

# Odor Compliance Issues

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# Air Pollution Control Act

- Prohibits:
  - “the presence in the outdoor atmosphere of one or more air contaminants in such quantities and duration as tend to be injurious to human health or welfare, animal or plant life or property, or would unreasonably interfere with the enjoyment of life or property...” N.J.S.A. 26:2C-2. Also codified at N.J.A.C. 7:27-5.2(a).

# Subchapter 5 Violations

[N.J.A.C. 7:27-5.2(a)]

- An odor caused by the release of an air contaminant is considered air pollution and a violation of the APCA if the Department determines that the odor has unreasonably interfered with the enjoyment of life or property. These violations are sometimes referred to as “subchapter 5” violations.

# Citing a Subchapter 5 Violation

- The Investigator must be able to verify and prove that a person (as defined in the regulation) has caused or allowed the release to the outdoor atmosphere air contaminants that, in the investigator's independent judgement, exceeded the statutory standards.

# Determinants of a Detected Odor to Consider

- All relevant facts and circumstances including, but not limited to:
  - Intensity
  - Character
  - Hedonic Tone
  - frequency
  - duration
  - number of persons affected
  - Area
  - How is complainant (unreasonably/injured) affected

# Odor Factors

- Intensity - Perceived strength of an odor (Intensity scale 1 through 5).
- Character - A description of the odor, e.g., “smelling like coffee, oranges, paint, etc.
- Hedonic Tone - The degree of like or dislike of an odor sensation.
- Frequency - How often does the odor occur.
- Duration - How long does the odor last.
- Number of persons affected (within the household) - goes to amount of possible penalty.
- Area affected - Property of or used by complainant.
- How is the complainant affected - must show unreasonable or injurious effects from the odor.

# Odor Scale and Description

<u>Scale</u>	<u>Odor Intensity Description</u>
0	Odor not detected by sense of smell.
1 - Very Light	Odorant present in the air which activates the sense of smell , but the characteristics may not be distinguishable.
2 - Light	Odorant present in the air which activates the sense of smell and is distinguishable and definite, but not necessarily objectionable in short durations.
3 - Moderate	Odorant present in the air which easily activates the sense of smell, is very distinct and clearly distinguishable, and may tend to be objectionable and/ or irritating.
4 - Strong	Odorant present in the air which would be objectionable and cause a person to attempt to avoid it completely, could indicate a tendency to possibly produce physiological effects during prolonged exposure.

# Odor Scale and Description

## Scale

5 - Very Strong

## Odor Intensity Description

Odorant present which is so strong, it is overpowering and intolerable for any length of time and could tend to easily produce some physiological effects.



# Subchapter 5 Violations and Penalties

[N.J.A.C. 7:27-5.2(a)]

- \* If an odor complaint is verified by the inspector, a violation is issued to the responsible facility. Anonymity of the complainant is still in force at this time.
- \* The penalty for a first offense is \$1,000.
- \* The penalty for a second offense is \$2,000.
- \* The penalty for a third offense is \$5,000.
- \* The penalty for a fourth and each subsequent offense is \$15,000.
- \* There are potential reductions in penalties if a full implementation of remedial measures were taken. In addition, there is a potential increase in penalties based on the amount of population affected and the nature of the contaminant.

# If Facility Air Release Occurs

- \* If an incident occurs at your facility that results in a release of air contaminants that pose a threat to the public health, welfare or the environment or,
- \* If an incident occurs at your facility that results in a release of air contaminants in a quantity or concentration **which might reasonably result** in citizen complaints, but which does **not** pose a potential threat to public health, welfare or the environment

You must immediately notify the DEP 24 Hour Hotline # of **1-877-WARNDEP (1-877-927-6337)**

# Civil administrative penalty for violations of N.J.S.A. 26:2C-19(e)

- \* Citation:

- \* N.J.S.A. 26:2C-19(e), failure to immediately notify the Department of release of air contaminants in a quantity or concentration **which poses a potential threat** to public health, welfare or the environment.

First offense penalty is \$2,000

Second offense penalty is \$4,000

Third offense penalty is \$10,000

Fourth and each subsequent offense is \$30,000

# Civil administrative penalty for violations of N.J.S.A. 26:2C-19(e)

- Citation:
- N.J.S.A. 26:2C-19(e), failure to immediately notify the Department of release of air contaminants in a quantity or concentration **which might reasonably result** in citizen complaints, but which does not pose a potential threat to public health, welfare or the environment
- First offense penalty is \$200
- Second offense penalty is \$400
- Third offense penalty is \$1,000
- Fourth and each subsequent offense penalty is \$3,000

**NJ citizens can't live this way**

# Potential Sub 5 Sources Sewage Treatment Plants

# Potential Sub 5 Sources Chemical Manufacturing Plants

# Potential Sub 5 Sources Refineries



# Potential Sub 5 Sources

# Potential Sub 5 Sources Rendering Plants

# Potential Sub 5 Sources Composting Facilities

# Potential Sub 5 Sources Asphalt Plants

# Potential Sub 5 Sources Stone Processing

# Potential Sub 5 Sources Auto Body Shops

# Potential Sub 5 Sources Landfills

# Odors

- \* Pleasant odors such as bakery and coffee odors can interfere with a citizen's enjoyment of life and property if they occur frequently.
- \* Enforcement has investigated civilian complaints of odors generated from bakeries, coffee roasting companies, flavor and fragrance companies, fast food restaurants, wood burning pizzerias, as well as the aforementioned sources.



# Enforcement Case Studies

\*Insert Your Facility Photo Here



# Enforcement Case Studies

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# The End

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## Compliance & Enforcement

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Programs/Contacts - Air Compliance and Enforcement

### Air Compliance and Enforcement

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- ▶ [Offices - Contacts and Locations](#)
- ▶ [Regulations](#)
- ▶ [Compliance Advisories](#)
- ▶ [Who do I call to report an odor complaint?](#)
- ▶ [Construction, Repair and Maintenance \(CRM\) - CRM Initial Notification, CRM Final Notification, Permit Applicability for Equipment and Source Operations Operated During Construction, Repair and Maintenance Events Memorandum](#)
- ▶ [Complaint Investigation Guidelines](#)
- ▶ [Fact Sheets - Particulate Dust, Odor, Idling Vehicles](#)
- ▶ [Certification forms and instructions - Annual Compliance, Semi-Annual Compliance, General Instructions, DEP Online Electronic Submittal](#)
- ▶ [Checklists - Generic Air Inspection](#)
- ▶ [Affirmative defense guidance to facilities](#)
- ▶ [New - Dry Cleaner Reimbursement Grant Program](#)
- ▶ [Related Links](#)

#### Program Activities

This program performs the following activities to ensure compliance with the Air Pollution Control Act and compliance with issued permits:

- oversight to stack emission testing
- provided compliance assistance
- investigate complaints
- conduct inspections
- sample collection and gather evidence
- issues enforcement documents, both formal and informal which may include assessed penalties
- assists the Attorney General in developing enforcement cases and testifies in court
- negotiate compliance schedule and penalty settlements

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