

Appendix D - Copy of the Typical Memorandum of Understanding developed between the State of New Jersey and the County or Local Government entity under the County Environmental Health Act.

AGREEMENT BETWEEN

MIDDLESEX COUNTY PUBLIC HEALTH DEPARTMENT

(print name of Grantee; all capitals)

AND

THE STATE OF NEW JERSEY

BY AND FOR

THE DEPARTMENT OF ENVIRONMENTAL PROTECTION

GRANT IDENTIFIER: EN13-021

A typical agreement also contains a table of contents, general terms and conditions, signature forms, statements of compliance with existing laws and policies (both federal and state), liability and workman's compensation insurance provisions, financial and performance reporting requirements, audit requirements, closeout and agreement modification procedures, access and retention of records procedures, additional federal funded agreement provisions, and other miscellaneous provisions. The section of the typical agreement provided here is related to Air Pollution control inspection and enforcement and is noted as "Scope of Services" and Attachment D-2 within a typical agreement.

SCOPE OF SERVICES

The Scope of Services for this agreement comprises Attachment D-2, Grantee's Proposal; any project requirements delineated in Attachment D-1, Project Requirements; and any modifications, amendments, and additions to the Grantee's proposal discussed in this Attachment D. In case of conflict among the provisions of Attachments D, D-1, and D-2, the order of priority shall be: (1) Attachment D-1, (2) Attachment D, (3) Attachment D-2. This Attachment D comprises 2 pages, including this page.

CEHA funds will be utilized to provide environmental health services consistent with the following documents and any amendments thereto:

1. CEHA Performance Standards (N.J.A.C. 7:1H-1 et seq.)
2. Work Program
3. Any interagency agreements executed with the Department.
4. Attachment D-2

The program outputs described in Attachment D-2 are minimum outputs.

ORIGINAL WORK PROGRAM APPROVAL DATES

County	Dates
Atlantic	2/85
Bergen	2/85
Burlington	3/84
Camden	1/85
Cape May	1/84
Cumberland	3/85
Essex	12/93
Gloucester	1/85
Hudson	6/84
Hunterdon	2/85
Mercer	9/04
Middlesex	6/83
Monmouth	2/85
Morris	6/03
Ocean	12/83
Passaic	5/85
Salem	2/85
Somerset	5/93
Sussex	2/88
Union	4/86
Warren	2/85

Work program is the document and any amendments thereto prepared in accordance with N.J.A.C. 7:1H-2.3 which describes program elements, personnel and resources to meet program objectives, and a program implementation schedule.

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GRANTEE'S PROPOSAL

Grantee's project proposal, comprising 22 pages, including this page, is incorporated into this agreement as this Attachment D-2. Except as modified, amended, or supplemented by Attachment D, this Attachment D-2, Grantee's Proposal, describes the assignment tasks and project work units which the Grantee shall perform and deliver pursuant to this agreement.

PROGRAM NARRATIVE -- AIR POLLUTION CONTROL NEW 2013

OBJECTIVE(S):

To monitor and enforce the State Air Pollution Control Code as required in the NJDEP approved CEHA work program and certification order and in accordance with the NJDEP air pollution control program's standard operating procedures, policies, and guidance documents.

PRIORITY ACTIVITIES:

Investigate all air pollution complaints received from citizens and NJDEP. These complaint investigations include, but are not limited to, open burning, odors, particulate emissions, permits and certificates, and motor vehicle idling. Complaints referred by NJDEP must be investigated within 24 hours of receipt unless otherwise specified. Notify the appropriate NJDEP Regional Field Office of all findings within 24 hours of the investigation whether or not the complaint was verified. If complaint was referred to a municipal agency with properly qualified staff, the lead certified agency is responsible for making notification to the NJDEP. In the event that a complaint referral received from the NJDEP cannot be investigated within the timeframe specified, a notification and explanation should be given to the appropriate NJDEP regional field office. Inspectors assigned to respond to odor complaints must attend an odor enforcement training course sponsored by Rutgers University every 3 years.

Conduct inspections at delegated facilities including dry cleaners using an approved PID meter and "B" sources in accordance with the Minor Sources Compliance Investigation (MSCI) list of assigned inspections for 2013. As assigned by the MSCI program, verify the status of operations and/or change of address and conduct an inspection of any facility where permit renewal invoice(s) have been returned as undeliverable and/or with certificates due to expire soon. Inspections at the following B-source facilities should be a priority in 2013: dry cleaners, schools, office buildings, apartment and government buildings, auto body shops and those small businesses having the following equipment:

- boilers < 20 million BTU/hr either natural gas or fuel oil.
- emergency generators.
- woodworking equipment
- degreasers
- waste oil burners
- mobile equipment refinishing

In addition, assist MSCI with the implementation and execution of the dry cleaner equipment replacement reimbursement program (dry cleaner grant) by conducting equipment verification inspections as noted on the program output page.

ENFORCEMENT AND REPORTING REQUIREMENTS

Submit compliance monitoring inspection reports with violations to the NJDEP's Minor Source Section within 45 days of discovering the violations and conduct follow-up investigations as needed to ensure compliance is achieved. Other inspection reports may be submitted within 60 days of the date of inspection. All inspection reports must be submitted no later than January 14, 2013 to count towards 2013 CEHA Air Program outputs. All inspection reports submitted to

MSCI for credit must include a cover sheet which lists the Air PI#, Facility Name, Date of Inspection, and whether the facility was found in compliance or not. Follow-up inspection reports should be submitted separately and include a similar cover sheet.

Notify the NJDEP Minor Source Compliance Investigations Section or the appropriate Regional Field Office of all pending enforcement actions, including settlement conferences. Conduct these enforcement actions in accordance with NJDEP's grace period policy, penalty regulations, and other applicable enforcement policies. Initiate enforcement proceedings in a court of competent jurisdiction against violators as required by the NJDEP.

NJDEP shall be notified of all Notices of Penalty Assessment prior to issuance to the violators, and must be notified five days prior to the convening of a settlement conference or taking court action. In addition, follow-up reports on the outcome of all settlement conferences and court actions, including the penalty assessment and compliance plan (if applicable), shall be forwarded to the applicable NJDEP Regional Field Office or Minor Source Section. All settlements must include assurance that any of the violations being considered for settlement are now in compliance with all applicable rules, regulations or permits. Any on-going non-compliance issues must be addressed in the form of a Consent Agreement with the facility, which includes a schedule to comply with all regulations, rules and/or permits. Any consent agreement must include penalty provisions for the period of non-compliance and a determination of economic benefit.

The CEHA Agency shall maintain files of all inspections, investigations, correspondence, enforcement documents, phone logs, etc and be provided to the NJDEP upon request and also be made available pursuant to the Open Public Records Act (OPRA).

PROGRAM NARRATIVE --- HAZMAT AND CBRNE EMERGENCY RESPONSE (2013)

OBJECTIVES:

Maintain standardized countywide Hazardous Material (Hazmat) and CBRNE (chemical, biological, radiological, nuclear, and explosive) emergency response capability, capacity and competence. Standardized training, staffing and equipment will meet or exceed the specifications found in the February 2003 NJ State Police guidance document "Hazmat Emergency Response Teams Standards for Operations and Training." Adequately trained and equipped county personnel will respond to Hazmat and CBRNE emergencies and conduct investigations as requested by NJDEP in coordination with DHSS, and/or NJ State Police. Such response activities may include responding to emergencies outside of the geographical jurisdiction of the Teams at the request of NJDEP and/or New Jersey State Police. Hazmat and emergency response activities will be conducted in accordance with the approved County OEM plan, with the NJDEP Technical Requirements for Site Remediation, N.J.A.C. 7:26E, applicable PEOSH requirements, and the above-referenced State Police guidance document.

PRIORITY ACTIVITIES:

Coordinate with the County Office of Emergency Management (OEM) and local Hazmat/CBRNE response units that have entered into agreements with the certified local health

agency to develop and maintain an integrated emergency preparedness system throughout the county. This system will be enhanced, to the extent practicable, to meet or exceed the standards in the above-referenced guidance document.

Respond to all Hazmat and CBRNE emergencies referred by NJDEP to assess environmental health threats and advise Hazmat/CBRNE teams accordingly. Assist in emergency response actions, if applicable, in accordance with the approved OEM plan. Make recommendations to and coordinate these response actions with appropriate federal, State and local agencies. Submit reports to NJDEP for all incidents responded to, documenting the type of incident, the remedial action taken and whether or not a violation occurred. In the event of a violation of an environmental law, submit reports documenting the violation(s) to NJDEP for enforcement action. In the event the incident appears criminal in nature, promptly refer the matter to the county prosecutor's office, municipal law enforcement officers, and/or the Division of Criminal Justice-Environmental Crimes Section.

Investigate all Hazmat and CBRNE complaints received from citizens and NJDEP as required by NJDEP. Call the appropriate Regional Office to report the status of each incident. These investigations include potential and known discharges of hazardous materials to the environment. Refer cases requiring remedial action to NJDEP. Notify the NJDEP hotline (1-877-WARNDEP) of any incidents that the County becomes aware of which they do not get from NJDEP.

Each Hazmat team shall enter their Hazmat resources into the NJ Resource Directory Database (RDDB) and maintain this data so it accurately reflects its available resources. Any new equipment that is purchased shall be entered into the RDDB within 60 days of receipt. If assistance is required, please contact your County OEM.

Upon referral from NJDEP/BER of an incident, the county response team is required to communicate to the NJDEP duty officer at the appropriate Regional Office or via the means of communication established during the referral about the status of the incident as soon as possible (no later than 15 minutes) after arrival at the scene to relay information on the nature of the incident, which should include all available information about the responsible party, type of material spilled, quantity, sensitive receptors, etc.

Maintain a core of trained and equipped personnel that are capable of responding to Hazmat and CBRNE incidents in accordance with the State Police guidance document and county OEM plans. Maintain an adequate supply of hazmat disposable equipment, such as booms, pads, sweeps, etc. and equipment, such as radios, air monitoring devices, etc., which conforms to the requirements for equipment inter-operability and meets with at least the minimum standards found in the State Police guidance document.

Ensure that personnel assigned to respond to Hazmat and CBRNE incidents are properly trained and participating in a medical surveillance program (MSP) in accordance with PEOSH. Personnel will be FIT tested and attend annual 8-hour Health & Safety refresher training. The Employer will maintain adequate records to document such training and MSP.

Compile and maintain files and records to document each incident response and to support NJDEP enforcement actions.

Participate in periodic assessments with the State Hazmat/CBRNE audit team. Provide records upon request to the State audit team for the following: Training; MSP; equipment lists and equipment calibration; drills and exercises; inter-agency agreements; operating procedures; current emergency response team rosters; and financial information.

As requested respond under the auspices of the: Intrastate Mutual Aid Agreement County Emergency Response Program for CBRNE/Hazardous Materials Incidents.

It is recommended that responders G.P.S. and map each incident location.

REGULATED UST COUNTY INSPECTION COMPLIANCE PILOT PROJECT NEW 2013

OBJECTIVE:

In accordance with the Cooperative Agreement (CA) executed between NJDEP and each participating CEHA agency:

Identify Coordination/Communication requirements to ensure the program operates in an efficient and effective manner.

Identify NJDEP inspection/investigation requirements necessary to ensure contracted County agencies conduct qualitative and quantitative Standard Compliance Inspections (SCIs) of regulated underground storage tanks (UST's) and associated air pollution control minor source devices (Stage I & II vapor recovery equipment, review of Air Permits and associated test results) and investigate facilities with unregistered USTs that are in use and/or not closed in accordance with N.J.A.C. 7:14B-9.

Identify NJDEP requirements to ensure contracted County agencies perform appropriate and consistent enforcement activities including violation identification, issuance of penalties, notifications and settlements.

Identify NJDEP programmatic requirements to ensure contracted County agencies capture and appropriately input required inspection and enforcement data and documents in NJEMS, NJDEP's master data management system.

COORDINATION/COMMUNICATION REQUIREMENTS:

Each CEHA Agency shall identify and maintain a primary contact knowledgeable and capable of fulfilling the duties, obligations and standards found in the Cooperative Agreement (CA) and this County UST Program Requirement Document. The Primary Contact is required to receive State training and to pass a written exam concerning tank issues and State procedures and protocol. In addition, the CEHA Agency shall designate a supervisor (can be the Primary Contact) to oversee, review and approve inspections, enforcement activities and NJEMS data requirements. The supervisor, after receiving NJEMS training, shall be authorized to enter data in NJEMS and to lock such entries as specified in the NJEMS training and the CA.

INSPECTION REQUIREMENTS:

The CEHA Agency shall inspect on behalf of the NJDEP, all regulated underground storage tanks containing motor fuels i.e., all grades of gasoline and diesel fuel, within the geographical jurisdiction of the County. A 'regulated' entity is an owner/operator with an Effective or Pending tank registration on file with the NJDEP. Heating oil USTs, both commercial and residential, and UST's containing non-petroleum hazardous substances are not subject to this Cooperative Agreement.

Each inspection at a gasoline dispensing facility (GDF) shall include an inspection of the Stage 1 and Stage 2 vapor control equipment (when present) and to determine compliance with the operational and regulatory requirements of the Air Pollution Control Act.

All facilities shall be field screened (i.e. instrument readings (PID) and visual observances) for the presence of soil and/or ground water contamination resulting from the operation of the facility's UST's and/or minor source equipment. Each inspector shall maintain appropriate field equipment and instrumentation needed to perform UST inspections, and participate and successfully complete training sessions as requested by NJDEP.

The CEHA Agency shall conduct sixty-seven (67) SCIs with the exception of Hudson County which will conduct 38 SCIs within the calendar year. These inspections shall be limited to facilities with regulated operational (in-use) UST's only. The NJDEP will assign to the Agency the facilities to be inspected.

All inspections/investigations shall be conducted as outlined in NJDEP training documents and according to NJDEP policies and procedures and applicable State Regulations.

Inspectors shall use NJDEP approved forms for inspections and enforcement documents. During the course of each inspection, the inspector shall provide compliance assistance and distribute materials provided by the NJDEP to owners & operators of UST facilities.

ENFORCEMENT REQUIREMENTS:

Violations determined during an inspection shall be noted in the inspection report and a Field Notice of Violation (FNOV) issued at the conclusion of the inspection.

If required, on-site follow-up inspections shall be conducted to ascertain compliance.

Concerning the implementation of a Delivery Ban and/or Cease Use (DB and/or CU) of regulated tanks, said implementation shall be a joint action performed by the CEHA Agency and the NJDEP. Should a DB and/or CU be required, the Agency must immediately notify the Department. Jointly, it will be determined if such an action is required. If an action is required, the NJDEP shall issue an Administrative Order at the facility and seal the tank(s) with the appropriate State seals and tags. The CEHA Agency shall issue the FNOV and maintain the lead to pursue penalties for the observed violations.

Upon attainment of compliance, the CEHA Agency shall initiate penalty settlement proceedings against violators as required by the NJDEP. The CEHA Agency shall assess and compromise penalties consistent with NJDEP's regulations and policies including but not limited to the grace period policy (for minor violations), and other applicable NJDEP requirements. All Settlement Agreements must be reviewed and approved by the NJDEP designated CEHA contact prior to execution.

Penalties collected from CEHA settlement actions must be reported to the NJDEP on a quarterly basis. Should a settlement require a monthly payment schedule, said penalty schedule shall not exceed two (2) years duration unless otherwise approved by the NJDEP.

Should compliance not be attained, the matter shall be referred to NJDEP for issuance of an Administrative Order or other advanced action as needed. NJDEP will assume the lead in the matter.

DATA MANAGEMENT/NJEMS REQUIREMENTS:

Each agency inspector shall enter inspection and enforcement data into the New Jersey Environmental Management System (NJEMS) within 21 calendar days from the date of each inspection, in accordance with the terms found in NJEMS Cooperative Agreement executed in 2006. This information shall include, but is not limited to, the completed inspection checklist, completion of activity tracking tasks and dates, and creation and completion of the Notice of Violation activity. The designated Agency supervisor shall then 'lock' the activity(ies).

All Settlements Agreement activities and corresponding copies of the Agreements shall be included in NJEMS and must be reviewed and approved by the NJDEP designated CEHA contact prior to execution via the 'Review and Approval' task. All inspection reports must be submitted no later than January 14, 2013 to count towards 2013 CEHA Program outputs.

NJDEP will supply the CEHA Agency via e-mail with NJEMS quality assurance/quality control data reports on a monthly basis. The agency shall correct data deficiencies within one week of notification.

The CEHA Agency shall maintain files of all inspections, investigations, correspondence, enforcement documents, phone logs, etc and be provided to the NJDEP upon request and also be made available pursuant to the Open Public Records Act (OPRA).

PILOT PROJECT - COMMUNITY RIGHT-TO-KNOW (2013)

OBJECTIVE:

To implement a pilot compliance monitoring program for Community Right to Know (CRTK) to assist the NJDEP in improving compliance among facilities required to file annual CRTK surveys.

PRIORITY ACTIVITIES:

Conduct CRTK compliance monitoring investigations of employers within the county's geographical jurisdiction to determine whether the employer is in compliance with the Worker

and Community Right to Know Act, N.J.S.A. 34:5A-1 through 31 and the rules promulgated thereunder, N.J.A.C. 7:1G.

The county will investigate only those employers identified on a list provided by the NJDEP. The list will indicate which employers have not filed CRTK surveys for a specific reporting year. The NJDEP may request the county, on a case-by-case basis, to perform investigations to determine whether a facility is in compliance.

For each CRTK investigation, the county shall document all relevant facts and circumstances, including the existence or absence of all information necessary to establish a violation, on a form approved by the NJDEP

The county shall be authorized to issue Notices of Violations (NOVs) to non-compliant facilities and issue penalties consistent with the Act and regulations. The county is further authorized to conduct settlements of enforcement cases, and may reduce penalties in accordance with NJDEP policies and procedures. Any additional reductions may only be taken with the written express approval of the NJDEP on a case-by-case basis. The county will not consider any case settled until they determine that the NJDEP has received the CRTK survey.

NJDEP shall be notified five (5) days prior to the convening of a settlement conference. The county is specifically prohibited from taking enforcement actions to court and shall refer non-compliant facilities to the NJDEP within five (5) days following failed attempt(s) to obtain compliance and/or any penalties.

The county shall provide to the CRTK Coordinator, Bureau of Pollution Prevention and Right to Know and the assigned CEHA Coordinator in OLEM on a quarterly basis, the following information concerning the implementation of the pilot CRTK program:

1. The number of investigations conducted.
2. A brief summary of the results of each investigation, including the name of each facility, the address, and the specific nature of any non-compliance documented.
3. A brief summary of all enforcement actions taken during the quarter, including the outcomes of settlements.

2013 PROGRAM OUTPUTS (MANDATORY)

PROGRAM	NUMBER OF FACILITIES	FREQUENCY OF INSPECTION	PROJECTED ANNUAL TOTAL
I. AIR POLLUTION CONTROL			
A. Dry Cleaner Inspections	154	as required	31
B. Other Delegated Source Inspections	1031	as required	344
1. New Facilities		as required	
2. Existing Facilities		as required	
C. Complaint Investigations		as required	
1. DEP Referrals		as required	
2. Citizen Complaints		as required	
3. Site Discoveries		as required	
D. Dry Cleaner Grant Inspections		as required	20 or less
E. Enforcement Actions			
1. NOVs		as required	
2. Penalty Actions		as required	
i. Penalties Assessed		as required	
ii. Penalties Collected		as required	
3. Settlement Conferences		as required	
4. Court Actions		as required	
II. SOLID WASTE CONTROL-FACILITIES			
A. Operating Sanitary Landfill Inspections	1	bi-monthly	
B. Transfer Stations/MRF Inspections	7	monthly	
C. Resource Recovery Facility Inspections		as required	
D. Class A Recycling Center Inspections	8	quarterly	
E. Class B Recycling Center Inspections	11	quarterly	
F. Exempt and Limited Class B Inspections	6	bi-annually	
G. Class C Inspections	2	bi-annually	
H. Exempt Compost Facility Inspections	2	bi-annually	
I. Asphalt Millings Site Project		as required	
J. Farmland Mulch Site Inspections	1	annually	
K. Convenience Center Inspections	21	bi-annually	

L. Enforcement Actions		as required	
1. NOVs		as required	