

3. The source of the odor.
- E. With respect to odor, the Agency will determine whether or not a violation of subsection C has occurred based on its review of the information documented under subsection D, as well as any other relevant information obtained during the investigation
 - F. When determining whether to take formal enforcement action authorized in subsection D and E above, the Agency may consider written evidence provided by the person causing the odors which demonstrates to the satisfaction of the Agency that all controls and operating practices to prevent or minimize odors to the greatest degree practicable are being employed. If the Agency determines that all such efforts are being employed by the person causing the odors and that no additional control measures or alternate operating practices are appropriate, the Agency may decline to pursue formal enforcement action.
 - G. The Agency will document all the criteria used in making its determination in subsection F above as to whether or not the person causing the odors is employing controls and operating practices to prevent or minimize odors to the greatest degree practicable. Said documentation, except information that meets the criteria of confidential in accordance with RCW 70.94.205, will be made available to any person making a public records request to the Agency for said documentation, including, but not limited to complaining parties.
 - H. Nothing in this Section shall be construed to impair any cause of action or legal remedy of any person, or the public for injury or damages arising from the emission of any air contaminant in such place, manner or concentration as to constitute air pollution or a common law nuisance.

SECTION 6.05 PARTICULATE MATTER AND PREVENTING PARTICULATE MATTER FROM BECOMING AIRBORNE

- A. It shall be unlawful for any person to cause or allow the discharge of particulates in sufficient numbers to unreasonably cause annoyance to any other person when deposited upon the real property of others.
- B. It shall be unlawful for any person to cause or permit particulate matter to be handled, transported or stored without taking reasonable precautions to prevent the particulate matter from becoming airborne.
- C. It shall be unlawful for any person to cause or permit a building or its appurtenances or a road to be constructed, altered, repaired, or demolished without taking reasonable precautions to prevent particulate matter from becoming airborne. Reasonable precautions to prevent particulate matter from becoming airborne must also be used on roads used as detour routes around

roads, or section of road that are being constructed, altered, repaired, demolished, or closed for any purpose.

- D. It shall be unlawful for any person, including the owner or person in control of real property to cause or allow particulate matter to be deposited upon a paved roadway open to the public without taking every reasonable precaution to minimize deposition. Reasonable precautions shall include, but are not limited to, the removal of particulate matter from equipment prior to movement on paved streets and the prompt removal of any particulate matter deposited on paved streets.
- E. It shall be unlawful for any person to cause or allow visible emissions of fugitive dust unless reasonable precautions are employed to minimize the emissions. Reasonable precautions may include, but are not limited to, one or more of the following:
 - 1. The use of control equipment, enclosures, and wet (or chemical) suppression techniques, and curtailment during high winds;
 - 2. Surfacing roadways and parking areas with asphalt, concrete, or gravel;
 - 3. Treating temporary, low traffic areas (e.g., construction sites) with water or chemical stabilizers, reducing vehicle speeds, constructing pavement or rip rap exit aprons, and cleaning vehicle undercarriages and tires before they exit to prevent the track-out of mud or dirt onto paved public roadways; or
 - 4. Covering or wetting truck loads or allowing adequate freeboard to prevent the escape of dust-bearing materials.

SECTION 6.06 EMISSION OF AIR CONTAMINANTS OR WATER VAPOR, DETRIMENT TO PERSONS OR PROPERTY (SEE WAC 173-400-040(5))

The Authority implements and enforces WAC 173-400-040(5).

SECTION 6.07 EMISSION OF AIR CONTAMINANT CONCEALMENT AND MASKING RESTRICTED (SEE WAC 173-400-040(7))

The Authority implements and enforces WAC 173-400-040(7).

SECTION 6.08 REPORT OF BREAKDOWN

- A. The owner or operator of a source which emits pollutant(s) exceeding any limit established by Ecology or the Authority in any order(s), rule(s) or regulation(s) that apply to the facility as a direct result of unavoidable upset conditions or