

2. On a lot that [is entirely located in the Conservation Zone] **does not contain forest**, the applicant proposes no more than one individual subsurface disposal system or equivalent disposal unit for each [12] **25** acres of the lot.

[3. On a lot that is located entirely in the Existing Community Zone, the applicant proposes no more than one individual subsurface disposal system or equivalent disposal unit for each 11 acres of the lot.

4. To determine if a lot is located in the Protection Zone, Conservation Zone, and/or Existing Community Zone, the applicant shall refer to the Land Use Capability Zones GIS dataset constituting the Land Use Capability Zone Map, available from the Highlands Council website at <http://www.highlands.state.nj.us/njhighlands/gis/downloads/index.html> (see also the metadata for the Highlands Council's Land Use Capability Zones dataset, at http://www.nj.gov/njhighlands/gis/downloads/gis_data/LUCZ.html.)

[5.] **3.** (No change in text.)

[6.] **4.** For a lot [that has land located in more than one of the zones identified at (b)1, 2, and 3 above] **containing both forest and nonforest areas**, the total number of allowable individual subsurface disposal systems or equivalent disposal units permitted on the lot shall be determined by calculating the number of acres of the lot that are [in each of the respective zones] **forest (as determined in accordance with the method at N.J.A.C. 7:38-3.9)**, and dividing [the acreage in the Protection Zone by 23, the acreage in the Conservation Zone by 12, and the acreage in the Existing Community Zone by 11] **that number by 88; calculating the remaining number of acres of the lot that are not forest and dividing that number by 25**; and then summing the results. If the sum results in a fraction, the number shall be rounded down to the nearest whole number in order to determine the number of permitted individual subsurface disposal systems or equivalent disposal units.

[7.] **5.** (No change in text.)

(c) (No change.)

HEALTH

(a)

**PUBLIC HEALTH SERVICES BRANCH
DIVISION OF FAMILY HEALTH SERVICES
MATERNAL AND CHILD HEALTH SERVICES
CHILD AND ADOLESCENT HEALTH PROGRAM
Screening of Children for Elevated Blood Lead Levels**

Readoption with Amendments: N.J.A.C. 8:51A

Proposed: July 16, 2018, at 50 N.J.R. 1526(a).

Adopted: December 7, 2018, by Shereef M. Elnahal, M.D., M.B.A.,
Commissioner, Department of Health (in consultation with the
Public Health Council).

Filed: December 7, 2018, as R.2019 d.006, **without change**.

Authority: N.J.S.A. 26:2-137.2 et seq., particularly 26:2-137.7.

Effective Dates: December 7, 2018, Readoption;

January 7, 2019, Amendments.

Expiration Date: December 7, 2025.

Summary of Public Comment and Agency Response:

The Department of Health (Department) did not receive any comments from the public regarding the notice of rules proposed for readoption with amendments during the 60-day public comment period, which ended on September 14, 2018.

Federal Standards Statement

The only Federal regulation governing lead screening of children is a requirement of the U.S. Department of Health and Human Services that applies only to children enrolled in Medicaid and requires such children to be screened at 12 and 24 months, or between 36 and 72 months in the case of a child who has not been previously screened. The rules are as

protective as Federal recommendations regarding childhood lead screening. Accordingly, N.J.A.C. 8:51A would continue to govern lead screening for non-Medicaid enrolled children in New Jersey. The rules readopted with amendments are as protective as Federal recommendations regarding childhood lead screening. A Federal standards analysis is not required.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 8:51A.

Full text of the adopted amendments follows:

SUBCHAPTER 1. GENERAL PROVISIONS

8:51A-1.1 Scope and applicability

The rules in this chapter apply to physicians, registered professional nurses, as appropriate, and licensed health care facilities that provide services to children less than 72 months of age, and to licensed clinical laboratories that perform blood lead testing and to facilities that perform blood lead testing using tests approved for waiver under CLIA.

8:51A-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

...

“CLIA” means the New Jersey Clinical Laboratory Improvement Act, found at N.J.S.A. 45:9-42.26 et seq.

...

SUBCHAPTER 3. SPECIMEN COLLECTION AND LABORATORY TESTING

8:51A-3.2 Laboratory testing

(a) All blood lead samples collected for lead screening in accordance with this chapter shall be sent for testing to a clinical laboratory licensed by the Department in accordance with N.J.A.C. 8:44-2, or to a facility that performs blood lead testing using tests approved for waiver under CLIA.

(b) Laboratories shall report the results of blood lead testing to the Department in accordance with N.J.A.C. 8:44-2.11.

(c) Facilities that perform blood lead testing using tests approved for waiver under CLIA shall report the results of blood lead testing to the Department in the same manner as laboratory supervisors in accordance with N.J.A.C. 8:44-2.11.

SUBCHAPTER 4. FOLLOW-UP OF LEAD SCREENING RESULTS

8:51A-4.2 Medical follow-up of lead screening results

(a)-(c) (No change.)

(d) To the extent permitted by New Jersey law regarding patient confidentiality, the physician, registered professional nurse, as appropriate, or health care facility shall cooperate with local health departments by providing information needed to ensure case management and environmental follow-up as specified in N.J.A.C. 8:51.

(e) (No change.)

(b)

**PUBLIC HEALTH SERVICES BRANCH
DIVISION OF EPIDEMIOLOGY, ENVIRONMENTAL,
AND OCCUPATIONAL HEALTH
VACCINE-PREVENTABLE DISEASE PROGRAM
Hepatitis Inoculation Fund**

Readoption with Amendments: N.J.A.C. 8:57B

Proposed: July 16, 2018, at 50 N.J.R. 1529(a).

Adopted: December 11, 2018, by Shereef M. Elnahal, M.D.,
M.B.A., Commissioner, Department of Health.

Filed: December 11, 2018, as R.2019 d.008, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 26:4-100.13.

Effective Dates: December 11, 2018, Readoption;
January 7, 2019, Amendments.

Expiration Date: December 11, 2025.

Summary of Public Comment and Agency Response:

The Department of Health (Department) received one timely comment regarding the notice of rules proposed for readoption with amendments during the 60-day public comment period, which ended on September 14, 2018. A summary of the comment and the Department's response thereto follows:

COMMENT: Frank Marshall League Staff Attorney, New Jersey League of Municipalities submitted the following comment: "I am writing on behalf of the New Jersey State League of Municipalities to comment on proposed amendments to N.J.A.C. 8:57B. Many of the proposed amendments are simply grammatical and technical changes which will provide clarity but have no impact on the application of the Hepatitis Inoculation Fund. However, proposed amendments to sections of the code dealing with the lottery process could fundamentally change how the Fund is distributed. The Division has proposed to change the word 'shall' to 'may' in N.J.A.C. 8:57B-1.6, noting that the change is proposed for practical reasons as it would allow the Division to hold a lottery only when all eligible municipalities have not been fully refunded. While the League has no objections to amending the regulations to adopt such a practical policy of holding a lottery only when necessary, we believe that the changes as proposed will have an impact beyond this and may lead to unintended consequences. The Division's proposed change is as follows, '(b) A lottery [shall] **may** be held by the Division to determine the order to which eligible applicant municipalities shall receive distribution from the Fund, **if funds are insufficient during the current cycle to fully reimburse all eligible municipalities.**' Based on this language the Division would be given complete discretion on whether or not to hold a lottery at all. This goes beyond the stated purpose for the rule change. The proposed amendments should be changed to ensure that the Division is required to hold a lottery, but only when necessary. We believe the Division's stated goal is better accomplished using the language below. '(b) A lottery shall be held by the Division to determine the order to which eligible applicant municipalities shall receive distribution from the Fund[.], **but only if during the current cycle funds are insufficient to fully reimburse all eligible municipalities.**' Thank you for your consideration of our concerns. Please do not hesitate to contact me should you wish to discuss these comments further."

RESPONSE: The Department agrees in part and disagrees in part with the comment. The Department agrees that the use of the word "may," as proposed, would create discretion for managers of the fund that is beyond the scope of the stated purpose for the rule change. The Department disagrees, however, that the language suggested by the commenter is necessary to require the Department to hold a lottery in all cases where there are insufficient monies in the fund to reimburse all eligible municipalities. Accordingly, the Department will not adopt the proposed amendment of the word "shall" to "may" in the rule. The Department adopts the remainder of the rule as proposed.

Federal Standards Statement

There are no Federal standards applicable to the rules readopted with amendments. Therefore, no Federal standards analysis is required.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 8:57B.

Full text of the adopted amendments follows (addition to proposal indicated in boldface with asterisks ***thus***; deletion from proposal indicated in brackets with asterisks ***[thus]***):

SUBCHAPTER 1. FUND PROVISION

8:57B-1.1 Purpose and scope

The purpose of this subchapter is to establish a uniform process for allocating the Fund's resources among municipalities in accordance with the priorities set forth in the Act. The Fund shall be used to reimburse municipalities for expenses incurred in the provision of hepatitis B inoculations of emergency medical technicians, firefighters, and police

officers. The following rules are established to implement the Hepatitis Inoculation Fund Act, N.J.S.A. 26:4-100.13 et seq., an act providing for the payment of the cost of hepatitis inoculations for certain health and safety workers.

8:57B-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Act" means N.J.S.A. 26:4-100.13 et seq., which establishes the Hepatitis Inoculation Fund.

"Commissioner" means the Commissioner of Health.

...

"Department" means the New Jersey Department of Health.

"Division" means the Division of Epidemiology, Environmental and Occupational Health, for which the mailing address is Division of Epidemiology, Environmental and Occupational Health, New Jersey Department of Health, PO Box 369, Trenton, NJ 08625-0369.

...

"Hepatitis Inoculation Fund" or "Fund" means the fund established and administered in accordance with N.J.S.A. 26:4-100.13 et seq.

...

"Volunteer" means a person who provides services without any express or implied promise of remuneration.

8:57B-1.4 Application process by municipalities for reimbursement

(a)-(c) (No change.)

(d) Each application for reimbursable costs shall be in the form of a letter to the Division and shall include the following information:

1.-4. (No change.)

5. Actual reimbursable costs incurred for inoculations of each of the individuals specified in (d)4 above, categorized according to the total amount incurred for the hepatitis B vaccine and the cost of fees of professional medical services for administration of the vaccine; and

6. (No change.)

(e) The municipality shall maintain all records that were relied upon in submitting applications for reimbursement for five years after receiving reimbursement from the Division.

8:57B-1.6 Lottery

(a) (No change.)

(b) A lottery ***[may]* *shall*** be held by the Division to determine the order in which eligible applicant municipalities shall receive distribution from the Fund, if funds are insufficient during the current cycle to fully reimburse all eligible municipalities.

1. Within 60 days of the close of an application period, all municipalities that have applied for reimbursement pursuant to N.J.A.C. 8:57B-1.4, and are deemed eligible pursuant to N.J.A.C. 8:57B-1.3(c), shall be included in the lottery.

2. Applications from all eligible municipalities shall be sorted into the tiers specified in the eligibility schedule found at N.J.A.C. 8:57B-1.3(c).

3.-8. (No change.)

9. The lottery shall be witnessed by representatives of health and safety workers, including at least one EMT, firefighter, and police officer.

(c) The Division shall disclose the lottery outcome, notifying applicant municipalities of their lottery standings by mail or via electronic means, such as facsimile or e-mail, within one month of the conclusion of the lottery.

(d)-(e) (No change.)

8:57B-1.7 Use of hepatitis inoculation funds by municipalities

Monies from the Fund that are distributed to the municipalities shall be used for the purposes specified in the Act and shall not supplant budgeted funding or any other available funding currently in existence.

8:57B-1.9 Division responsibilities

(a) The Division shall:

1.-2. (No change.)

3. Conduct a lottery to determine municipal ranking, if required by N.J.A.C. 8:57B-1.6(b);

4.-5. (No change.)

(b) (No change.)