

**COLORADO DEPARTMENT OF PUBLIC HEALTH and ENVIRONMENT
ENVIRONMENTAL AGRICULTURE PROGRAM**

**ODOR COMPLAINT POLICY and PROCEDURES
FOR
HOUSED COMMERCIAL SWINE FEEDING OPERATIONS**



**Colorado Department
of Public Health
and Environment**

**Environmental Agriculture Program
DEHS-B2
4300 Cherry Creek Drive South
Denver, CO 80246**

**December 7, 2006
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INTRODUCTION

The following information is the Colorado Department of Public Health and Environment Environmental Agriculture Program's (Ag Program) Odor Complaint Policy and Procedures for reporting odor complaints regarding housed commercial swine feeding operations (HCSFOs). The purpose of this document is to assist the citizens of Colorado, county or district public health departments and the Ag Program in the mutually acceptable procedures for reporting and responding to odor complaints for HCSFOs.

An odor complaint may be detected by a citizen and reported to a county or district public health department or the Ag Program as a citizen complaint. The county or district public health department or the Ag Program will make a determination regarding the appropriate action based upon the following guiding principles and procedures.

REPORTING AN ODOR COMPLAINT

Citizens are asked to submit odor complaints to the county or district public health department in a timely manner and as close to the odor event as possible. The county or district public health departments are most likely to be able to provide the fastest response time. Citizens may also concurrently contact the Ag Program to report the odor event with the understanding that this is not the most expedient method to get a response. Contact information is provided below.

Northeast Colorado Health Department

700 Columbine Street
Sterling, CO 80751
970-522-3741, Ext 1261
970- 848-3811 Ext 3022
Fax: 970-848-2888

Prowers County Public Health and Environment

1001 South Main
Lamar, CO 81052
719-336-8721
Fax: 719-336-9763

Kit Carson County Health & Human Services

252 South 14th Street
PO Box 70
Burlington, CO 80807
719-346-7158 or 719-346-8732
Fax: 719-346-8066

Colorado Dept. of Public Health and Environment

DEHS-B2
4300 Cherry Creek Drive South
Denver, CO 80246
303-692-3520
Fax: 303-782-4969

ACTIONS BY LOCAL HEALTH AGENCY TO AN ODOR COMPLAINT

The county or district public health department or the Ag Program will respond to odor complaints as resources and circumstances allow. It is not practical that every complaint can be followed up with an odor investigation or site visit.

Upon receipt of an odor complaint from a citizen, the county or district public health department or the Ag Program will initiate the following protocol.

1. Review complaint details

In order to successfully investigate an odor complaint, there must be an identifiable aggrieved party (complainant) and sufficient information to validate the complaint (see HCSFO Odor Complaint Form). Complainants must include sufficient information when reporting a complaint in order for the county or district public health department to consider it valid. In addition, an odor complaint made at the local level may be followed-up in writing and signed by the complainant after an inspection to complete the validation process.

As included in the HCSFO Odor Complaint Form, the minimum information necessary for a complaint to be considered valid includes the following:

- a. Name and address of the complainant(s) (unless a complainant is requesting anonymity*);
*Complainants that desire to remain anonymous should file an odor complaint with the Ag Program
- b. Location where the complainant experienced the odor (primary dwelling, curtilage, place of business, public or private school);
- c. Date, time, frequency and duration of the odor;
- d. Nature of any allegation of adverse effects on the complainant's health, property, animals, or vegetation;
- e. Nature of any allegation of interference with the normal use and enjoyment of the complainant's property, animals, or vegetation;
- f. Alleged source of odor; and
- g. Wind speed, direction and weather conditions at the time of the complaint (to the best of the complainant's ability).

Complaints received more than an hour after the actual odor occurrence, via telephone or in writing, will be logged in the state's complaint database, and may not be followed-up by the state, county or district public health departments with a site visit. Initial complaints made to the state or sent via electronic mail to either the state or local health departments may experience a longer response time.

Any documentation in support of an odor complaint can be submitted to the county or district public health department or the Ag Program for consideration. This information will be reviewed for informational purposes. The county or district public health department or the Ag Program does not require that a written or formal response to this documentation be provided to the complainant.

2. Initial response to complainant

Normal business hours for complaint response are Monday through Friday, between the hours of 8 a.m. to 5 p.m. The local health department will attempt to contact the complainant by telephone or electronic mail within four to eight hours if feasible and if the complaint is received during normal business hours. If a complaint is received during the workweek but after business hours, local and regional health department staff may respond within one business day, if feasible. If a complaint is received during the weekend or on a holiday, the local and regional health department will attempt to respond within three calendar days. Response time may vary depending on staff availability, with the understanding that complaints will be responded to as soon as reasonably possible.

If a complaint is filed with the Ag Program, the program will notify and provide the pertinent information to the appropriate county or district public health department as soon as possible or within one to two business days of the valid complaint. The receipt of all complaints by either the local health departments or the Ag Program will be communicated to the facility subject to the complaint as soon as practicable. In appropriate instances the county or district public health department or the Ag Program will contact the source and encourage a meeting between the source, the complainant, the county or district public health department and/or the Ag Program.

3. Record complaint

Within four business days, the county or district public health department will call or send via electronic mail the information regarding all valid complaints to the Ag Program. The Ag Program will log all valid odor complaints into the program data system.

4. Determine if an investigation is required and resources allow for an investigation

The inspector will attempt to determine if the conditions surrounding the odor event warrant an investigation. In order to provide the best possible resolution to the complaint, the inspector will take into consideration the local resources available to address the issue. If during the course of an investigation an aggrieved party is identified, the investigator should proceed with the following protocol to document the odor complaint.

5. Validating Complaints

The county or district public health department or the Ag Program will attempt to gather information to validate the complaint at the time a complaint is received by telephone. If the complaint is received in some other manner, this information will be collected by telephone prior to initiating an investigation or entering the information into the Ag Program's complaint database.

Any complaint submitted to a county or district public health department may be followed up with a written and signed complaint based on the policy of the county or district public health department. In addition, a county or district public health department may elect to contact a third party in the vicinity of the alleged odor source to gather additional information about the odor event. Failure of the complainant to validate the complaint in writing may result in the complaint being considered void. Complaints submitted to the Ag Program do not need to be followed by a written verification.

Multiple Complaints

The county or district public health department or the Ag Program may, upon receiving multiple complaints with respect to the same source, investigate the source to determine compliance with odor regulations. An investigation will include a file search of previous complaints, and a review of the facility's current odor management plan, and possibly include a site visit to the alleged source of odor.

Documentation

When possible, assess the odor first-hand. It would be ideal if an investigator could be at the complainant's location at the time that the odor is occurring, in order to experience the same conditions that generated the complaint. This may not be possible, but an effort should be made to duplicate the experience of the complainant, unless the conditions are considered potentially unsafe.

The investigator will attempt to document odor complaint investigation activities and results by completing the HCSFO Odor Investigation Form. Please refer to HCSFO Odor Investigation Form for the type of information needed for documentation purposes.

In some cases, such as recurring short-term odor situations, the investigator may ask the complainant to maintain a log of odor observations to document conditions related to the odors experienced. The complainant should be asked to utilize the same terminology as used in CDPHE Scentometry Protocol. This log can be used to validate or invalidate complaints in conjunction with the other evidence of the case. It would not be used as the sole basis for issuance of a notice of violation. The HCSFO Odor Complaint Form should be used in all such situations.

The investigator may determine that it is necessary to conduct interviews of other citizens in the area surrounding the complainant's location with the intention of gathering information or evidence to assist in a determination of the validity of the complaint. Caution should be taken, however, to ensure that this information-gathering procedure not be construed as "soliciting" additional complaints.

6. Complaint Follow-up

If the Ag Program determines that an odor complaint is not valid, the Program may inform the alleged odor source and, whenever practicable, the complainant(s) of the determination and any action taken by the Program or the alleged source.

If the preponderance of the evidence collected during the course of the investigation (including discussions with the complainant and observations by the investigator) confirms the presence of odors in such concentration and duration as to violate state odor standards, the Ag Program will require the odor source take remedial action to mitigate the odors and achieve compliance with the odor standard(s), including modifying the odor management plan to specifically address the identified odor and will initiate the appropriate enforcement action according to CDPHE enforcement procedures.

The Ag Program will review all complaint-related information to determine an appropriate enforcement response, including no further action, an informal enforcement action or a formal enforcement action. In determining the appropriate enforcement response, CDPHE considers several factors, including, but not limited to, the scope, frequency and duration of the odors, the effect on human health and the environment, and ongoing source efforts to address odors.