

Summary of Nuisance Odor Strategy Changes Based on Public Input, July 31, 2013

In April 2013, DEQ assembled an agency team to develop an improved strategy for investigating, analyzing and responding to odor complaints and nuisance odor conditions. DEQ drafted a strategy based on existing regulations for odor complaints from permitted facilities. Between May and July 2013, DEQ gathered public input on the nuisance strategy, carefully considered the input received and made many revisions as needed to complete the final nuisance odor strategy. This summary provides an overview of key changes DEQ made to the Nuisance Odor Strategy Report based on public input.

1.1 Use of the Strategy

a. Prioritization (Page 8)

Designated “lower” instead of “low” priority approach for auto body businesses, sources with general or basic Air Contaminant Discharge permits, solid waste transfer stations; and solid waste material recovery or recycling facilities.

b. No assumption of violations or source of odors based on complaints (Page 9)

Added general consideration language that “DEQ will not assume violations based solely on the existence of complaints, and will only take follow up steps when it verifies a problem and identifies a source or sources as causing a suspected nuisance odor. However, DEQ will communicate with potential odor sources shortly after receiving a complaint to keep them informed.”

3.2.2 Contacting the source after the initial complaint

a. Early communication with source (Page 9)

Added clarifications to early communication stage that:

- DEQ will carefully evaluate whether a source is likely causing an odor before further investigating causes, and;
- The goal at the early communication stage is to identify the actual source of the odor, and resolve the odor issue informally and quickly, or to determine that there is a credible explanation for a short-term odor that will not continue.

3.2.3 Documenting and evaluating further complaints

a. Criteria for odor investigation (Page 10)

Included criteria for moving from the complaint intake phase to a more thorough odor investigation. The general threshold is ten complaints from different individuals with separate addresses over a 60 day period for an odor that reoccurs in the same general location. Based on experience implementing the strategy, DEQ may revise these criteria, including considerations for areas with low population density.

b. Criteria for site inspection (Page 11)

Included criteria for moving an odor investigation to the site inspection phase. The general threshold is an average value of 14 or higher resulting from the combined total values from



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the two frequency/duration and strength/offensiveness tables in the nuisance strategy. DEQ may revise this threshold based on experience implementing the strategy.

3.2.4 Preparing for a site inspection

a. Information on other sources (Page 11)

Added that prior to a site inspection, DEQ will gather information on other sources in the area that could be causing the odors.

3.2.5 Performing a site inspection

a. Including complainants and sources on inspections (Page 12)

Added explanation that staff may consult with their managers and exercise their discretion to allow complainants, source representatives or both on specially designated inspections.

b. Reopening of odor investigations (Page 12)

Clarified that once an odor investigation has been discontinued, it may be reopened at the discretion of the inspector if complaints arise again in the future.

3.3.1 Submitting a suspected nuisance determination form to DEQ's Nuisance Panel

a. Composition and function of Nuisance Panel (Page 12)

Clarified composition and function of Nuisance Panel. This panel will be comprised of DEQ senior or executive managers who will assist with the final decision about whether to issue a source a Notice of Suspected Nuisance. In doing so, they will consider documentation provided by staff, resource availability, and the seven nuisance factors described in OAR 340-208-0310(1).

3.3.3 Sending a notice of suspected nuisance and inviting the source to negotiate a Best Work Practices Agreement

a. Notice of Suspected Nuisance deadlines and elements (Page 13)

Extended source deadlines to respond to request to negotiate a Best Work Practices Agreement and submit a nuisance abatement proposal. Included allowance for deadline extension and clarified elements of Notice of Suspected Nuisance.

“If the Nuisance Panel believes a nuisance may exist, and so directs, DEQ will issue a notice of suspected nuisance to a source and provide a copy to the complainant under OAR 340-208-300(2). DEQ's notice will include at least the following:

- A request that the source reply in writing within twenty days from the date of the notice, agreeing to enter into negotiations to arrive at a Best Work Practices Agreement. The deadline may be extended upon showing of good cause.
- A statement that the source will be referred for enforcement if it does not either timely agree to pursue a Best Work Practices Agreement or timely submit a complete proposal.
- A proposed deadline for submission of a complete nuisance abatement proposal two months from the date the source agrees to enter into formal negotiations. This deadline may be extended upon showing of good cause.
- A statement that an acceptable proposal will: (i) include immediate, short term, and long term abatement measures, as applicable (ii) address the effectiveness, cost,



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and implementation timelines of each measure, and (iii) include an evaluation of measures the source considers unreasonable, along with an explanation.”

3.4.1 Negotiating a Best Work Practices Agreement

a. Agreement negotiations (Page 13)

Included clarification that during negotiation of a Best Work Practices Agreement, the source will not be required to negotiate directly with complainants, although DEQ encourages the parties to pursue voluntary negotiations.

b. DEQ approval of agreement (Page 14)

Added language clarifying that DEQ will ultimately decide on the content of the Best Work Practices Agreements.

c. Abatement options considered in agreement (Page 14)

Changed description of odor mitigation measures DEQ will evaluate in negotiating a Best Work Practices Agreement from “normal industry practice” to the “range of industry practices, including all feasible methods of controlling the odor.”



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