HEALTH

PUBLIC HEALTH SERVICES BRANCH

DIVISION OF FAMILY HEALTH SERVICES

MATERNAL AND CHILD HEALTH SERVICES

CHILD AND ADOLESCENT HEALTH PROGRAM

Childhood Blood Lead at or Above the Blood Lead Reference Value

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

Proposed Repeals and New Rules: N.J.A.C. 8:51 Appendices E, K, and M

Authorized By: Kaitlan Baston, MD, MSc, DFASAM, Commissioner, Department of Health (in consultation with the Public Health Council).

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

Calendar Reference: See Summary below for explanation of exception from calendar requirement.

Proposal Number: PRN 2024-050.

Submit electronic comments to http://www.nj.gov/health/legal/ecomments.shtml, or written comments to the address below by July 5, 2024, to:

Kimberly E. Jenkins, Administrative Practice Officer

Office of Legal and Regulatory Compliance

Office of the Commissioner

New Jersey Department of Health

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The agency proposal follows:

Summary

N.J.S.A. 26:2-137 et seq. (P.L. 1985, c. 84) (Act), which became effective on March 25, 1985, established the Department of Health's Lead Screening Program. The Act was intended to help reduce and eventually eliminate elevated blood lead levels in children through lead screening, lead poisoning control, and abatement of identified lead hazards, which included determination of the level of lead in the bloodstream that shall necessitate the undertaking of responsive action. N.J.S.A. 26:2-137.1. The Act directs the Department of Health (Department) to adopt rules and regulations necessary to carry out the provisions of the Act. N.J.S.A. 26:2-137 and 137.7. Accordingly, the Department promulgated N.J.A.C. 8:51. The Department proposes to readopt and amend the rules at N.J.A.C. 8:51, and to repeal certain appendices and replace them with new, updated appendices, as described below. N.J.A.C. 8:51 was scheduled to expire on April 12, 2024, pursuant to N.J.S.A. 52:14B-5.1.c. As the Department submitted this notice of proposal to the Office of Administrative Law prior to that date, the expiration date was extended 180 days to October 9, 2024, pursuant to N.J.S.A. 52:14B-5.1.c(2).

The proposed amendments would continue to provide the regulatory framework to fulfill the Department's obligation to protect children from adverse health effects due to exposure to lead hazards in their homes and in the environment. The proposed amendments discussed below would also continue to protect children that have been identified with elevated blood lead levels from further exposure to lead hazards. By lowering the actionable blood lead reference level from five micrograms per deciliter (µg/dL) to 3.5 µg/dL and requiring public health officials to distribute written guidance to

the parents and guardians of affected children when they have a comparatively lower level of lead exposure, parents and guardians would be able to take action sooner to prevent more significant exposure to lead hazards for at risk children. This would not only benefit the children, but it could also result in fewer housing units being subject to environmental interventions. The proposed amendments would not require any environmental interventions when a child has a venous test result of 3.5 to 4.9 µg/dL of blood lead.

Following is a summary of the rulemaking history of N.J.A.C. 8:51:

Chapter 51, Recognized Public Health Activities and Minimum Standards of Performance for Local Boards of Health in New Jersey, became effective prior to September 1, 1969. Subchapter 7, Child Lead Poisoning, was adopted effective October 25, 1977. See: 9 N.J.R. 364(b); 519(c). Pursuant to Executive Order No. 66 (1978), Subchapter 1 expired on September 16, 1981. Pursuant to Executive Order No. 66 (1978), Subchapters 2 through 6 were readopted effective August 21, 1985. See: 17 N.J.R. 1633(a); 2270(a). Subchapter 1 was adopted as new rules effective September 16, 1985. See: 17 N.J.R. 1633(a); 2270(a).

Chapter 51, Recognized Public Health Activities and Minimum Standards of Performance for Local Boards of Health in New Jersey, was renamed "Childhood Lead Poisoning," and Subchapters 1 through 6 were repealed effective December 15, 1986 (operative January 1, 1987). See: 18 N.J.R. 1690(a); 2448(a). Chapter 51, Childhood Lead Poisoning, was repealed, and Chapter 51, Childhood Lead Poisoning: State Sanitary Code Chapter XIII, was adopted as new rules effective September 17, 1990. See: 22 N.J.R. 1502(a); 3014(b). Pursuant to Executive Order No. 66 (1978), Chapter

51, Childhood Lead Poisoning: State Sanitary Code Chapter XIII, was readopted effective September 13, 1995. See: 27 N.J.R. 2660(a); 3934(a).

Chapter 51, Childhood Lead Poisoning: State Sanitary Code Chapter XIII, was repealed, and Chapter 51, Childhood Lead Poisoning: State Sanitary Code Chapter XIII, was adopted as new rules effective June 7, 1999. See: 30 N.J.R. 3735(a); 31 N.J.R. 1515(a). Chapter 51, Childhood Lead Poisoning: State Sanitary Code Chapter XIII, was readopted effective November 16, 2004. See: 36 N.J.R. 2601(a) and 3240(a); 5678(a). Chapter 51, Childhood Lead Poisoning: State Sanitary Code Chapter XIII, was readopted effective May 14, 2010. As part of this readoption, Chapter 51, Childhood Lead Poisoning: State Sanitary Code Chapter XIII, was renamed Childhood Lead Poisoning; Subchapter 3, Reporting, was renamed Reporting and Confidentiality; Subchapter 6, Abatement of Lead Hazards, was renamed Abatement and/or Interim Controls of Lead Hazards; Subchapter 7, Procedures for Abatement of Lead Hazards, was renamed Procedures for Abatement and/or Interim Controls of Lead Hazards; Subchapter 8, Reinspection and Approval of Completion of Abatement of Lead Hazards, was renamed Reinspection and Approval of Completion of Abatement and/or Interim Controls of Lead Hazards; the Appendix was repealed; and Subchapter 9, Enforcement, Subchapter 10, Childhood Lead Poisoning Information Database, and Appendices A through K were adopted as new rules, effective July 19, 2010. See: 41 N.J.R. 4604(a); 42 N.J.R. 1535(a).

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 51, Childhood Lead Poisoning, was scheduled to expire on May 14, 2017. See: 43 N.J.R. 1203(a). Chapter 51, Childhood Lead Poisoning, was readopted, effective April 12, 2017. Chapter 51,

Childhood Lead Poisoning, was renamed Childhood Elevated Blood Lead Levels; Subchapter 10, Childhood Lead Poisoning Information Database, was renamed Childhood Lead Information Database; Appendices A through K were repealed and replaced with new rules; Appendix L was reserved; and Appendix M was adopted as new rules effective September 18, 2017. See: 48 N.J.R. 2516(a); 49 N.J.R. 3168(a).

On January 4, 2012, the Advisory Committee on Childhood Lead Poisoning Prevention (Advisory Committee) to the Federal Centers for Disease Control and Prevention (CDC) released its report entitled, "Low Level Lead Exposure Harms Children: A Renewed Call for Primary Prevention." On May 13, 2012, the CDC published the "CDC Response to Advisory Committee on Childhood Lead Poisoning Prevention Recommendations in Low Level Lead Exposure Harms Children: A Renewed Call for Primary Prevention." In its response, the CDC either concurred or concurred in principle with all of the Advisory Committee's recommendations. One key recommendation was that the CDC should use a childhood blood lead level reference value based on the 97.5th percentile of the population blood lead level in children ages one through five, currently three and one-half µg/dL, to identify children and environments associated with lead exposure hazards. The Advisory Committee recommended that the reference value should be updated by the CDC every four years based on the most recent population-based blood lead surveys among children. The CDC concurred in principle with this recommendation. Accordingly, the Department is proposing to lower the reference value at N.J.A.C. 8:51 from five µg/dL to 3.5 µg/dL, consistent with current CDC guidance, and this is the primary impetus behind the proposed amendments.

The rules proposed for readoption with amendments, repeals, and new rules continue to establish uniform Statewide standards for testing children for elevated blood lead levels, case management, environmental abatement, and interim controls. Subchapter 1 continues to establish general provisions, including rules for the scope, purpose, incorporated materials, and definitions for the benefit of children, local boards of health, owners of properties that constitute a lead hazard, and laboratories that perform blood lead tests. Subchapter 2 continues to establish screening and case management standards, including standards for screening, screening methods, confirmation of blood lead test results, case management, and home visits.

Subchapter 3 continues to establish standards for reporting and confidentiality, including notification to the local boards of health, reporting by local boards of health, and confidentiality of records.

Subchapter 4 continues to establish standards for environmental intervention. These include standards for environmental intervention for all children with confirmed blood lead levels of 10 µg/dL or greater, or two consecutive test results between five µg/dL to nine µg/dL that are at least between one month to four months apart.

Subchapter 5 continues to establish standards for the determination of lead in dwelling units. These include environmental sampling methods, on-site x-ray fluorescence testing, analysis of environmental samples, and approval of other samples or testing methods.

Subchapter 6 continues to provide standards for the abatement and/or interim controls of lead hazards. These include issuance of abatement and/or interim control orders, exterior surfaces, interior surfaces, lead-contaminated soil, abatement and/or

interim controls of other conditions that constitute a lead hazard, repair of conditions that cause or contribute to defective paint, and referral of ambient sources of lead.

Subchapter 7 continues to establish procedures for abatement and/or interim controls of lead hazards, including responsibility for abatement and/or interim controls of lead hazards and ongoing maintenance, construction permits required for abatements of lead hazards, procedures and work practices for abatement and interim controls, protection of dwelling occupants during abatement and interim controls work, and violations of work practice standards.

Subchapter 8 continues to establish standards for reinspection and approval of completion of abatement and/or interim controls of lead hazards, including reinspection and clearance testing.

Subchapter 9 continues to establish standards for enforcement, including penalties.

Subchapter 10 continues to establish standards for the Childhood Lead Poisoning Information Database.

N.J.A.C. 8:51 Appendix A continues to establish the standard Hazard Assessment Questionnaire. N.J.A.C. 8:51 Appendix B continues to establish the standard Environmental Intervention Report. N.J.A.C. 8:51 Appendix C continues to establish Standard Housing Component Terminology. N.J.A.C. 8:51 Appendix D continues to establish protocols for data entry in the Childhood Lead Poisoning Information Database and communication. N.J.A.C. 8:51 Appendix E is proposed to be repealed and replaced as set forth below. N.J.A.C. 8:51 Appendix F continues to establish standards and the template for a Notice of Violation. N.J.A.C. 8:51 Appendix G

continues to establish the form for Childhood Lead Poisoning Home Visits. N.J.A.C. 8:51 Appendix H continues to establish the form for Universal Child Health Record. N.J.A.C. 8:51 Appendix I continues to establish the form for Nutritional Assessment. N.J.A.C. 8:51 Appendix J continues to establish the form for Quality Assurance and Improvement. N.J.A.C. 8:51 Appendix L is reserved. N.J.A.C. 8:51 Appendices K and M are proposed to be repealed and replaced as set forth below.

Following is a summary of the proposed amendments, repeals, and new rules:

Throughout the chapter, to be consistent with current CDC guidance, the Department proposes to replace the term “Elevated blood lead level” with the term “Blood lead reference value,” except where the term is used as a historical reference or in the name of an official publication. At N.J.A.C. 8:51-1.4, to comport with the current recommendations of the CDC, the Department proposes to delete the definition of “Elevated blood lead level” and replace it with the term “Blood lead reference level,” which is defined as a blood lead test result, from either a venous or capillary sample, at or above 3.5 µg/dL of whole blood. The Department proposes to amend the definition of “case management” by replacing the blood lead level of five µg/dL with the blood lead reference value of 3.5 µg/dL. The Department proposes to amend the definition of “Department” by removing “Senior Services” from the definition. The Department proposes to amend the abbreviation for micrograms of lead per deciliter from “[micro]g/dL” to the proper “µg/dL.” The Department also proposes to amend the definition of “hazard assessment” by changing reference to “[micro]g/dL” to the proper “µg/dL.” Lastly, the Department proposes to amend the definition of “screening” by

replacing reference to “elevated blood lead levels” with “blood lead levels at or above the blood lead reference value.”

To be consistent with current CDC guidance, the Department also proposes to amend the Chapter heading “Childhood Elevated Blood Lead Levels” to “Childhood Blood Lead at or Above the Blood Lead Reference Value.”

The Department also proposes to amend provisions at N.J.A.C. 8:51-1.1, 2.1(a), 2.2(a), 2.3(a) and (b), existing 2.4(b)10 and (e)2 and 7, 2.5(a), 3.1, 3.2(a), 4.4(b), and 10.1(a), (b)3, and (i)2, by deleting the references to “elevated blood lead level” and replacing them with the term “blood lead reference value” or “at or above the blood lead reference value,” as the context of the provision may require.

The Department proposes to add N.J.A.C. 8:51-2.4(a) to require that local boards of health provide written guidance to parents or guardians about common sources of lead exposure and written guidance on how to prevent such exposure whenever a child has a confirmed blood lead level of 3.5 µg/dL to four and 9/10 µg/dL. This requirement reduces the actionable blood lead level from five µg/dL.

The Department proposes to repeal and replace the “User Confidentiality Agreement” with “The Communicable Disease Reporting and Surveillance System (CDRSS) User Agreement” at N.J.A.C. 8:51 Appendix E. Accordingly, the Department proposes to amend N.J.A.C. 8:51-1.3(b)3 and 3.3(c), by replacing reference to the “User Confidentiality Agreement” with reference to “The Communicable Disease Reporting and Surveillance System (CDRSS) User Agreement” at N.J.A.C. 8:51 Appendix E. The Department also proposes to repeal and replace N.J.A.C. 8:51 Appendices K and M to be consistent with current CDC guidance and replacement of

the term “Elevated blood lead level” with the term “Blood lead reference value.” Repeal and replacement of N.J.A.C. 8:51 Appendices K and M will serve to make the transition from the term “Elevated blood lead level” to the term “Blood lead reference value” less confusing within these appendices.

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

Social Impact

The Department anticipates that the rules proposed for readoption with amendments, repeals, and new rules would continue to have a positive social impact on the health and well-being of children who are tested for blood lead at or above the blood lead reference value. Lead is a heavy metal that has been widely used in industrial processes and consumer products. When absorbed into the human body, lead affects the brain, nervous system, blood, and other organs. Lead's effects on the nervous system are particularly serious to young children. At low blood levels lead can cause learning disorders, decreased IQ, developmental delays, and hyperactivity. At high blood levels, lead can cause decreased hearing, intellectual disabilities, seizures, coma, and possibly death. Children who have suffered from the adverse effects of lead exposure for an extended period of time are frequently in need of special health and education services in order to assist them to develop to their potential as productive members of society. The focus of this chapter is on children less than 72 months of age because this age group is at a time for peak growth and development and, therefore, exposure to lead can produce the most significant impacts.

The primary method for lead to enter the body is through the ingestion or inhalation of lead-containing substances by children less than 72 months of age. Some common lead-containing substances include lead-based paint and its dust, soil in which children play, tap water, food stored in lead soldered cans or improperly glazed pottery, and some cultural remedies and consumer products. Since these and other lead containing substances are present throughout the environment in New Jersey, all children in the State are at risk. Some children, however, are at particularly high risk due to exposure to high dose sources of lead in their immediate environment.

These potential high dose sources include lead-based paint that is peeling, chipping, or otherwise in a deteriorated condition; lead-contaminated dust created during removal or disturbance of lead-based paint in the process of home renovation; and lead contaminated dust brought into the home by household members who work in occupations that involve lead or materials containing lead, or whom engage in hobbies where lead is used. The primary lead hazard to children comes from lead-based paint.

In recognition of the danger that lead-based paint presents to children, such paint was prohibited for residential use in New Jersey in 1971 and nationwide in 1978. These actions have effectively reduced the risk of lead exposure for children who live in houses built after 1978, but any house built before 1978 may contain lead-based paint. A significant percentage of housing in New Jersey (68 percent according to the Census) was built before 1980. Every county in the State has more than 20,000 housing units built before 1980. Therefore, it is necessary to safeguard children from the dangers of lead exposure from paint. Approximately 7,364 children under the age of 17 were identified in New Jersey in Fiscal Year 2021, with blood lead levels at or above the

blood lead reference value. The well-being of these children is dependent on early detection of blood lead at or above the blood lead reference value, followed by prompt case management, environmental intervention and, as appropriate, medical management. In New Jersey, local boards of health have the responsibility for investigating cases at or above the blood lead reference value in children, and the authority to order the removal of any lead hazards they detect. It is worth noting that the threshold for environmental intervention would remain unchanged. The rules proposed for readoption with amendments, repeals, and new rules in this chapter would continue to have a positive social impact on residents of this State and on local boards of health by continuing to establish the framework for local boards of health to investigate cases of blood lead at or above the blood lead reference value in children and complete environmental assessments. The rules proposed for readoption with amendments, repeals, and new rules would continue to set forth uniform standards for local boards of health to follow in identifying lead hazards, thus enabling them to consistently, effectively, and efficiently carry out their responsibilities.

The rules proposed for readoption with amendments, repeals, and new rules would also continue to provide local boards of health with standard protocols for ensuring appropriate public health, environmental, and medical interventions.

The proposed amendments to define new terms used throughout the chapter would better allow the public and local boards of health to understand the requirements of the rules, therefore, having the positive social impact of making compliance easier.

The proposed amendments would have a positive social impact on children identified with blood lead at or above the blood lead reference value and for local

boards of health because they would establish timeframes for providing notification and education concerning the dangers of lead which would allow for more expedient intervention and resolution. Generally, the Department anticipates a positive social impact regarding the rules proposed for readoption with amendments, repeals, and new rules.

Economic Impact

The Department anticipates that the proposed amendments would have an economic impact on local boards of health where a lead hazard exists in the form of lead education to families impacted by the reduction of the actionable blood lead level to 3.5 µg/dL. Enforcement of this chapter with respect to children who test with blood lead levels at or above five µg/dL remains the same and would continue to impose costs on local boards of health for the investigation of reported cases of blood lead at or above the blood lead reference value in children, the enforcement of environmental intervention orders, and the provision of case management. In accordance with existing N.J.A.C. 8:51-4.1, whenever a child has a confirmed blood lead level of 10 µg/dL or greater or two consecutive test results of five µg/dL to nine µg/dL that are one month to four months apart, the local board of health in whose jurisdiction the child resided at the time of testing would continue to incur the cost of providing environmental intervention. The proposed reduction of the actionable blood lead level to 3.5 µg/dL would not result in environmental intervention and, therefore, would not have an effect on housing costs.

There is some State and Federal aid available to assist local governments with the economic impact of providing public health services pursuant to this chapter. All of the costs to local governments discussed in this statement are partially offset by

Department grants and are associated with actions required at N.J.S.A. 24:14A-1 et seq. It is the position of the Department that, given the current state of knowledge about lead hazards, the protection of children cannot be achieved without these activities. The Division of Medical Assistance and Health Services of the New Jersey Department of Human Services has established a reimbursement process for local boards of health for inspections performed in response to a report of blood lead at or above the blood lead reference value in a child who is enrolled in Medicaid.

Property owners would continue to be responsible for the costs of hiring a licensed evaluation or abatement contractor to complete any required evaluation or abatement work ordered by local health departments. Similarly, property owners would continue to be responsible for the costs of temporary relocation of a child with blood lead at or above the blood lead reference value and his or her family when relocation is determined to be necessary by local health authorities. None of the rules proposed for readoption with amendments, repeals, or new rules would increase the existing exposure of property owners to these potential costs. The Department is not able to accurately estimate the cost of abatement or interim controls per housing unit. The cost will vary by the level of lead in the paint product, the quantity of lead-based paint found in the property, and the amount of lead found elsewhere on the property, such as in the soil. The cost of abatement or interim controls could range from a few hundred dollars into the thousands.

The Department believes that in the long-term, the rules proposed for readoption with amendments, repeals, and new rules would have a positive economic impact on the families of children with blood lead at or above the blood lead reference value and

the residents of this State. A 2017 report published by the Health Impact Project stated that nationally eradicating lead paint hazards from older homes of children would provide $3.5 billion in future benefits, or approximately $1.39 per dollar invested, and protect more than 311,000 children. The total benefits include $630 million in Federal aid and $320 million in State aid and local health and education savings and increased revenue.

The Department believes that the economic savings that stem from the actions required pursuant to this chapter over time will outweigh the costs necessary to complete case management, investigation, environmental interventions, abatement and/or interim controls, and maintenance. The public health response to lowering the actionable blood lead reference level to 3.5 µg/dL does not have an economic impact on housing because it does not trigger environmental intervention. This proposed amendment would bring these rules into compliance with CDC guidelines and require public health officials to distribute written guidance to the parents and guardians of affected children when they have a lower level of lead exposure. This would allow parents and guardians to take action sooner to prevent more significant exposure to lead hazards for at-risk children. The proposed amendments would not require any environmental interventions when a child has a venous test result of 3.5 to 4.9 µg/dL of blood lead.

Federal Standards Statement

The Department is not proposing to readopt these rules with amendments, repeals, and new rules pursuant to the authority of, or in order to implement, comply with, or participate in any program established pursuant to Federal law. The

Department's authority for this chapter is N.J.S.A. 24:14A-1 et seq., particularly 24:14A-11; 26:1A-7; 26:2-137 et seq., particularly 26:2-137.7; and 26:2Q-1 et seq., particularly 26:2Q-12, and Executive Order No. 100 (2008). The Department is not proposing amendments pursuant to any other State statute that incorporates Federal law, standards, or requirements.

However, in order to establish standards consistent with existing Federal recommendations applicable to public health interventions to prevent blood lead at or above the blood lead reference value in children, the Department has elected to incorporate by reference, as amended and supplemented, the following policies and guidelines in the rules: “Low Level Lead Exposure Harms Children: A Renewed Call for Primary Prevention” and “CDC Response to Advisory Committee on Childhood Lead Poisoning Prevention Recommendations in ‘Low Level Lead Exposure Harms Children: A Renewed Call for Primary Prevention’.” The rules proposed for readoption with amendments, repeals, and new rules in this chapter do not impose requirements that exceed Federal policies and guidelines and, therefore, a Federal standards analysis is not required.

Jobs Impact

The Department anticipates that the rules proposed for readoption with amendments, repeals, and new rules may have an impact on the number of staff required to perform public health interventions in certain municipalities. The Department estimates that Statewide, an additional 4,000 children annually would be identified as having blood lead at or above the blood lead reference value due to the proposed change in public health intervention levels. Municipalities that have higher

populations of at-risk children may require additional staff to perform public health interventions. Local boards of health affected most by children identified as having blood lead at or above the blood lead reference value may address a possible need for additional staff by entering into contracts for shared services, hiring additional full-time or temporary staff, entering into contracts with private providers, or some other solution. Accordingly, the Department cannot say with reasonable certainty to what degree the rules proposed for readoption with amendments, repeals, and new rules would result in the generation of jobs. The Department believes that the rules proposed for readoption with amendments, repeals, and new rules would not result in the loss of jobs.

Agriculture Industry Impact

The Department anticipates that the rules proposed for readoption with amendments, repeals, and new rules would not have an impact on agriculture in New Jersey.

Regulatory Flexibility Analysis

This chapter establishes actions applicable to local boards of health Statewide. However, compliance with this chapter by local boards of health may continue to require corrective actions to be taken by the owners of rental properties in which children with blood lead at or above the blood lead refence value reside. Some in this regulated group may be considered small businesses, as the term is defined in the Regulatory Flexibility Act at N.J.S.A. 52:14B-16 et seq.

The Department is not able to accurately estimate the cost of compliance with this chapter due to the varying impact of the requirements on each individual property owner. Sixty-eight percent of the homes in New Jersey were built prior to 1980. The

estimate of compliance will vary by the level of lead in the paint product and the quantity of lead-based paint found in the property.

Depending on the condition of the property and the degree of the hazard identified, some property owners may be able to comply with little or no expense. Other property owners may incur expenses for the removal and disposal of lead-based paint, building components (windows and doors) covered with lead-based paint and associated clean-up costs. Particular compliance costs are described in the Economic Impact above.

At the same time, this chapter may potentially benefit another group of small businesses. N.J.S.A. 26:2Q-1 et seq., requires that all lead abatement work must be done by business firms licensed by the New Jersey Department of Community Affairs, using workers who have certifications from the New Jersey Department of Health. Many of the contractors who will perform this work may be considered small businesses.

The presence of lead in paint or in other items can create a hazard, as defined in this chapter, and can pose a serious threat to the health and well-being of children exposed to the hazard, as described in the Social Impact above. It is not possible to impose less restrictive criteria for small businesses without leaving children exposed to these hazards. The Department believes that, in the interest of the health and welfare of children potentially affected by lead-based paint hazards and non-paint lead hazards, it is not appropriate to establish different requirements for small businesses.

Housing Affordability Impact Analysis

The Department anticipates that the rules proposed for readoption with amendments, repeals, and new rules would have an insignificant impact on the

affordability of housing in New Jersey and there is an extreme unlikelihood that the rules proposed for readoption with amendments, repeals, and new rules would evoke a change in the average costs associated with housing because these rules apply to fewer than one percent of the State's over 3.5 million housing units. The cost of lead hazard abatement can range from a few hundred dollars for spot repairs and clean-up to $30,000 or more for removal of all lead-based paint from a unit. Previous analysis from the New Jersey State Annual Childhood Lead Report identifies less than 1,000 dwellings requiring abatement per year. It should be noted, however, that a landlord may choose to pass the cost of abatement or interim controls on in the form of rental increases.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments, repeals, and new rules would have an insignificant impact on smart growth and there is an extreme unlikelihood that they would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, pursuant to the State Development and Redevelopment Plan in New Jersey because the rules proposed for readoption with amendments, repeals, and new rules would not affect new construction.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Department has evaluated this rulemaking and determined that the rules proposed for readoption with amendments, repeals, and new rules will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in this State. Accordingly, no further analysis is required.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 8:51.

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 8:51 Appendices E, K, and M.

Full text of the proposed amendments and new rules follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

CHAPTER 51

CHILDHOOD [ELEVATED] BLOOD LEAD [LEVELS] **AT OR ABOVE THE BLOOD LEAD REFERENCE VALUE**

SUBCHAPTER 1. GENERAL PROVISIONS

8:51-1.1 Scope

The rules of this chapter shall apply to all local boards of health, owners of properties in which children [who have been] identified with [elevated] blood lead [levels] **at or above the blood lead reference value** live, owners of any other properties that constitute a lead hazard to children who have been identified with [elevated] blood lead [levels] **at or above the blood lead reference value**, and to laboratories who perform blood lead tests of children.

8:51-1.3 Incorporated materials

(a) (No change.)

(b) The Department incorporates by reference the following forms and assessments in this chapter:

1.-2. (No change.)

3. **The Communicable Disease Reporting and Surveillance System (CDRSS)** User [Confidentiality] Agreement (N.J.A.C. 8:51 Appendix E) is the required agreement that each user of the Childhood Lead Information Database makes to maintain confidentiality of the information, in any format, collected and maintained pursuant to this chapter;

4.-8. (No change.)

(c)-(e) (No change.)

8:51-1.4 Definitions

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

…

"Blood lead reference value" means a blood lead test result, from either venous or capillary sample, at or above 3.5 micrograms per deciliter (µg/dL) of whole blood.

"Case management" means a public health nurse's coordination, oversight, and/or provision of the services required to identify lead sources, eliminate a child's lead exposure, and reduce the child's blood lead [level] below [five micrograms per deciliter (] **3.5** µg/dL[)].

…

"Department" means the New Jersey Department of Health [and Senior Services].

…

[“Elevated blood lead level” means a blood lead test result, from either a venous or capillary sample, equal to or greater than five micrograms per deciliter (µg/dL) of whole blood.]

…

“Screening” means the taking of a blood sample from an asymptomatic child, and its analysis by a medical laboratory, licensed in accordance with N.J.A.C. 8:44, to determine if the child has [elevated] blood lead [levels] **at or above the blood lead reference value**.

…

[“[micro]g/dL”] **“µg/dL”** means micrograms of lead per deciliter of whole blood.

…

SUBCHAPTER 2. SCREENING AND CASE MANAGEMENT

8:51-2.1 Screening

(a) The local board of health shall work with health care providers in its jurisdiction to ensure that all children less than 72 months of age are appropriately screened for [elevated] blood lead [levels] **at or above the blood lead reference value** in accordance with N.J.A.C. 8:51A.

(b) (No change.)

8:51-2.2 Screening methods

(a) All screening for [elevated] blood lead [levels] **at or above the blood lead reference value** shall be performed in accordance with N.J.A.C. 8:51A.

(b) (No change.)

8:51-2.3 Confirmation of blood lead test results

(a) A capillary blood screening sample that produces a **result at or above the** blood lead [level of five µg/dL or greater] **reference value** shall be confirmed by a venous blood lead sample before an environmental intervention is performed.

1. A venous blood lead [level of five µg/dL or greater] **sample at or above the blood lead reference value** does not require a confirmatory test.

(b) If a child is reported to have a blood lead [level of five µg/dL or greater] **at or above the blood lead reference value** on a capillary sample, the local board of health in whose jurisdiction the child resides shall contact the child's parent or guardian to ensure that a timely venous confirmatory blood lead test is performed, in accordance with the CDC recommendations and in cooperation with the child's primary care provider.

1. (No change.)

8:51-2.4 Case management

(a) Whenever a child has a confirmed blood lead level of 3.5 µg/dL to four and 9/10 µg/dL, the local board of health shall provide written guidance about common sources of lead exposure and written guidance on how to prevent such exposure to the parent(s) or guardian(s) of the child within seven days of notification to the local board of health of such confirmed blood lead level.

[(a)] **(b)** (No change in text.)

[(b)] **(c)** Whenever a child has a confirmed blood lead level of five [[mu]g/dL] µg/dL or greater, a public health nurse shall perform case management consisting of:

1.-9. (No change.)

10. Education about [elevated] blood lead [levels] **at or above the blood lead reference value**, its possible effects on children, and lead hazards that may be present on the premises;

11.-16. (No change.)

[(c)] **(d)** (No change in text.)

[(d)] **(e)** The local board of health shall ensure that each case set forth at [(a)] **(b)** above is assigned to a case manager as follows:

1.-3. (No change.)

[(e)] **(f)** The case manager shall discharge children from case management when all of the following conditions are met:

1. (No change.)

2. A follow-up venous blood lead [level] **test result** has declined to below [five **3.5** µg/dL after three months from the last [elevated] blood lead [level] **at or above the blood lead reference value**.

3.-6. (No change.)

7. Completion of a minimum of three documented attempts of contact by the local board of health when a child with [an elevated] blood lead [level] **at or above the blood lead reference value** has moved and cannot be located.

i. (No change.)

8:51-2.5 Home visits

(a) Each public health nurse completing case management shall conduct an initial home visit according to the following schedule upon notification by the Department [of an elevated] **about a child with** blood lead [level] **at or above the blood lead reference value**:

Blood Lead Levels **(**µg/dL)	Time Frame For Initial Home Visit
5 to 14 venous sample	Within three weeks
15 to 19 venous sample	Within two weeks
20 to 44 venous sample	Within one week
45 to 69 venous sample	Within 48 hours
>/= 70 venous sample	Within 24 hours

(b) (No change.)

SUBCHAPTER 3. REPORTING AND CONFIDENTIALITY

8:51-3.1 Notification to local board of health

Whenever the Department receives a report from a laboratory of [a] blood lead [level of five µg/dL or greater] **at or above the blood lead reference value** in a child, the Department shall notify the local board of health in whose jurisdiction the child resides through the Childhood Lead Information Database as set forth at N.J.A.C. 8:51-10.

8:51-3.2 Reporting by local boards of health

(a) When a local board of health receives a report of a child with [a] blood lead [level of five µg/dL or greater] **at or above the blood lead reference value**, it shall report to the Department through the Childhood Lead Information Database as set forth at N.J.A.C. 8:51-10, on the actions it has taken on behalf of the child.

1.-2. (No change.)

(b)-(c) (No change.)

8:51-3.3 Confidentiality of records

(a)-(b) (No change.)

(c) Users of the Department's Childhood Lead Information Database shall sign [a User Confidentiality Agreement] **the Communicable Disease Reporting and Surveillance System (CDRSS) User Agreement**, available at N.J.A.C. 8:51 Appendix E, as established at N.J.A.C. 8:51-[10.1(j)]**10.1(k)**.

SUBCHAPTER 4. ENVIRONMENTAL INTERVENTION

8:51-4.4 Reporting results of environmental interventions

(a) (No change.)

(b) The local board of health shall be prohibited from including in the report described [in] **at** (a) above the name of any child with [an elevated] blood lead [level] **at or above the blood lead reference value** pursuant to N.J.A.C. 8:51-3.3.

(c)-(e) (No change.)

SUBCHAPTER 10. CHILDHOOD LEAD INFORMATION DATABASE

8:51-10.1 Childhood Lead Information Database

(a) The Department shall implement and operate a web-based Childhood Lead Information Database (the database) applicable to **referrals and cases of** childhood [elevated] blood lead [level referrals and cases] **at or above the blood lead reference value** initiated pursuant to this chapter.

(b) The Department's purpose of the database is to:

1.-2. (No change.)

3. Collect, maintain, and track Statewide [childhood elevated blood lead level] data, case management activities**,** and environmental intervention activities **regarding childhood blood lead at or above the blood lead reference value**;

4.-7. (No change.)

(c)-(h) (No change.)

(i) Each user shall utilize the database to:

1. (No change.)

2. Review case records listed under notifications on [elevated] blood lead [levels] **at or above the blood lead reference value** reported to the Department;

3.-6. (No change.)

(j)-(n) No change.)

APPENDIX E

Communicable Disease Reporting and Surveillance System (CDRSS) User Agreement
(Effective May 2018)

All users of the CDRSS must read and sign a copy of this user agreement and return it to the Division of Epidemiology, Environmental and Occupational Health (EEOH). Access to the CDRSS is for the purpose of fulfilling the mission of the EEOH. The data in the CDRSS are to be treated as confidential and each user agrees to the following:

1. **All users must respect the confidential nature of the CDRSS data. Users must not act in any way that will intentionally (or unintentionally) compromise the confidentiality of these data.**
2. **Only authorized users are allowed access to the system. User access is limited by use of individual, unique system user ID and password combinations. New users must complete all necessary system training before being granted password access. Users must not share passwords with others or assist in unauthorized access to the system. Users should not save their unique CDRSS login information on the internet browser.**
3. **The system is to be accessed only by authorized users while those users are actively performing project tasks requiring use of the system. As soon as users are finished actively performing tasks requiring use of the system, they must exit from password-protected system areas.**
4. **Access rights to the system are given only to project employees with a clear need to know. Rights are given based on the principle of least privilege. Thus, users will only be given the minimum rights necessary to perform projects tasks for which they have authorization.**
5. **Any individual detecting a breach of system security or potential security vulnerability must report this finding in writing to the CDRSS Helpdesk (cdrs.admin@doh.nj.gov).**
6. **Users are encouraged to notify the supervisor and CDRSS Helpdesk if access rights are no longer needed for areas of the CDRSS.**
7. **Any CDRSS data linkages must be properly documented and authorized by the CDRSS project manager.**

I have read the above information. I understand the importance of and agree to uphold the user agreement rules of the CDRSS.

Date: _____ **□ ILI User Only (please check)**

User's Signature: _____

Please print the items below (black or blue ink only):

User's Full First and Last Name: _____

User's E-mail address: _____

User's Telephone Number: _____

Organization: _____

APPENDIX K

CHILDHOOD LEAD EXPOSURE CASE CLOSURE

Child's Full Legal Name	
Address	
Date Case Closed	Last Blood Lead Level (BLL) _____ µg/dL ___capillary ___venous
Name of Primary Care Provider (notified of case closure)	Date Case Closure Form sent to Primary Care Provider

Criteria for Case Closure

Cases should be closed when the following criteria are met: 1. Single, venous, BLL 3.5 to 4.9 µg/dL, in accordance with 2.4(a). 2. Single, venous, BLL 5 to 9 µg/dL, in accordance with 2.4(b). 3. Two, venous (1-4 months apart), BLL 5 to 9 µg/dL, in accordance with 2.4(b) and 4.1(a)-(d), and as applicable 4.1(f), 4.2, 4.3(a)-(b), 4.3(c). 4. Single, venous, BLL 10 to 44 µg/dL, in accordance with 2.4(b) and 4.1(a)-(d), and as applicable 4.1(f), 4.2, 4.3(a)-(b), 4.3(c). 5. Single, venous, BLL 45 µg/dL or greater, in accordance with 2.4(c) and 4.1(a)-(d), and as applicable 4.1(f), 4.2, 4.3(a)-(b), 4.3(c).	**OR**	**Cases should be closed administratively if:** • At least 3 documented attempts to locate or gain access to the child and parent/legal guardian have failed. • One documented attempt as certified letter from the board of health to the parent/legal guardian has failed.

CHECK ALL THAT APPLY:		
Check	**Closure Reasons**	**Additional Notes:**
	Single venous BLL below 3.5 µg/dL after 3 months.	
	Environmental lead hazards have been abated and/or managed using interim controls.	
	Plans have been completed with the primary care provider and the parent/legal guardian for long-term developmental follow-up.	
	Administrative Closure: Lost to follow-up/Unable to locate	Date of first home visit attempt: _____ Date of second home visit attempt: _____ Date certified letter sent: _____

Child's Full Legal Name		
	Services refused	
	Moved out of Jurisdiction/State to: _____ _____	Date of referral: _____ Name of Agency referred to: _____
	Other (Specify): _____ _____	

Signature of Case Manager	Date of Signature

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APPENDIX M

Appendix M Summary of Public Health Actions for Blood Lead Reference Value Levels			
Category 1			
Blood Lead Level	**Specimen Type and Frequency**	**Case Management**	**Environmental Intervention**
5 to 9 µg/dL	Single capillary	**2.4(a)-(b) Activities** **2.5 Home Visit Schedule** • Home visit • Provide education, both written and verbal, and counseling about the effects of elevated blood lead levels and its prevention (nutrition, personal hygiene, housekeeping) and other risk reduction measures. • Recommend venous blood lead retesting of the child and blood lead screening of siblings, other children, and pregnant women living in the same household. • Determine whether or not the child has a primary care provider. • Refer to appropriate community resources.	N/A

Category 2			
Blood Lead Level	**Specimen Type and Frequency**	**Case Management**	**Environmental Intervention**
3.5 to 4. 9 ug/dL	**Single Venous**	**2.4(a) Activities** • Provide written guidance about common sources of lead exposure • Provide written guidance on how to prevent lead exposure	**N/A**
5 to 9 ug/dL	Single venous	**2.4(c) Activities** **2.5 Home Visit Schedule** • Home visit • Provide education, both written and verbal, and counseling about the effects of elevated blood lead levels and its prevention (nutrition, personal hygiene, housekeeping) and other risk reduction measures. • Determine whether or not the child has a primary care provider. Refer to appropriate community resources. • Complete case management assessments (Appendices G, H, I) • • Assist the family in arranging for venous follow-up and monitor blood lead retesting and results. • Educate about lead hazards that may be present on the premises. • Monitor follow-up activities.	**4.1(g)-(h) Activities** **2.5 Home Visit Schedule**

Category 3			
Blood Lead Level	**Specimen Type and Frequency**	**Case Management**	**Environmental Intervention**
5 to 9 ug/dL OR 10 to 44 ug/dL	Two venous (1-4 months apart) Single venous	**2.4(c) Activities** **2.5 Home Visit Schedule** • Home visit • Provide education, both written and verbal, and counseling about the effects of elevated blood lead levels and its prevention (nutrition, personal hygiene, housekeeping) and other risk reduction measures. • Determine whether the child has a primary care provider. • Refer to appropriate community resources. • Complete case management assessments (Appendices G, H, I) • Assist the family in arranging for venous follow-up and monitor blood lead retesting and results. • Educate about lead hazards that may be present on the premises. • Monitor follow-up activities. • Assess the need for emergency relocation. • Ensure a hazard assessment is completed at all proposed relocation addresses.	**4.1 (a)-(d) Activities** **4.1 (e) Home Visit Schedule** Conduct Environmental Intervention **4.1 (f) (premise constructed in 1978 or later)** • Hazard Assessment Questionnaire (Appendix A) at primary residence. **4.2 (children up to 72 months)** • Hazard Assessment at primary residence. • Limited Hazard Assessment at previous primary and secondary addresses. **4.3(a) & (b) (children 72 months or greater)** • Limited Hazard Assessment at primary and secondary addresses. **4.3(c) (children 72 months or greater who have been medically diagnosed as having a development disability or developmental delay in which the effective developmental age is up to 72 months)** • Hazard Assessment at primary residence. • Limited Hazard Assessment at previous primary and secondary addresses.

Category 4			
Blood Lead Level	**Specimen Type and Frequency**	**Case Management**	**Environmental Intervention or Preliminary Environmental Evaluation**
45 or greater µg/dL	Single venous	**2.4(d) Activities** **2.5 Home Visit Schedule** • Home visit • Provide education, both written and verbal, and counseling about the effects of elevated blood lead levels and its prevention (nutrition, personal hygiene, housekeeping) and other risk reduction measures. • Determine whether the child has a primary care provider. • Refer to appropriate community resources. • Complete case management assessments (Appendices G, H, I) • Assist the family in arranging for venous follow-up and monitor blood lead retesting and results. • Educate about lead hazards that may be present on the premises. • Monitor follow-up activities. • Assess the need for emergency relocation. • Ensure a hazard assessment is completed at all proposed relocation addresses. • Recommend to the primary care provider immediate hospitalization. • Recommend to the primary care provider to communicate with New Jersey Poison Information and Education System (NJPIES). • Ensure that the child is relocated to lead-safe housing. • Ensure that the environmental intervention is completed at the	**4.1 (a)-(d) Activities** **4.1 (e) Home Visit Schedule** Conduct Environmental Intervention **4.1 (f) (premise constructed in 1978 or later)** • Hazard Assessment Questionnaire (Appendix A) at primary residence. **4.2 (children up to 72 months)** • Hazard Assessment at primary residence. • Limited Hazard Assessment at previous primary and secondary addresses. **4.3(a) & (b) (children 72 months or greater)** • Limited Hazard Assessment at primary and secondary addresses. **4.3(c) (children 72 months or greater who have been medically diagnosed as having a development disability or developmental delay in which the effective developmental age is up to 72 months)** • Hazard Assessment at primary residence. • Limited Hazard Assessment at previous primary and secondary addresses.

		relocation address prior to hospital discharge. • Assist the family in obtaining required prescriptions before discharge from the hospital. • Ensure proper administration of the medication and timely medical follow-up during and after chelation. • Maintain communication regarding child's response to chelation, neurodevelopmental assessments, the referral process and the abatement status of the primary residence.	

N.J.A.C. 8:51 Defined Terms

Case Management - a public health nurse's coordination, oversight and/or provision of the services required to identify lead sources, eliminate a child's lead exposure and reduce the child's blood lead level below 5 µg/dL.

Case Management Assessments - assessments that identify the wellness of the child and family consisting of Appendices G, H, and I.

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Environmental Intervention – identification of lead hazards in the child's environment, order of abatement or interim controls, education of the family.

Hazard Assessment –

- Administer the Hazard Assessment Questionnaire (Appendix A) and complete Appendices B and F.
- Collect information regarding physical characteristics and residential use patterns including age of structure and any additions; copies of any previous lead hazard inspections; diagram of the dwelling showing each room and its use; number of children up to 72 months of age and pregnant women; potential lead exposure sources in the neighborhood.
- Conduct a visual inspection of all interior and exterior painted surfaces and for evidence of chewing on painted surfaces.
- Test defective paint on interior surfaces, other buildings on the premises, furniture, toys and play structures using an XRF instrument.
- Test paint on intact friction surfaces and on chewable or evidence of chewing surfaces using an XRF instrument.
- Test paint on impact surfaces if damage of damage using an XRF instrument.
- Dust sampling of window sills and floors and areas where the child is likely to come in contact with dust.
- Evaluate exterior of the residence if no lead-based paint hazard is found in the interior.

- Testing of the soil, if no lead-based paint hazard is found in either the interior or exterior of the residence.

Limited Hazard Assessment –

- Administer the Hazard Assessment Questionnaire (Appendix A) and complete Appendices B and F.
- Collect information regarding physical characteristics and residential use patterns including age of structure and any additions; copies of any previous lead hazard inspections; diagram of the dwelling showing each room and its use; number of children up to 72 months of age and pregnant women; potential lead exposure sources in the neighborhood.
- Conduct a visual inspection of all interior and exterior painted surfaces and for evidence of chewing on painted surfaces.
- Test defective paint on interior surfaces, other buildings on the premises, furniture, toys and play structures using an XRF instrument.
- Dust sampling of window sills and floors and areas where the child is likely to come in contact with dust.

Lead Hazard - any condition that allows access or exposure to lead, in any form, to the extent that adverse human health effects are possible.

Note:

- Abatement is required on interior surfaces where a lead hazard has been identified.
- Abatement or interim controls may be ordered at the local health department's discretion on exterior surfaces where a lead hazard has been identified.