

**Effective April 4, 2006**

**Section 22a-174-23. Control of odors**

- (a) (1) No person shall cause or permit the emission of any substance or combination of substances which creates or contributes to an odor, in the ambient air, that constitutes a nuisance.
- (2) An odor constitutes a nuisance if present with such intensity, characteristics, frequency and duration that:
- (A) It is, or can reasonably be expected to be, injurious to public health or welfare, or
- (B) It unreasonably interferes with the enjoyment of life or the use of property, considering the character and degree of injury to, or interference with, the health, general welfare, property, or use of property of the people affected, and the location of the pollution source and character of the area or neighborhood affected. Whether the source of the emissions was present in the location first shall not be a consideration.
- (3) Except as provided in subsection (b) of this section, in determining whether an odor constitutes a nuisance the commissioner shall review information gathered from any source of information, including but not limited to citizen complaints and site inspections or surveys.
- (b) Odor in the ambient air shall be deemed to constitute a nuisance if a representative of the commissioner or at least fifty percent of any group of representatives of the commissioner determines, based upon at least three samples or observations in a one hour period, that after a dilution of seven parts clean air to one part sampled air, the odor is equal to or greater than the odor detection threshold. Each of the three or more samples or observations shall be separated by at least fifteen minutes. The burden of rebutting the presumption of nuisance created by this subsection shall be on the owner or operator of the source.
- (c) Odor in the ambient air shall be deemed to constitute a nuisance if any substance or combination of substances is present at a concentration in excess of any concentration stated in Table 23-1 of this section. The burden of rebutting the presumption of nuisance created by this subsection shall be on the owner or operator of the source.
- (d) The commissioner may determine that an ambient odor which does not exceed the limits set forth in subsections (b) or (c) of this section nevertheless constitutes a violation of subsection (a) of this section.
- (e) If the commissioner finds that a violation of this section has occurred and reasonably suspects that a certain source has caused or contributed to such violation, the commissioner may issue an order requiring the owner and/or operator of such source to investigate whether it has caused or contributed to such violation. The commissioner may reasonably suspect that a source has caused or contributed to a violation based upon one (1) or more of the following: citizen complaints; comparisons of odors upwind and downwind of the source; material handling and

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storage practices; methods of operation; site inspections; surveys; information gathered from any other source; or actual or estimated stack emissions, fugitive emissions or ambient pollutant concentrations.

(f) The commissioner may use air quality modeling techniques to calculate ambient pollutant concentrations. The commissioner shall not use air quality modeling results as the sole basis for finding a violation of this section, unless the commissioner has received ten or more written complaints within ninety (90) consecutive days from separate households.

(g) Any person who is required to undertake an investigation or remediation pursuant to this section shall assure that all samples and measurements taken in any investigation and remediation are representative of the activity required to be sampled. In calculating ambient air quality impacts, such person shall use applicable air quality models, data bases or other techniques approved in writing by the commissioner for the subject source and any other source which is included in the analysis.

(h) Notwithstanding the provisions of section 22a-174-3a(c)(2) of the Regulations of Connecticut State Agencies, in acting on an application for a permit, the commissioner need not perform or review modeling to determine that a proposed source will operate in compliance with subsection (c) of this section.

(i) Nothing in this section shall permit emission of any pollutant in violation of any other section, and compliance with any other section shall not constitute compliance with this section.

(j) An agricultural or farming operation shall be exempt from the provisions of this section to the extent provided by Section 19a-341 of the General Statutes.

(k) The provisions of this section shall not apply to mobile sources or structures which are occupied solely as a dwelling and contain six or fewer dwelling units.

Table 23-1  
Odor Limit Value in parts per million, fifteen-minute average

<u>Compound</u>	<u>Concentration</u>
Chlorine	0.0240
Ethyl acrylate	0.00037
Ethyl mercaptan	0.00040
Formaldehyde	2.49
Hydrogen sulfide	0.0045
Methyl ethyl ketone	17.0
Methyl mercaptan	0.0010
Methyl methacrylate	0.34
Perchloroethylene	71.0
Phenol	0.12
Styrene	0.15
Toluene	11.0