

**ENVIRONMENTAL PROTECTION  
COMPLIANCE AND ENFORCEMENT  
County Environmental Health Standards of Administrative Procedure and Performance**

**Proposed Readoption without Change: N.J.A.C. 7:1H**

Authorized By: Bradley Campbell, Commissioner  
Department of Environmental Protection

Authority: N.J.S.A. 26:3A2-21 et seq. and 13:1D-1 et seq.8.  
See summary below for explanation of exception to  
calendar requirement.

DEP Docket Number: \_\_\_\_\_

Proposal Number: PRN2005-

Submit written comments by (60 days after publication) to:  
Alice A. Previte, Esquire  
Attn: DEP Docket No.  
Office of Legal Affairs  
Department of Environmental Protection  
P.O. Box 402  
Trenton, New Jersey 08625-0402

The Department of Environmental Protection (Department) requests that commenters submit comments on disk or CD as well as on paper. Submission of a disk or CD is not a requirement. The Department prefers Microsoft Word 6.0 or above. Macintosh™ formats should not be used. Each comment should be identified by the applicable N.J.A.C. citation, with the commenter's name and affiliation following the comment.

This rule proposal can be viewed or downloaded from the Department's website at [http://www/state/nj/us/dep](http://www.state/nj/us/dep).

The agency proposal follows:

**Summary**

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement under N.J.A.C. 1:30-3.3(a)5.

The Department is proposing to readopt without change the County Environmental Health Act (CEHA) rules at N.J.A.C. 7:1H. In accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., the CEHA rules were due to expire on July 12, 2005. The expiration date was extended by 180 days to January 8, 2006 pursuant to N.J.S.A. 52:14B-5.1c, as a result of the timely filing of this proposal to readopt without change

Pursuant to CEHA, N.J.S.A. 26:3A2-21 through 35, the Department has certified 20 county health departments and one regional health agency to provide environmental health services in all 21

New Jersey counties. The certified local health agencies provide these services pursuant to a delegation of authority from the Department.

CEHA directs the Department to promulgate performance standards and administrative standards to govern this local administration of environmental health services at N.J.S.A. 26:3A2-28. In 1980, the Department promulgated rules containing those standards at N.J.A.C. 7:1H-1 et seq. (see *New Jersey Register*, September 4, 1980, 12 N.J.R. 514(a)). The Department made minor amendments to those rules in 1983 (see *New Jersey Register*, March 7, 1983, 14 N.J.R. 1328(a)), and July 10, 2000 (see *New Jersey Register*, August 7, 2000, 32 N.J.R. 2864(d)).

The readoption of N.J.A.C. 7:1H is necessary to ensure continued implementation of the CEHA program. These rules establish the standards for the administration of environmental health programs as well as environmental performance standards for the control of air pollution, solid waste, noise, hazardous substance control, and water pollution by local health agencies certified by the Department.

As originally enacted, CEHA authorized the Department to delegate its authority for environmental health services in the areas of air pollution, solid waste, noise, hazardous substance control, and water pollution to certified local health agencies. Amendments to CEHA enacted in 1991 authorized the Department to delegate its authority for environmental health services in additional areas, including pesticides, radiation, and other areas specified by the Commissioner of the Department. These 1991 statutory amendments make it necessary for the Department to amend the CEHA rules, and to establish performance standards for the additional areas of environmental health services to be delegated. The Department is finalizing new rules to implement the 1991 amendments as well as a new amendment to CEHA enacted in January 2005, which concerns county hazardous materials emergency response programs. The Department expects to repeal the existing CEHA rules and replace them with new rules by the end of the year.

The following is a brief description of the current county environmental health standards of administrative procedure and performance at N.J.A.C. 7:1H that are proposed for readoption.

N.J.A.C. 7:1H-1.1 addresses the scope of the subchapter.

N.J.A.C. 7:1H-1.2 provides that the rules are to be liberally construed so that the Department may effectuate the purposes of CEHA.

N.J.A.C. 7:1H-1.3 identifies the purposes of the chapter.

N.J.A.C. 7:1H-1.4 defines the words and terms used throughout the chapter.

N.J.A.C. 7:1H-2.1 states that CEHA certified agencies are required to meet the standards of administration and performance authorized in N.J.A.C. 7:1H, and in doing so, are eligible for receipt of grants, if available.

N.J.A.C. 7:1H-2.2 establishes the duties and powers of CEHA agencies.

N.J.A.C. 7:1H-2.3 requires the lead CEHA agency, as designated by the county governing body, to submit a work program to meet the administrative and environmental performance standards. The work program must describe the personnel and resources required to meet program

objectives, the nature and scope of environmental health programs for which delegation is being sought, the delineation of responsibilities in each program area, and a schedule for implementation. The Department uses the information set forth in the work program as the criteria for its decisions regarding agency certification, including the consistency of the delegation with applicable federal or state law; the probable effects of the delegation on the effectiveness and efficiency of program administration; and the availability of technical expertise, adequate staffing levels, and other resources needed to adequately perform program administration.

N.J.A.C. 7:1H-2.4 establishes the criteria for municipal and regional health agencies seeking CEHA certification within its area of jurisdiction.

N.J.A.C. 7:1H-2.5 establishes personnel standards for individuals managing the delivery of environmental health services and for individuals performing the duties of a sanitary inspector (now known as "Registered Environmental Health Specialist").

N.J.A.C. 7:1H-3.1 through 3.8 contain the standards of performance for conducting environmental health programs in the areas of air pollution control (N.J.A.C. 7:1H-3.1); noise control (N.J.A.C. 7:1H-3.2); hazardous substance control (N.J.A.C. 7:1H-3.3); solid waste control (N.J.A.C. 7:1H-3.4); provision of public health laboratory services (N.J.A.C. 7:1H-3.5); potable water supply control (N.J.A.C. 7:1H-3.6); ground water pollution control and on-site sewage system management (N.J.A.C. 7:1H-3.7) and; surface water pollution control (N.J.A.C. 7:1H-3.8).

#### **Social Impact**

The rules proposed for re-adoption would allow the Department to continue, in full force and effect, the beneficial environmental programs administered by the certified local health agencies resulting from the promulgation of these rules. The implementation of these rules has resulted in a strong cooperative effort between the State and the 21 certified local health agencies. The rules proposed for re-adoption will have a positive social impact since the public and regulated business community will benefit from the continued provision of environmental health services by the certified local health agencies.

#### **Economic Impact**

The rules proposed for re-adoption will result in a continuation of the existing CEHA program. Persons subject to enforcement actions taken by CEHA agencies will continue to be required to maintain compliance with the applicable environmental laws, just as they would be subject to enforcement actions taken by the Department. Thus, the Department anticipates that the rules proposed for re-adoption will have no economic impact on the regulated community.

The State has been providing an annual State-aid budget appropriation to the Department to help support the CEHA program, and in the State fiscal year 2005 budget, this amount was \$3.453 million. In addition, the CEHA program has received some funding support from Departmental programs that pass through grants from the United State Environmental Protection Agency. CEHA agencies will continue to require county and/or municipal funding support, and may continue to require the assessment of fees for environmental services provided to maintain their CEHA programs.

#### **Environmental Impact**

The rules proposed for re-adoption will have a positive environmental impact of continuing

the implementation of the CEHA program. This regulatory framework provides an environmental benefit by implementing standards for certified local health agencies conducting routine inspections, complaint investigations, responding to spills and releases of hazardous substances, collecting environmental samples, and undertaking timely and appropriate enforcement actions to return violators to compliance. These activities serve to minimize environmental and public health impacts from violations of the rules in place to protect the environment. All 21 counties participate in the CEHA program, which has evolved into a sophisticated system that supports and enhances the State's environmental protection efforts.

#### **Federal Standards Statement**

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. (P.L. 1995, c.65), require State agencies that adopt, readopt or amend State regulations that exceed any Federal standards or requirements to include in the rulemaking document a Federal Standards Analysis. The rules proposed for readoption do not impose any standards or requirements that exceed the standards or requirements imposed by any applicable Federal law. Accordingly, Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. do not require a Federal Standards Analysis.

#### **Jobs Impact**

The CEHA rules have helped create and sustain jobs in the counties that carry out delegated activities under CEHA. The rules proposed for readoption will continue this financial support of jobs in all 21 New Jersey counties that receive CEHA delegation from the Department.

#### **Agriculture Industry Impact Statement**

In accordance with P.L. 1998 c.48, amending the Right to Farm Act, the Department has reviewed the rules proposed for readoption and has determined these rules do not impose any standards or requirements on New Jersey's agricultural industry, and will not have an impact on the agriculture industry, except insofar as the industry benefits from resulting environmental benefits.

#### **Regulatory Flexibility Analysis**

The New Jersey Regulatory Flexibility Act, (N.J.S.A. 52:14B-16 et seq.) requires that the Department shall, when proposing a rule, utilize approaches which will accomplish the objectives of the applicable statutes while minimizing any adverse economic impact on small businesses. Small businesses are defined as those that are resident in this State, independently owned and operated and not dominant in their field, and that employ fewer than 100 full-time employees. The rules proposed for readoption will continue the standards for the administration and performance of certified local health agencies pursuant to the County Environmental Health Act. No reporting, recordkeeping or compliance requirements will be imposed upon small businesses as a result of the readoption.

#### **Smart Growth Impact**

Executive Order No. 4 (2002) requires State agencies that adopt, amend or repeal State regulations to include in the rulemaking document a Smart Growth Impact statement that describes the impact of the rules proposed for readoption on the achievement of smart growth and implementation of the State Development and Redevelopment Plan (State Plan). The rules proposed for readoption does not relate to the State's official land use and development policies in a way that would either encourage or discourage any development or redevelopment in this State contrary to the guiding principles of the State Plan. As a result, the Department does not expect this rulemaking to have an impact on the State's achievement of Smart Growth or the implementation of the State Plan.

NOTE: THIS IS A COURTESY COPY OF THIS RULE PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE AUGUST 1, 2005 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 7:1H.

Based on consultation with staff, I hereby certify that the above statements, including the Comparison with Federal Law statement addressing the requirements of Executive Order No. 27 (1994), permits the public to understand accurately and plainly the purposes and expected consequences of readoption without change. I hereby authorize the proposed readoption.

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Date

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Bradley M. Campbell, Commissioner  
Department of Environmental Protection

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