

CHAPTER 51

**CHILDHOOD LEAD POISONING: STATE
SANITARY CODE CHAPTER XIII**

Authority

N.J.S.A. 24:1A-7, 24:14A, 26:2-137 et seq. and 26:2Q-1 et seq.

Source and Effective Date

R.2004 d.458, effective November 16, 2004.

See: 36 N.J.R. 2601(a), 36 N.J.R. 3240(a), 36 N.J.R. 5678(a).

Chapter Expiration Date

Chapter 51, Childhood Lead Poisoning: State Sanitary Code Chapter XIII, expires on November 16, 2009.

Chapter Historical Note

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 as R.1977 d.402, effective October 25, 1977. See: 9 N.J.R. 364(b), 9 N.J.R. 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 as R.1985 d.477, effective August 21, 1985. See: 17 N.J.R. 1633(a), 17 N.J.R. 2270(a). Subchapter 1 was adopted as new rules by R.1985 d.477, effective September 16, 1985. See: 17 N.J.R. 1633(a), 17 N.J.R. 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for Local Boards of Health in New Jersey, was renamed "Childhood Lead Poisoning", and Subchapters 1 through 6 were repealed by R.1986 d.476, effective December 15, 1986 (operative January 1, 1987). See: 18 N.J.R. 1690(a), 18 N.J.R. 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Chapter 51, Childhood Lead Poisoning, was repealed, and Chapter 51, Childhood Lead Poisoning: State Sanitary Code Chapter XIII, was adopted as new rules by R.1990 d.472, effective September 17, 1990. See: 22 N.J.R. 1502(a), 22 N.J.R. 3014(b).

Pursuant to Executive Order No. 66(1978), Chapter 51, Childhood Lead Poisoning: State Sanitary Code Chapter XIII, was readopted as R.1995 d.538, effective September 13, 1995. See: 27 N.J.R. 2660(a), 27 N.J.R. 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Chapter 51, Childhood Lead Poisoning: State Sanitary Code Chapter XIII, was repealed, and Chapter 51, Childhood Lead Poisoning: State Sanitary Code Chapter XIII, was adopted as new rules by R.1999 d.188, effective June 7, 1999.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 as R.2004 d.458, effective November 16, 2004. See: Source and Effective Date.

Cross References

Children's shelter physical facility requirements, see N.J.A.C. 10:124-5.1 et seq.

Law Review And Journal Commentaries

Getting the Lead Out: An Overview of the New Federal Lead-Based Paint Disclosure Requirements. Vincent P. Maltese, Joseph J. Jankowski, 182 N.J. Law. 7 (Mag.)(Jan./Feb. 1997).

Lead Base Paint: Abate or Wait? Your Insurance Policy May Hold the Answer. Eugene R. Anderson, Joan L. Lewis, 182 N.J. Law. 10 (Mag.)(Jan./Feb. 1997).

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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 lead poisoning live, owners of any other properties that constitute a lead hazard to children who have been identified with lead poisoning, and to laboratories who perform blood lead tests of children.

Case Notes

No legal authority for board to designate and compensate its members as special representatives to the board; circumvention of statutory requirement that board act through duly licensed professionals not permitted. *Deptford Twp. Bd. of Health v. Deptford Twp. Mayor & Council*, 200 N.J.Super. 476, 491 A.2d 812 (Law Div.1985).

Local Health Services Act does not provide municipalities with concurrent jurisdiction, along with the Department of Environmental Protection and the Public Utility Commission, in field of solid waste disposal; field preempted by legislation. *Little Falls Twp. v. Bardin*, 173 N.J.Super. 397, 414 A.2d 559 (App.Div.1979).

8:51-1.2 Purpose

The purpose of this chapter is to protect children from adverse health effects due to exposure to lead hazards in their homes and in the environment.

8:51-1.3 Definitions

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

“Abatement” means any set of measures or processes designed to either mitigate or permanently eliminate lead-based paint or any other lead-related hazards on a premises and includes, but is not limited to: the removal of lead-based paint and lead-contaminated dust; the enclosure or encapsulation of lead-based paint; the replacement or removal of lead-painted surfaces, fixtures, furniture, toys or objects; the removal, treatment or covering of lead-contaminated soil; and all preparation, clean-up, disposal, and post-abatement clearance testing activities associated with such measures.

“Ambient source of lead” means lead contamination from salvage, recycling or industrial discharges or from known contaminated sites.

“CDC recommendations” means the recommendations made by the United States Centers for Disease Control and Prevention, as specified in its policy statement: “Preventing Lead Poisoning in Young Children,” published October 1991, by the U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control and Prevention, Atlanta, GA 30333, and any amendments thereto.

“Chewable surface” means any projection from an interior or exterior surface that offers a biting surface or that can be mouthed by a child. Chewable surfaces may include, but are not limited to: window sills, window casings, doors, door

casings, stair railings, stair treads, balusters, toys, parts of certain furniture or any other surface that may be readily mouthed by children.

“Child” means a person less than 17 years of age.

“Commissioner” means the Commissioner of the New Jersey Department of Health and Senior Services.

“Common area” means any portion of a premises that is generally accessible to occupants and may include, but is not limited to, entryways, hallways, stairways, lobbies, laundry and recreational rooms, playgrounds, porches, patios, community centers, garages, yard areas and boundary fences.

“Confirmed blood lead level” means a blood lead level obtained from a venous blood sample.

“Defective paint” means any paint located on any interior or exterior surface or object that is damaged, deteriorated, loose, cracked, peeling, chipped, blistered, chalking or flaking.

“Department” means the New Jersey Department of Health and Senior Services.

“Dwelling” means any building or structure or portion thereof which is occupied in whole or in part as the home, residence, or sleeping quarters of one or more persons, and includes any dwelling unit, rooming house or rooming unit, and any facility occupied or used by children.

“Environmental intervention” means actions taken by the appropriate authority to identify lead hazards present in the child’s environment and to order the abatement of those hazards, and to educate the family of the child identified with lead poisoning.

“Friction surface” means an interior or exterior surface that is subject to abrasion or friction, including certain stair surfaces and moving parts or contact surfaces of doors and windows.

“HUD guidelines” means the United States Department of Housing and Urban Development’s “Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing,” July 1995, Document #1539-LBP, by the U.S. Department of Housing and Urban Development, Office of Lead Hazard Control, 451 Seventh Street, SW, Washington, DC 20410, and any amendments thereto.

“Impact damage” means any painted surface that is cracked, chipped, or otherwise damaged because of repeated impacts.

“Impact surface” means an interior or exterior surface that is subject to damage by repeated impacts, including chair rails and certain parts of doors.

“Intact surface” means any surface that is free of damage or defects which would allow exposure to lead-based paint or lead-contaminated dust.