110 does not apply to any air contaminant source that is subject to a visible emissions standard specified in divisions 234, 236, and 240. If there is no standard for visible emissions in these source specific divisions, OAR 340-208-0100 through 340-208-0110 are applicable.

[**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468 & ORS 468A
Stats. Implemented:ORS 468A.025
Hist.: DEQ 10-1995, f. & cert. ef. 5-1-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-021-0012

**340-208-0110**

**Visible Air Contaminant Limitations**

 (1) No person may emit or allow to be emitted any air contaminant into the atmosphere from any air contaminant stack or emission point that equals or exceeds 20% opacity as a six-minute average except as allowed in section (2).

(2) For wood-fired boilers that were constructed or installed prior to June 1, 1970 and not modified since that time, visible emissions during grate cleaning or soot blowing operations must not equal or exceed 40% opacity as a six minute average.

 (a) Beginning September 30, 2014, this exception will only apply if the owner or operator conducts the grate cleaning or soot blowing in accordance with a grate cleaning or soot blowing plan that has been approved by DEQ.

(b) The owner or operator must prepare a grate cleaning or soot blowing plan in consultation with DEQ and submit the plan to DEQ by September 1, 2014.

(3) Compliance with section (1) and (2) is determined in accordance with EPA Method 9 (40 CFR Part 60, Appendix A) or a continuous opacity monitoring system (COMS) installed and operated in accordance with DEQ’s Continuous Monitoring Manual.

(4) DEQ may defer compliance with section (1) until January 31, 2016 for sources that were installed, constructed, or modified before June 1, 1970, that are located outside special control areas and were subject to the 40 percent opacity limit.

**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.

Stat. Auth.: ORS 468 & 468A
Stats. Implemented: ORS 468.020 & 468A.025
Hist.: DEQ 16, f. 6-12-70, ef. 7-11-70; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 3-1996, f. & cert. ef. 1-29-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-021-0015; DEQ 2-2001, f. & cert. ef 2-5-01; DEQ 8-2007, f. & cert. ef. 11-8-07

**Fugitive Emission Requirements**

**340-208-0200**

**Applicability**

OAR 340-208-0200 through 340-208-0210 apply in all areas of the state.

[**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468 & ORS 468A
Stats. Implemented: ORS 468A.025
Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-021-0055; DEQ 2-2001, f. & cert. ef 2-5-01

**340-208-0210**

**Requirements**

(1) When fugitive emissions escape from an air contaminant source, DEQ may order the owner or operator to abate the emissions. In addition to other means, DEQ may order that a building or equipment in which processing, handling and storage are done be tightly closed and ventilated in such a way that air contaminants are controlled or removed before being emitted to the open air.

(2) Fugitive emissions consisting of particulate matter are any visible emissions leaving the property of a source for more than six minutes in any hour.

(3) Visible emissions are determined by EPA Method 22.

(4) No person may cause or permit any materials to be handled, transported, or stored; or a building, its appurtenances, or a road to be used, constructed, altered, repaired or demolished; or any equipment to be operated, without taking reasonable precautions to prevent particulate matter from becoming airborne. Such reasonable precautions may include, but not be limited to the following:

(a) Use, where possible, of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads or the clearing of land;

(b) Application of water, or other suitable chemicals on unpaved roads, materials stockpiles, and other surfaces which can create airborne dusts;

(c) Full or partial enclosure of materials stockpiles in cases where application of oil, water, or chemicals are not sufficient to prevent particulate matter from becoming airborne;

(d) Installation and use of hoods, fans, and fabric filters to enclose and vent the handling of dusty materials;

(e) Adequate containment during sandblasting or other similar operations;

(f) Covering, at all times when in motion, open bodied trucks transporting materials likely to become airborne;

(g) The prompt removal from paved streets of earth or other material that does or may become airborne.

(5) If requested by DEQ, the owner or operator must develop a fugitive emission control plan, including but not limited to the work practices in section (4) above, that will prevent any visible emissions from leaving the property of a source for more than six minutes in any hour. Visible emissions are determined by EPA Method 22 at the downwind property boundary.

[**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-200-0040.]

Stat. Auth.: ORS 468 & ORS 468A
Stats. Implemented: ORS 468A.025
Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-021-0060; DEQ 2-2001, f. & cert. ef 2-5-01

**Nuisance Control Requirements**

**340-208-0300**

**Nuisance Prohibited**

(1) No person may cause or allow air contaminants from any source subject to regulation by DEQ to cause a nuisance.

(2) Upon determining a nuisance may exist, DEQ will provide written notice to the person creating the suspected nuisance. DEQ will endeavor to resolve observed nuisances in keeping with the policy outlined in OAR 340-12-0026. If DEQ subsequently determines a nuisance exists under 340-208-0310 and proceeds with a formal enforcement action, pursuant to chapter 340 division 12, the first day for determining penalties will be no earlier than the date of this notice.

Stat. Auth.: ORS 468, ORS 468A.010 & ORS 468A.025
Stats. Implemented: ORS 468A.010 & ORS 468A.025
Hist.: DEQ 2-2001, f. & cert. ef. 2-5-01

**340-208-0310**

**Determining Whether A Nuisance Exists**

(1) In determining a nuisance, DEQ may consider factors including, but not limited to, the following:

(a) Frequency of the emission;

(b) Duration of the emission;

(c) Strength or intensity of the emissions, odors or other offending properties;

(d) Number of people impacted;

(e) The suitability of each party's use to the character of the locality in which it is conducted;

(f) Extent and character of the harm to complainants;

(g) The source's ability to prevent or avoid harm.

(2) Compliance with a Best Work Practices Agreement that identifies and abates a suspected nuisance constitutes compliance with OAR 340-208-0300 for the identified nuisance. For sources subject to 340-216-0020 or 340-218-0020, compliance with specific permit conditions that results in the abatement of a nuisance associated with an operation, process or other pollutant emitting activity constitutes compliance with 340-208-0300 for the identified nuisance. For purposes of this section, "permit condition" does not include the general condition prohibiting the creation of nuisances.

Stat. Auth.: ORS 468, ORS 468A.010 & ORS 468A.025
Stats. Implemented: ORS 468A.010 & ORS 468A.025
Hist.: DEQ 2-2001, f. & cert. ef. 2-5-01

**340-208-0320**

**Best Work Practices Agreement**

(1) A person may voluntarily enter into an agreement with DEQ to implement specific practices to abate the suspected nuisance. This agreement may be modified by mutual consent of both parties. This agreement will be an Order for the purposes of enforcement under OAR 340 division 12.

(2) For any source subject to OAR 340-216-0020 or 340-218-0020, the conditions outlined in the Best Work Practices Agreement will be incorporated into the permit at the next permit renewal or modification.

(3) This agreement will remain in effect unless or until DEQ provides written notification to the person subject to the agreement that:

(a) The agreement is superseded by conditions and requirements established later in a permit;

(b) DEQ determines the activities that were the subject of the agreement no longer occur; or

(c) DEQ determines that further reasonably available practices are necessary to abate the suspected nuisance.

(4) The agreement will include one or more specific practices to abate the suspected nuisance. The agreement may contain other requirements including, but not limited to:

(a) Monitoring and tracking the emission of air contaminants;

(b) Logging complaints and the source's response to the complaint;

(c) Conducting a study to propose further refinements to best work practices.

(5) DEQ will consult, as appropriate, with complainants with standing in the matter throughout the development, preparation, implementation, modification and evaluation of a Best Work Practices Agreement. DEQ will not require that complainants identify themselves to the source as part of the investigation and development of the Best Work Practices Agreement.

Stat. Auth.: ORS 468, ORS 468A.010 & ORS 468A.025
Stats. Implemented: ORS 468A.010 & ORS 468A.025
Hist.: DEQ 2-2001, f. & cert. ef. 2-5-01

**340-208-0400**

**Masking of Emissions**

No person may cause or permit the installation or use of any device or use of any means designed to mask the emission of an air contaminant that causes or is likely to cause detriment to health, safety, or welfare of any person or otherwise violate any other regulation or requirement.

Stat. Auth.: ORS 468; ORS 468A.010; and ORS 468A.025
Stats. Implemented: ORS 468A.010 and ORS 468A.025
Hist.: DEQ 2-2001, f. & cert. ef. 2-5-01

**340-208-0450**

**Particle Fallout Limitation**

No person may cause or permit the deposition of particulate matter larger than 250 microns in size upon the real property of another person as defined in OAR 340-202-0110.

Stat. Auth.: ORS 468, ORS 468A.010 & ORS 468A.025
Stats. Implemented: ORS 468A.010 & ORS 468A.025
Hist.: DEQ 61, f. 12-5-73, ef. 12-25-73; DEQ 4-1993, f. & cert. ef. 3-10-93; Renumbered from 340-028-0080; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-030-0520; DEQ 2-2001, f. & cert. ef. 2-5-01, Renumbered from 340-208-0620

**Clackamas, Columbia, Multnomah, and Washington Counties**

**340-208-0500**

RepealedStat. Auth.: ORS 468 & 468A
Stats. Implemented: ORS 468A.025
Hist.: DEQ 61, f. 12-5-73, ef. 12-25-73; DEQ 4-1993, f. & cert. ef. 3-10-93, Renumbered from 340-028-0001; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-030-0400; DEQ 2-2001, f. & cert. ef. 2-5-01; DEQ 8-2007, f. & cert. ef. 11-8-07

**340-208-0510**

Repealed

Stat. Auth.: ORS 468 & 468A
Stats. Implemented: ORS 468A.025
Hist.: DEQ 61, f. 12-5-73, ef. 12-25-73; DEQ 4-1993, f. & cert. ef. 3-10-93, Renumbered from 340-028-0003; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-030-0410; DEQ 2-2001, f. & cert. ef. 2-5-01; DEQ 8-2007, f. & cert. ef. 11-8-07

**340-208-0550**

Repealed

Stat. Auth.: ORS 468 & ORS 468A
Stats. Implemented: ORS 468A.025
Hist.: DEQ 61, f. 12-5-73, ef. 12-25-73; DEQ 4-1993, f. & cert. ef. 3-10-93; Renumbered from 340-028-0045; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-030-0450; DEQ 2-2001, f. & cert. ef. 2-5-01

**340-208-0570**

Repealed

Stat. Auth.: ORS 468 & ORS 468A
Stats. Implemented: ORS 468A.025
Hist.: DEQ 61, f. 12-5-73, ef. 12-25-73; DEQ 4-1993, f. & cert. ef. 3-10-93; Renumbered from 340-028-0055; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-030-0470; DEQ 2-2001, f. & cert. ef. 2-5-01

**340-208-0590**

Repealed

Stat. Auth.: ORS 468 & ORS 468A
Stats. Implemented: ORS 468A.025
Hist.: DEQ 61, f. 12-5-73, ef. 12-25-73; DEQ 4-1993, f. & cert. ef. 3-10-93; Renumbered from 340-028-0065; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-030-0490

**340-208-0600**

**Visible Air Contaminant Standards**

Repealed

Stat. Auth.: ORS 468 & ORS 468A.
Stats. Implemented: ORS 468.020 & ORS 468A.025.
Hist.: DEQ 61, f. 12-5-73, ef. 12-25-73; DEQ 4-1993, f. & cert. ef. 3-10-93; Renumbered from 340-028-0070; DEQ 3-1996, f. & cert. ef. 1-29-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-030-0500; DEQ 2-2001, f. & cert. ef. 2-5-01

**340-208-0610**

Repealed

Stat. Auth.: ORS 468 & ORS 468A
Stats. Implemented: ORS 468.020 & ORS 468A.025
Hist.: DEQ 61, f. 12-5-73, ef. 12-25-73; DEQ 4-1993, f. & cert. ef. 3-10-93; Renumbered from 340-028-0075; DEQ 3-1996, f. & cert. ef. 1-29-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-030-0510; DEQ 2-2001, f. & cert. ef. 2-5-01