



ENVIRONMENTAL RISK & PFAS LITIGATION CONFERENCE

The New York City Bar Association | June 17-18, 2025

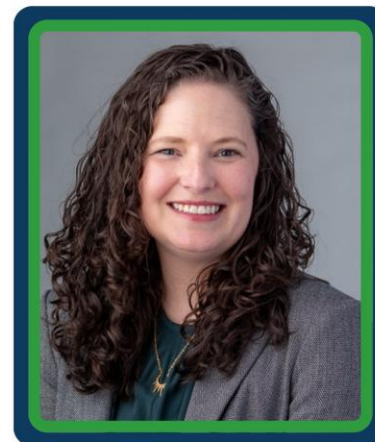
Odor and Health Effects



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QUESTIONS FOR DISCUSSION



Odors have existed since the beginning of time. When was the connection between odor and health effects realized?

QUESTIONS FOR DISCUSSION



What are the most common sources of environmental odors, and how do they impact public health, particularly in vulnerable communities?

QUESTIONS FOR DISCUSSION



How effective are current environmental regulations at addressing odor-related complaints, and what gaps exist in enforcement or scientific standards?

QUESTIONS FOR DISCUSSION



When is odor considered a pollutant from a regulatory or state perspective, from an insurance perspective?

Are there any states that have rulings on GL pollution exclusions?

QUESTIONS FOR DISCUSSION



What is the status of odor litigation?

QUESTIONS FOR DISCUSSION



What are the coverage issues under pollution policy?

QUESTIONS FOR DISCUSSION



How are odor related health claims handled by insurance companies?

QUESTIONS FOR DISCUSSION



What mitigations can be implemented to reduce odor related health risks and claims?



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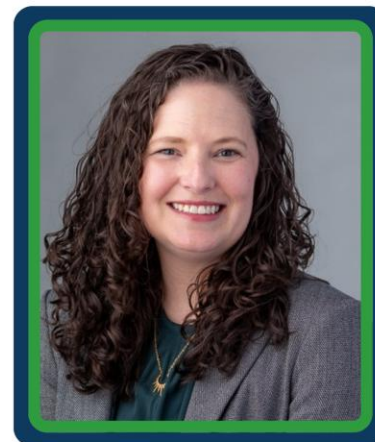
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RESOURCES

Health Impacts of Environmental Odor



- **Respiratory Issues** – coughing, wheezing, chest tightness
- **Irritation** – eye, nose, throat
- **Headaches & Nausea** – common complaints
- **Mental Stress** – anxiety, insomnia
- **Gastrointestinal Effects** – nausea, appetite loss

Sensitive Populations



- **People respond to odors differently**
- **Sensitive populations**
 - children,
 - elderly,
 - asthmatics,
 - pregnant women

Human Olfactory Sensory Capabilities



Most humans can distinguish more than 5,000 odors




Odor detection can be in the parts-per-trillion range in humans



Approximately 25% of petitions for Public Health Assessments to the US Agency for Toxic Substances and Disease Registry involve odors

Perception and Insurance Implications



- **Not all odors are toxic**, but health complaints still happen
- **Perception of risk** often drives legal action and insurance claims
- **Legal complexity** – hard to prove/disprove harm
- Common culprits in claims:
 - Mold odors
 - Sewer gas
 - VOCs (e.g., formaldehyde)
-  **Insurance risk** – Health-related odor claims can span property, liability, and environmental policies

Sources of Environmental Odors



- Animals – Confined animal feeding operations (CAFOs)
- Agricultural – Manure and chemical fertilizers or pesticides
- Human Activities – Compost, sewage, garbage, fires, household cleaning agents
- Industries – Oil refineries, paper mills, wastewater treatment plants
- Nature – Moist soil, gardens, fires
- Vehicles – Diesel exhaust

Property Value and Real Estate Considerations



- Property values can be impacted by environmental contamination, including odors
- Odors can result in impact legally in lawsuits impacting property values and permanent nuisance (Powell v. Tosh)
- \$500 Million lawsuits ([Smithfield Settles Suits Over North Carolina Farms, After Losing Appeal](#))
- Cat odor deemed a physical loss under home owner policy since the odor changed the condition of the property (*Mellin v. N. Sec. Ins. Co., Inc.*, No. 2014-020, 2015 N.H. LEXIS 32 (Apr. 24, 2015)).

Are Odors Pollution(?)



- South Carolina found pollution exclusion in general liability did not cover persistent odors from sewage odors (<https://www.youngmoorelaw.com/blog/pollution-exclusion-bars-coverage-for-claims-alleging-harm-from-foul-odors/>)
- Odors from Swine CAFO were not considered as pollutant since manure was used as a nutrient ([Not Everything is a Pollutant: A Summary of Recent Cases Supporting a Common Sense and Narrow Interpretation of the CGL's Pollution Exclusion](#))

References



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<https://accountingbyte.com/impact-of-environmental-pollution-on-property-values/>

[Not Everything is a Pollutant: A Summary of Recent Cases Supporting a Common Sense and Narrow Interpretation of the CGL's Pollution Exclusion](#)

<https://www.agriculture.com/news/livestock/smithfield-settles-suits-over-north-carolina-farms-after-losing-appeal>