

NEW JERSEY STATUTES ANNOTATED
TITLE 26. HEALTH AND VITAL STATISTICS
CHAPTER 3A2. LOCAL HEALTH SERVICES
II. COUNTY ENVIRONMENTAL HEALTH ACT

26:3A2-21. Short title

This act shall be known and may be cited as the "County Environmental Health Act."

26:3A2-22. Legislative findings

The Legislature finds that environmental health programs for the control of air pollution, solid waste, hazardous waste, noise, pesticides, radiation, and water pollution and to protect workers and the public from hazardous substances and toxic catastrophes are inherently regional in nature and that the existing county health departments have experience administering environmental health programs on a regional basis and that they are among the most efficient health units in the State.

The Legislature, therefore, declares that it is the policy of this State to provide for the administration of environmental health services by county departments of health throughout the State in a manner which is consistent with certain overall performance standards to be promulgated by the Department of Environmental Protection. The environmental health services shall include the monitoring and enforcement of environmental health standards, the operation of a technical resource center and the enactment and enforcement of environmental health ordinances to control air pollution, solid waste, hazardous waste, noise, pesticides, radiation, and water pollution, to protect workers and the public from hazardous substances and toxic catastrophes, and to protect against other threats to environmental health.

26:3A2-23. Definitions

As used in this act unless otherwise specifically indicated:

a. "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in such quantities and duration as are, or tend to be, injurious to the human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life or property anywhere in the State as may be affected thereby, but excludes all aspects of employer-employee relationships with respect to health and safety hazards within the confines of a place of employment.

b. "County board" means a county board of health established pursuant to P.L.1975, c. 329 (C. 26:3A2-1 et seq.) and having all the powers of a county board of health provided pursuant to law.

c. "County department" means a county department of health established pursuant to P.L.1975, c. 329 (C. 26:3A2-1 et seq.) with the purpose of providing environmental health programs throughout the county and other local health programs in any municipality which

contracts therefor with the county board.

d. "Environmental health" means those health and environmental programs relating to the control of air pollution, solid waste, hazardous waste, noise, pesticides, radiation, and water pollution and to protect workers and the public from hazardous substances and toxic catastrophes, or to such other health and environmental programs as may be designated by the commissioner.

e. "Monitor" means check, test, observe, survey or inspect to determine compliance with environmental health standards.

f. "Noise" means any sounds of such level and duration as to be or tend to be injurious to human health or welfare, or which would unreasonably interfere with the enjoyment of life or property throughout the State or in any portions thereof, but excludes all aspects of the employer-employee relationship concerning health and safety hazards within the confines of a place of employment.

g. "Solid waste" means garbage, refuse, and other discarded materials resulting from industrial, commercial and agricultural operations, and from domestic and community activities, and shall include all other waste materials including liquids, except for solid animal and vegetable wastes collected by swine producers licensed by the State Department of Agriculture to collect, prepare and feed such wastes to swine on their own farms.

h. "Water pollution" means the presence in or upon the surface or ground waters of this State of one or more contaminants, including any form of solid or liquid waste of any composition whatsoever, in such quantities and duration as are, or tend to be, injurious to the human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life or property within any portion of the State.

i. "Certified local health agency" means a local health agency satisfying the performance and administrative standards authorized in section 15 of P.L.1977, c. 443 (C.26:3A2-33).

j. "Commissioner" means the Commissioner of Environmental Protection.

k. "Department" means the Department of Environmental Protection.

l. "Local health agency" means a county department, or regional or municipal health agency responsible, pursuant to law, for the conduct, within its area of jurisdiction, of a public health program administered by a full-time health officer.

m. "Pesticides" means "pesticides" as defined in section 3 of P.L.1971, c. 176 (C.13:1F-3).

n. "Radiation" means "unnecessary radiation" as defined in section 2 of P.L.1958, c. 116 (C.26:2D-2); radon gas and radon progeny; "low-level radioactive waste" as defined in section 3 of P.L.1987, c. 333 (C.13:1E-179), or as defined by the Commissioner of Environmental Protection pursuant to regulation.

o. "State statutes concerning environmental health" or "environmental health laws" means the "Solid Waste Management Act," P.L.1970, c. 39 (C.13:1E-1 et seq.), the "Pesticide Control Act of 1971," P.L.1971, c. 176 (C.13:1F-1 et seq.), the "Noise Control Act of 1971," P.L.1971, c. 418 (C.13:1G-1 et seq.), the "Radiation Protection Act," P.L.1958, c. 116 (C.26:2D-1 et seq.), the "Environmental Cleanup Responsibility Act," P.L.1983, c. 330 (C.13:1K-6 et seq.), the "Toxic Catastrophe Prevention Act," P.L.1985, c. 403 (C.13:1K-19 et seq.), the "Air Pollution Control Act (1954)," P.L.1954, c. 212 (C.26:2C-1 et seq.), the "Worker and Community Right to Know Act," P.L.1983, c. 315 (C.34:5A-1 et seq.), the "Water Pollution Control Act," P.L.1977, c. 74 (C.58:10A-1 et seq.), P.L.1986, c. 102 (C.58:10A-21 et seq.), and any other State environmental health law that the commissioner deems appropriate.

26:3A2-24. Provision of environmental health services by department

The county department shall provide environmental health services, which meet the performance and administrative standards authorized in section 10 of this act, [FN1] for the territorial area of the county, under the direction of a full-time employee trained and experienced in managing environmental health programs, provided, however, that such environmental health services shall be provided by any municipal or regional health agency certified by the Commissioner of Environmental Protection pursuant to section 15 within its area of jurisdiction.

26:3A2-25. Powers and duties of certified local health agency

A certified local health agency shall investigate citizen complaints; provide public information and citizen education services in all matters concerning environmental health; monitor the various State statutes concerning environmental health, or any rule or regulation adopted pursuant thereto, or any ordinance adopted pursuant to section 9 of P.L.1977, c. 443 (C.26:3A2-27); report any violation of those statutes, rules and regulations to the department; gather evidence of violations as required; and provide witnesses for any resultant court action as needed. A certified local health agency may maintain an action in a court of competent jurisdiction to enforce, or to restrain the violation of, any environmental health law, rule or regulation, or ordinance adopted hereunder, which violation occurs, or threatens to occur, within the geographical jurisdiction of a certified local health agency.

A certified local health agency may initiate legal proceedings for a violation of any environmental health law, rule, regulation, or ordinance, including the making and issuing of complaints and summonses by serving the summons upon the violator and filing the complaint promptly with a court having jurisdiction. The county counsel or the prosecutor of the municipality in which a violation has occurred shall be authorized to act as counsel to the certified local health agency for prosecution of the violation, and any penalties collected from the prosecution shall be deposited in the "Environmental Quality and Enforcement Fund" established pursuant to section 8 of P.L.1991, c. 99 (C.26:3A2-35) for use by the certified local health agency of the county or municipality prosecuting such violations.

Unless specifically precluded by State statute, penalties for a violation prosecuted under this section shall be collected pursuant to the "penalty enforcement law," N.J.S.2A:58-1 et seq.

26:3A2-26. Technical resource center

The county department may operate a technical resource center for environmental health services to provide: a. training programs for public and private persons or groups concerned with environmental health; b. laboratory services for analyzing materials to determine compliance with environmental health standards; c. technical assistance; d. library services; e. data collection and exchange services, concerning the results of all monitoring activities within the county; and, f. any other function or service deemed necessary to effectuate the purposes of this act. The technical resource center may be established at the county college, if any, within the county.

26:3A2-27. Environmental health ordinances

A board of health of a county or municipality, or a regional health commission, with, or that is, a certified local health agency, or the governing body of any such county or municipality without a board of health or that is not a member of a regional health commission, may, in accordance with this section, formulate, adopt, amend, repeal and enforce environmental health ordinances to control air pollution, solid waste, hazardous waste, noise, pesticides, radiation, or water pollution, to protect workers and the public from hazardous substances and toxic catastrophes, or to protect against any other threat to environmental health for which authority has been delegated pursuant to section 10 of P.L.1977, c. 443 (C.26:3A2-28), within the territorial area of the certified local health agency. Ordinances adopted pursuant to this section shall be consistent with all applicable federal and State statutes, rules and regulations and with any areawide water quality, air quality, solid waste, or other applicable management plan adopted pursuant to law and approved by the Commissioner of Environmental Protection. Each ordinance shall be mailed to the commissioner within five working days of adoption, and shall take effect within 90 days of adoption, unless the commissioner disapproves the ordinance during that period. Model ordinances developed pursuant to subsection c. of section 10 of P.L.1977, c. 443 (C. 26:3A2-28) and adopted in full and without alteration by the appropriate governmental entity shall not be mailed to the commissioner and shall take effect immediately. An ordinance adopted and approved by the board of health or governing body of a county hereunder shall supersede any environmental health ordinance inconsistent therewith on the same subject adopted by the individual municipalities or a regional health commission within the county, and shall be implemented in accordance with approved interagency agreements between the certified local health agency and the department.

A board of health of a county or municipality, or a regional health commission with, or that is, a certified local health agency, or the governing body of any such county or municipality without a board of health or that is not a member of a regional health commission may adopt an environmental health ordinance that is more stringent than the federal or State statute, rule, regulation, or management plan upon which it is based provided that the federal or State statute, rule, regulation, or management plan allows for the adoption of more stringent ordinances. Notwithstanding any law, rule, or regulation to the contrary, an environmental health ordinance may provide for penalties for its violation consistent with the penalties established therefor in the applicable environmental health law, or any penalty schedule adopted by the department in

accordance therewith.

26:3A2-28. Environmental health performance standards and standards of administrative procedure for county departments; delegation of powers and duties; comprehensive model ordinances

a. The commissioner shall promulgate, after consultation with the Commissioner of Health, environmental health performance standards and standards of administrative procedure for certified local health agencies pursuant to the "Administrative Procedure Act" (P.L.1968, c. 410; C.52:14B-1 et seq.). The standards shall include provisions for the delivery to the department of periodic reports on the results of the monitoring and enforcement activities of the certified local health agencies.

b. The commissioner may, in the same manner, delegate the administration of one or more aspects of the environmental health laws of this State or of the rules and regulations adopted thereto, which are administered by the department, to a, certified local health agency, after he has adopted specific standards and guidelines for the administration of such programs by certified local health agencies, for so long as he determines that a certified local health agency, has the capability and determination to adhere to those specific standards and guidelines. In determining whether to delegate authority to administer all or a portion of any program, or whether a certified local health agency has the capability or determination to assume or retain delegation of program administration, the commissioner shall consider:

(1) The consistency of the delegation with applicable federal or State law;

(2) The probable effects of the delegation on the effectiveness and efficiency of program administration, and the need for uniform program administration;

(3) The availability of technical expertise, adequate staff levels and other resources needed to adequately perform program administration.

Under a delegation of program administration for the "Toxic Catastrophe Prevention Act," P.L.1985, c. 403 (C.13:1K-19 et seq.) and the "Worker and Community Right to Know Act," P.L.1983, c. 315 (C.34:5A-1 et seq.), delegation may not include authority to require documentation that is in addition to that required to be retained by an employer under those laws.

c. The commissioner shall develop one or more comprehensive model ordinances dealing with the control of air pollution, solid waste, hazardous waste, noise, pesticides, radiation, and water pollution, the protection of workers and the public from hazardous substances and toxic catastrophes, or other threats to environmental health for which authority has been delegated, for use by the appropriate local governmental entity, and to provide technical assistance to the certified local health agencies.

26:3A2-29. Grants to certified local health agencies; limitation; environmental health fund

a. The commissioner is authorized to make grants to certified local health agencies for the

provision of environmental health services. The commissioner shall prescribe procedures for applying for the grant, and terms and conditions for receiving the grant. The State's contribution shall not exceed 50% of the cost of any undertaking for which a grant is made.

b. There is established in the department a non-lapsing environmental health fund that shall consist of all revenues appropriated or otherwise made available for the purpose of making grants on a non-matching basis to certified local health agencies, including such monies from fees, fines and penalties collected by the department in implementing environmental health laws as the department may deposit in the fund. Non-matching grants shall be used by certified local health agencies in the administration or implementation of environmental health laws, or rules or regulations adopted pursuant thereto, for which delegation of program administration has been received, or for implementation of local ordinances adopted in accordance therewith. Non-matching grant monies may be used only for new or for expanding programs, or for development of technical and administrative procedures and protocols, training and personnel development, special projects and equipment, or other similar purposes approved by the commissioner. Non-matching grants made pursuant to this subsection shall be in addition to grants made pursuant to subsection a. of this section.

c. Monies in the fund may be used by the commissioner to provide training, equipment or other services to certified local health agencies for the purpose of assisting them in carrying out their responsibilities under P.L.1977, c. 443 (C.26:3A2-21 et seq.).

26:3A2-30. Employees of local health agency; transfer to county department

Each person, who shall have been employed by a local health agency, including a regional health commission formed for the provisions of air pollution services, and whose employment by such agency shall have been terminated by reason of the assumption of its activities and responsibilities by a county department pursuant to this act, shall be transferred to such county department pursuant to the conditions contained in sections 16, 17 and 18 of P.L.1975, c. 329 (C. 26:3A2-16 to 26:3A2-18).

26:3A2-31. Annual budget; submission by county health officer; tax levy; determination by board of chosen freeholders

The county health officer shall prepare and submit annually to the board of chosen freeholders, subject to the advice of the county board, in each year, a budget setting forth in detail the amounts of money necessary for the operation of the county department of health for environmental health purposes, during the ensuing year. The board of chosen freeholders shall include annually in the tax levy the amount of money which it believes will best meet the environmental health needs of the county.

26:3A2-32. Severability

If any provision of this act or the application thereof to any person or circumstance is held invalid, the remainder of the act and the application of such provision to persons or

circumstances other than those to which it is held invalid, shall not be affected thereby.

26:3A2-33. Work program to meet standards; certification of municipal or regional health agency as authorized local government for performance of environmental health services within its jurisdiction

A county department shall, within 15 months of the promulgation of environmental health performance standards and standards of administrative procedure for county departments of health by the Commissioner of Environmental Protection, prepare a work program for meeting the standards throughout the county and shall submit it to the Commissioner of Environmental Protection and to each municipality located therein for review. The work program shall provide a detailed description of program objectives, shall delineate responsibilities for its implementation within the county, shall identify the personnel and resources required to meet the program objectives and shall provide a time schedule for achieving full program implementation.

Any municipal or regional health agency authorized by P.L.1975, c. 329 (C. 26:3A2-1 et seq.), which is presently providing environmental health services which meet the standards of performance and of procedure and which is willing to coordinate its environmental health programs with those of its neighbors by implementing the work program of the county department, may petition the Commissioner of Environmental Protection for certification and upon certification become the authorized local government for the performance of environmental health services within its jurisdiction.

The Commissioner of Environmental Protection shall certify any municipal or regional health agency as the authorized local government for the performance of environmental health services within its jurisdiction, when he finds that the petitioning health agency provides and will continue to provide a complete program of environmental health services which meet the standards of performance and of procedure as indicated in the work program of the county department. The Commissioner of Environmental Protection shall periodically review the certification of each such health agency to determine whether or not it should be continued.

26:3A2-34. Service fees charged by local health agencies; fees deposited in Environmental Quality and Enforcement Fund

Notwithstanding any law to the contrary, a certified local health agency, if authorized by ordinance, may charge a reasonable fee for any service provided in connection with an environmental health ordinance, but such fee shall not exceed the estimated cost of providing that service. All fees collected pursuant to this section shall be deposited in the "Environmental Quality and Enforcement Fund," created pursuant to section 8 of P.L.1991, c. 99 (C.26:3A2-35). Authorization to charge service fees shall be provided, as appropriate, by ordinance of any county or municipal board of health, or regional health commission, with a county department or that is a certified local health agency, or, in the case of any such county or municipality without a board of health or that is not a member of a regional health commission, of the governing body of that county or municipality.

26:3A2-35. Counties and municipalities with local health agencies to establish

environmental quality and enforcement funds

Each county and municipality with a certified local health agency, shall establish an "Environmental Quality and Enforcement Fund." Any fees, fines or penalties collected pursuant to P.L.1977, c. 443 (C.26:3A2-21 et seq.) shall be deposited into the respective county or municipal fund, and shall be dedicated to the use of the county department or certified local health agency in carrying out its responsibilities under that act.