

SECTION 6.04 EMISSION OF AIR CONTAMINANT: DETRIMENT TO PERSON OR PROPERTY

- A. Definitions: All definitions in SRCAA Regulation I, Article 1, Section 1.04 apply to this Section, unless otherwise defined herein.
- B. The Agency implements and enforces WAC 173-400-040 in Spokane County in addition to Section 6.04. The provisions of RCW 70.94.640 are herein incorporated by reference.
- C. It shall be unlawful for any person to cause or allow the emission of any air contaminant in sufficient quantities and of such characteristics and duration as is, or is likely to be:
 - 1. Injurious to the health or safety of human, animal, or plant life;
 - 2. Injurious or cause damage to property; or
 - 3. Which unreasonably interferes with enjoyment of life and property.
- D. With respect to odor, the Agency may take enforcement action, pursuant to chapter 70.94 RCW, under this section if the Control Officer or a duly authorized representative has documented all of the following:
 - 1. The detection by the Control Officer or a duly authorized representative of an odor at a level 2 or greater, according to the following odor scale:
 - Level 0 – no odor detected,
 - Level 1 – odor barely detected,
 - Level 2 – odor is distinct and definite, any unpleasant characteristics recognizable,
 - Level 3 – odor is objectionable enough or strong enough to cause attempts at avoidance, and
 - Level 4 – odor is so strong that a person does not want to remain present.
 - 2. An affidavit from a person making a complaint that demonstrates that they have experienced air contaminant emissions in sufficient quantities and of such characteristics and duration so as to unreasonably interfere with their enjoyment of life and property (the affidavit should describe or identify, to the extent possible, the frequency, intensity, duration, offensiveness, and location of the odor experienced by the complainant); and

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