

NUISANCE ODOR/DUST FACT SHEET

How is odor regulated?

The Air Pollution Control Act prohibits the emission into the outdoor atmosphere of substances in quantities that result in air pollution. Air pollution is defined as “the presence in the outdoor atmosphere of one or more air contaminants in such quantities and duration as are, or 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.” Odor is an air contaminant and therefore may be considered air pollution if it **unreasonably** interferes with the enjoyment of life or property.

What triggers an odor investigation?

The Department or local health department will initiate an investigation in response to complaints from one or more citizens regarding objectionable odors.

Do all odor complaints result in violations?

No. To verify a complaint and issue an enforcement action, an investigation must be performed, and the investigator must verify the odor on the complainant’s property and determine that the odor unreasonably interfered with the enjoyment of life or property. In making this determination, the department considers the character, severity, frequency and duration of the odor and the number of persons affected thereby. The presence of an odor in the outdoor atmosphere does not necessarily constitute a violation.

How do we investigate an odor complaint?

1. After receiving a complaint, the report is reviewed to determine if an investigation can be conducted under our investigational procedures.
2. If it is determined that an investigation can be conducted, an inspector will travel to the complainant’s location and attempt to verify the presence of odors. The investigator must independently verify that the odor “unreasonably interfered with the enjoyment of life or property” by performing his/her own investigation. The inspector may ask the complainant(s) to complete a Statement of Complaint. By completing the form, the complainant is attesting that the odor “unreasonably interfered with the enjoyment of their life or property.”
3. The inspector will then proceed upwind of the complainant’s property in an attempt to identify the source of the odor. Once the inspector believes that he/she has identified the source, the investigator will attempt to proceed around the perimeter of the facility to verify that no other sources are contributing to the odor in question. At that point, the inspector will attempt to enter the facility and attempt to identify the specific process or area of the facility from which the odor is emanating.
4. Before the inspector completes their investigation, they will inform a facility representative whether a violation was verified. If a violation was verified, the Department will issue a violation to the facility.

What is the penalty for an odor violation?

First offense of a violative odor release may be assessed penalties ranging from \$150 up to \$10,000. Subsequent or continuing violations may be subject to penalties of up to \$50,000 per violation.

Are all odors treated similarly?

No. Odors have different severity, duration and character. All these factors are taken into account when investigating an odor complaint and determining whether the odor constitutes “unreasonable interference with the enjoyment of life or property.” The inspectors use a scale to rate the odors:

0-not detectable	Odor not detectable; no odor perceived by the sense of smell
1-very light	Odor present, which activates the sense of smell but the characteristics, may not be distinguishable.
2-light	Odor present, which activates the sense of smell and is distinguishable and definite but not necessarily objectionable in short durations but may be objectionable in longer durations.
3-moderate	Odor present in the outdoor 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	Odor present, which would be objectionable and cause a person to attempt to avoid it completely and may cause physiological effects during prolonged exposure.
5-very strong	Odor present, which is so strong, it is overpowering and intolerable for any length of time and causes physiological effects.

Are the above procedures and information published anywhere?

Yes. As required by the Air Pollution Control Act, the guidelines for investigating air pollution were published in the New Jersey Register on September 17, 2007 [39 N.J.R. 3999(c)].

Who can I call if I have a question about odors?

You may call the regional field office that corresponds to your geographical area:

Northern Regional Office (Bergen, Essex, Hudson, Hunterdon, Morris, Passaic, Somerset, Sussex, Union, Warren) – call (973) 656-4444 or email AirCE-Northern@dep.nj.gov

Central Regional Office (Burlington, Mercer, Middlesex, Monmouth, and Ocean) – call (609) 292-3187 or email AirCE-Central@dep.nj.gov

Southern Regional Office (Atlantic, Camden, Cape May, Cumberland, Gloucester, Salem) – call (856) 614-3601 or email AirCE-Southern@dep.nj.gov

CALL IN NUISANCE ODOR COMPLAINTS TO THE DEP’s 24-HOUR TOLL-FREE ENVIRONMENTAL HOTLINE at 1-877 WARN DEP (1-877-927-6337).

Official complaints MUST be called in through the environmental hotline. Complaints can also be sent to the Department utilizing the “WARN NJDEP” phone app available through the Apple and Google Play app stores for iPhone and Android. The app is free to download and use. Please note that complaints made through the WARN NJDEP application may result in a delayed response.

NOTE: The Environmental Hotline number IS NOT meant for reports of emergency situations. For emergency situations contact 911.

ODOR FREQUENTLY ASKED QUESTIONS

“What information will I need to provide when calling the hotline?”

The dispatchers at the Department’s hotline will ask some questions to determine how to direct the complaint. They will ask about the nature of the complaint, if the problem is still on-going at the time of the call and when the problem was first noticed, and if the complainant is willing to testify in court if necessary. You will also be asked to provide your name, address, and contact information so our staff will be able to investigate the complaint. Please note that the dispatchers are not air enforcement investigators and cannot answer specific questions related to the complaint.

“Can I remain anonymous?”

Yes! You may make a complaint anonymously. However, anonymous complaints are difficult to investigate and verify without a complainant’s identity and you will not be contacted by an investigator in case we need more information to investigate your complaint.

“Will a representative of the New Jersey Department of Environmental Protection (DEP) respond to my complaint?”

The response you receive may be from a member of the county health department or a DEP employee. Staff from all 21 county health departments are authorized to respond to and enforce DEP’s odor regulations. County health department staff can usually respond to your location quicker than department investigators. Investigators will often attempt to contact a complainant by phone prior to performing the field investigation.

“Should I tell my neighbors to call the hotline too?”

Contacting neighbors to encourage them to call in a complaint when they are NOT experiencing odors that they find unreasonable will NOT get you a faster response to your complaint and may delay an investigator from getting to your location since more complaints must be vetted prior to a response being initiated.

“Will I have to testify in court?”

If a violation is verified based upon a complaint you registered, you may have to appear in court to support your statement of complaint and the investigator’s findings. All complainant information is kept confidential unless the violation proceeds to court. If an odor violation based upon a citizen complaint proceeds to a court hearing, complainant’s identities will be released as part of the hearing procedures.

“Where can I report indoor odor issues or mold complaints?”

Complaints regarding indoor air quality or mold should be directed to the local county health department or the New Jersey State Department of Health at 1 800-367-6543. The Department’s Division of Air Enforcement is not authorized to investigate indoor air quality or mold complaints.

“What if I’m having an issue with my neighbor?”

Nuisance complaints regarding private citizens should be addressed to your municipal code enforcement office and/or the local county health department. The Department has no legal authority for residential homes and therefore cannot investigate “neighbor to neighbor” complaints. Complaints regarding smoke from residential fireplaces, fire pits and chimineas should be addressed by your municipal code enforcement office and your local county health department.

“I smell odors while driving, can I report them?”

Yes! While complaints regarding odors experienced while the complainant is in a moving vehicle over a roadway cannot be investigated utilizing our investigatory procedures, your report may be used to support complaints from others who live in area where the odors were encountered.

‘What if I don’t want a response?’

You can make a complaint to the Department’s hotline number even if you do not want a response from an investigator. Simply inform the hotline dispatcher that you are calling in an incident for informational purposes and that no response is wanted.

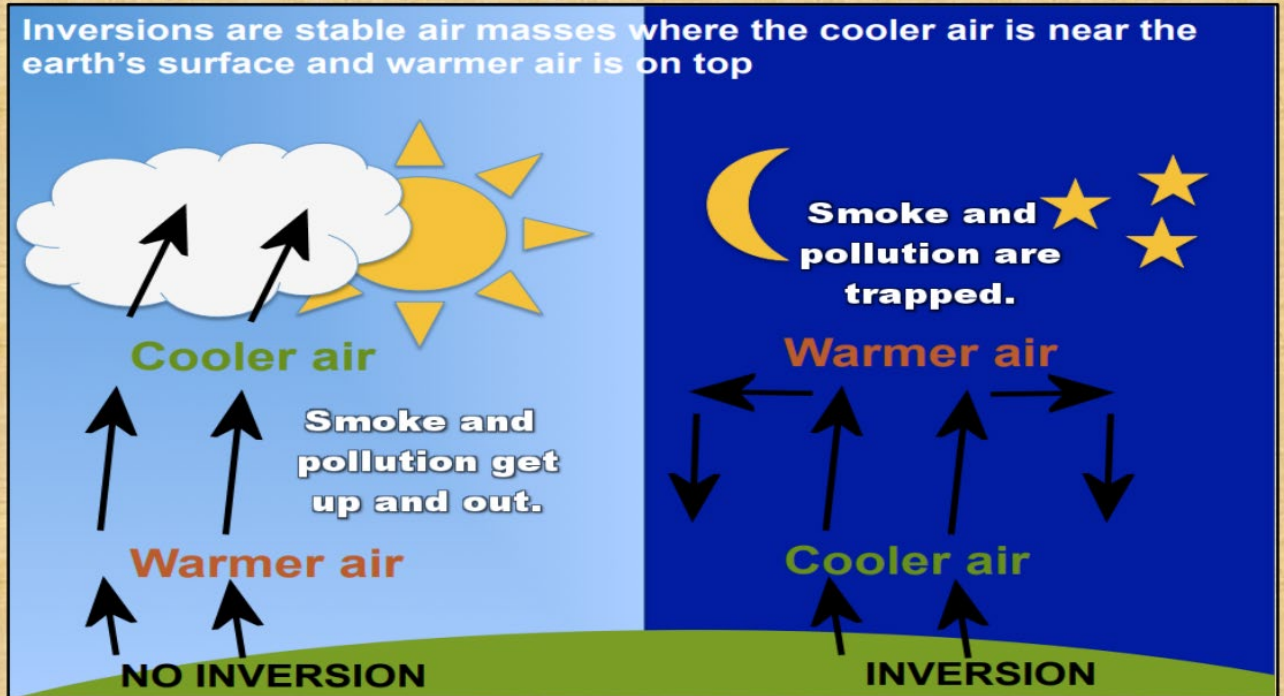
“Why do odors seem like they happen at night or during cool weather?”

Atmospheric Inversions! “Inversions are stable air masses where the cooler air is near the earth’s surface and warmer air is on top. Air near the ground cools more quickly than air aloft. This is most likely when the sky is clear and the wind is light/calm. Cooling will occur the most readily in low places (such as valleys sheltered from the wind). This often happens in the late afternoon/early evening (before sunset) and lingers into the next morning (after sunrise) for a few hours.” (Slides 3 – 6 see link below)

Please see: <https://www.weather.gov/media/lzk/inversion101.pdf>



Temperature Inversion (The Problem)



Note: Edited graphic from the University of Missouri.

Also see:

<https://www.youtube.com/watch?v=Dk9VHHFUbqo>

“What sources of air pollution are near my home/property?”

Know what sources are in your area. This information is especially helpful for home buyers who have questions about what NJDEP registered sources are located in the area they are looking to purchase a home in:

<https://dep.nj.gov/ej/resources/>