

## OVERVIEW OF LOCAL ENVIRONMENTAL ENFORCEMENT AUTHORITY

Over the years, the New Jersey State Legislature has enacted a number of environmental statutes, of which several statutes provide a role for municipal officials to participate in the regulation or monitoring of a specific environmental activity. In order for a municipality to determine whether it has authority, the municipality must first review the actual environmental statute and regulations adopted thereunder to understand what requirements and limitations may exist. For example, the Solid Waste Management Act provides authority to local boards of health to monitor compliance with the State's solid waste laws and to take enforcement as long as notice is given to the Commissioner of the Department of Environmental Protection (DEP) (N.J.S.A. 13:1E-9d(d)). The Noise Control Act requires that a municipalities adopt noise ordinances that are more stringent than the State's noise code and obtain approval of DEP prior to implementing. (N.J.S.A. 13:1G-21).

The process to adopt an environmental ordinance must be handled in accordance with the requirements specified at N.J.S.A. 40:49-1 et seq. Adoption of an environmental ordinance may provide a municipal government the right to perform inspections, undertake enforcement actions, and impose penalties for violations of an ordinance.

The chart of State environmental statutes below summarizes whether a municipality has authority to regulate or monitor various environmental activities. The chart also indicates if an ordinance is required, as a pre-requisite to implementing an environmental activity. Please be aware that most ordinances typically must be approved by DEP prior to implementation. In most cases, the local board of health will be the authorized agency to undertake any monitoring or enforcement activities. For specific guidance on the adoption of ordinances or enforcement of an environmental statute, please seek the advice of municipal legal counsel.

| <b>Environmental Statute</b>                              | <b>Citation</b>                                   | <b>Is there Authority for Municipalities?</b>              |
|---|---|--|
| Air Pollution Act   | N.J.S.A. 26:2C-1                                  | No, but Ordinances approved prior to 1995 remain in effect |
| Noise Control Act   | N.J.S.A. 13:1G-1                                  | Yes, through an Ordinance approved by NJDEP                |
| Solid Waste Management Act                                | N.J.S.A. 13:1E-1                                  | Yes  |
| Water Pollution Control Act                               | N.J.S.A. 58:10A-1                                 | No   |
| Spill Compensation & Control Act                          | N.J.S.A. 58:10-11 et seq.                         | No, except cost recovery for hazmat incidents              |
| Safe Drinking Water Act                                   | N.J.S.A. 58:12A-1                                 | No   |
| Private Well Testing Act                                  | N.J.S.A. 58:12A-26                                | Yes  |
| Realty Improvement Sewerage & Facilities Act              | N.J.S.A. 58:11-23                                 | Yes  |
| Act to protect purity of public supplies of potable water | N.J.S.A. 58:11-9.1                                | Yes  |
| Subsurface & Percolating Waters Act                       | N.J.S.A. 58:4A-4-1                                | Yes  |
| Resource Conservation & Recovery Act of 1976 (RCRA)       | (Federal) P.L. 94-580<br>N.J.A.C. 7:26G-1 et seq. | No   |
| Radiation Protection Act                                  | N.J.S.A. 26:2D-1                                  | Yes, through an Ordinance                                  |
| Toxic Catastrophe Prevention Act                          | N.J.S.A. 13:1K-19                                 | Yes, through an Ordinance                                  |
| School Integrated Pest Management Act                     | N.J.S.A. 13:1F-19                                 | Yes  |
| Pesticide Control Act of 1971                             | N.J.S.A. 13:1F-1                                  | Yes, through an Ordinance                                  |
| Worker & Community Right to Know                          | N.J.S.A. 34:5A-1                                  | No   |

Other helpful links include the Association of New Jersey Environmental Commissions' web site at: [www.anjec.org](http://www.anjec.org) In addition, the New Jersey League of Municipalities has an electronic ordinance library that may be of assistance at: <http://www.njslom.org/ordinance-library-intro.html>.