

HEALTH AND SENIOR SERVICES

PUBLIC HEALTH SERVICES BRANCH

Communicable Diseases

Adopted New Rules: N.J.A.C. 8:57-1.8

Proposed: April 21, 2008 at 40 N.J.R. 1962(a).

Adopted: _____, 2009 by _____,

Heather Howard, Commissioner, Department of Health
and Senior Services (in consultation with the Public Health Council,
Herbert Yardley, M.A., Chair).

Filed: _____, 2009, as R. 2009 d. _____, with a substantive
change not requiring additional public notice and comment (see
N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 26:1A-7; 26:1A-15; and 26:4-1 et seq., particularly
26:4-2.

Effective Date: _____, 2009.

Expiration Date: _____, 2014.

Summary of Hearing Officer Recommendations and Agency Responses:

Pursuant to N.J.S.A. 26:1A-7, the Department of Health and Senior
Services (Department) convened a public hearing on the proposed
readoption of N.J.A.C. 8:57, Communicable Diseases, with amendments,
repeals, new rules, and recodifications. Notice of the public hearing
appeared in the New Jersey Register at 40 N.J.R. 1962(a) (April 21,
2008). The Department held the public hearing on May 20, 2008, at the

The official version of any departmental rulemaking activity (notices of proposal or adoption) are published in the *New Jersey Register* or *New Jersey Administrative Code*. Should there be any discrepancies between this document and the official version of the proposal or adoption, the official version will govern.

New Jersey Department of Health and Senior Services, First Floor Auditorium, Health and Agriculture Building, 369 South Warren Street (at Market Street), Trenton, New Jersey. Dr. John Brook, Managing Physician of the Communicable Disease Service, served as the hearing officer. No persons attended the hearing to comment on the Notice of Proposal. Dr. Brook recommended that the Department readopt N.J.A.C. 8:57, Communicable Diseases, with amendments, repeals, new rules, and recodifications. Interested persons may review the record of the public hearing according to applicable law by contacting:

Department of Health and Senior Services

Communicable Disease Service

P.O. Box 369

Trenton, NJ 08625-0369.

Summary of Public Comments and Agency Responses:

The Department of Health and Senior Services (Department) proposed new rules at N.J.A.C. 8:57-1.8 as part of a rulemaking involving the proposed readoption of N.J.A.C. 8:57 with proposed amendments, repeals, new rules and recodifications on April 21, 2008 at 40 N.J.R. 1962(a). In order to prevent N.J.A.C. 8:57 from expiring and to be able to completely consider and respond to the comments on and related to N.J.A.C. 8:57-1.8, it was necessary for the Department to proceed with the readoption of N.J.A.C. 8:57 and the adoption of the amendments, repeals,

new rules and recodifications with N.J.A.C. 8:57-1.8 pending. As a result and as explained in the prior Notice of Adoption, the Department did not include a summary of the written comments on and related to N.J.A.C. 8:57-1.8 or the Department's responses in the prior adoption. In this Notice of Adoption, the Department summarizes and responds to the comments on and related to N.J.A.C. 8:57-1.8.

The Department received written comments on and related to the proposed new rules at N.J.A.C. 8:57-1.8 prior to the June 20, 2008 close of the 60-day public comment period from the following:

1. Richard J. Alampi, Executive Director, New Jersey Veterinary Medical Association, Hillsborough, NJ;
2. Susan Craft, Executive Director, State Agriculture Development Committee, Trenton, NJ;
3. Nancy E. Halpern, D.V.M., Director, Division of Animal Health, Department of Agriculture, Trenton, NJ; and
4. Mark Logan, V.M.D., President, Division of Consumer Affairs, State Board of Veterinary Medical Examiners, Newark, NJ.

A summary of the comments and the Department's responses follows. The number(s) in parentheses after each comment identifies the respective commenter(s) listed above.

N.J.A.C. 8:57-1.8

1. COMMENT: The commenter states that “The Right-to-Farm Act (N.J.S.A. 4:1C-1 et seq.) was amended in 1998 to require an agency proposing a rule adoption to issue an accompanying Agriculture Industry Impact Statement setting forth the nature and extent of the proposed rule’s impact on the agricultural industry. If the State Agriculture Development Committee (SADC) determines the proposed rule may have significant adverse impact on the agriculture industry, then the agency proposing the rule is obliged to consult with the SADC.” The commenter states that “based on the information the SADC has been able to obtain, although not through the impact statement, the agency believes that there is such an impact...” The commenter asks the Department to consult with the SADC, pursuant to N.J.S.A. 4:1C-10.3(c), prior to the adoption of N.J.A.C. 8:57-1.8 and related amendments to N.J.A.C. 8:57-1.9, 1.10 and 1.14.

The commenter believes that “public notification of the suspicion or diagnosis of the listed diseases in New Jersey in any animal will result in regional, national, and international assumptions that the disease organism exists in the state.” The commenter is concerned that “premature public notice affecting livestock and poultry species may result in trade embargoes.” The commenter states that “a disease first noticed by a practitioner in a pet bird or canine may be the sentinel of a disease of statewide or national concern in agricultural animals.” The commenter states that “reporting outside this [existing] system may compromise the

ability of state, regional, and national agricultural operations to continue to export animals or animal products globally.” (2)

2. COMMENT: The commenter references the Agriculture Industry Impact Statement published in connection with the proposed rules, which indicates that the Department “created the rules in consultation with the New Jersey Department of Agriculture” and asserts this statement “is inaccurate and outside the plain meaning and intent of consultation.” The commenter also indicates it should have received an invitation to the regularly scheduled monthly public meeting of the Public Health Council at the time the proposed rule was reviewed by the Council. Furthermore, the commenter asserts the process used to promulgate the rule was substandard including failure to adequately develop the summary, the rule text, the social impact statement, the economic impact statement, and the regulatory impact statement. The commenter also states that the rule does not provide the regulated community with adequate information to determine the impact of the rule because the rule does not include case definitions or specific public health responses. The commenter believes that the only way to assure confidentiality of the reported information on zoonotic diseases is to require reporting directly to the Department. The commenter expresses concerns about the release of confidential veterinary medical records and the impact that such release would have

on “national and/or international trade embargoes.” The commenter asks “how will DHSS guarantee confidentiality?” (3)

3. COMMENT: The commenter states that according to the proposal, “health providers’ business may be impacted by the rule and such action is warranted to protect human life” but “the impacted constituents-veterinarians and animal owners- are unable to determine their potential liability since the rule does not include case definitions that specify when and what should be reported, or the proposed actions that NJDHSS states are necessary when these particular diseases are identified in animals to prevent transmission to humans.” The commenter is concerned that the Department’s rule would not hold confidential “the name, address and phone numbers of the reporting veterinarian and the owner of the animal.” (4)

RESPONSE TO COMMENTS 1 THROUGH 3: The Department has considered the commenters’ statements. With regard to commenters 3 and 4’s concerns that proposed N.J.A.C. 8:57 removes confidentiality of animal disease reports including the names, addresses and phone numbers of the veterinarian and animal owner, the Department disagrees. The Department keeps all communicable disease information private unless there is a need to release this information in order to control and prevent the spread of communicable diseases, pursuant to N.J.S.A. 26:1A-7 and 26:4-2 and N.J.A.C. 8:57-1.14(a). The Department receives

a large amount of information related to communicable diseases on a regular basis from health care providers involving restaurants, schools, hospitals, and other places of business. The Department takes appropriate precautions to prevent the release of private information and shares appropriate information with other agencies and the public through established communication plans. The Department understands commenters 2 and 3's concerns but disagrees that there would be "premature public notice" of suspected or confirmed diseases as listed at N.J.A.C. 8:57-1.8, which would then have an adverse impact on "state, regional, and national agricultural operations" or lead to national or international embargoes. In the Department's experience with receiving communicable disease information that implicates other businesses, the Department has not had any "premature release of information." In response to commenter 2's request and in accordance with N.J.S.A. 4:1C-10.3(c), the Department scheduled and attended a meeting to consult with the SADC (also attended by representatives of the Department of Agriculture) on its belief that the adoption of N.J.A.C. 8:57-1.8 would have a significant adverse impact on the agriculture industry. The Department addresses other specific comments from the commenters that relate to N.J.A.C. 8:57-1.8 in the responses below.

The Department recognizes that N.J.A.C. 8:57-1.8 is different from other rules on communicable diseases because this section applies to

zoonotic diseases, involving domestic companion animals. Although the Department keeps communicable disease information confidential, under exemptions to the Open Public Records Act (OPRA) N.J.S.A. 47:1A-1 et seq., the exemptions do not apply to information on animals and therefore do not apply to zoonotic diseases identified in animals. The public can request zoonotic disease information pursuant to OPRA and the information must be released if it is a “government record,” unless an exemption applies. OPRA applies to the New Jersey Department of Environmental Protection (NJDEP), New Jersey Department of Agriculture (NJDA), and the Department, all of which receive animal disease reports. The Department has previously asked the NJDA for the authority by which it holds animal disease reports and information confidential under OPRA but has not received a citation to the authority.

With regard to the belief of commenters 3 and 4 that the Department should not adopt the rule because it does not include case definitions and guidance for veterinarians and local health departments, the Department disagrees. The Department has drafted case definitions but believes it is inappropriate to include such specific information as part of the rule since the Department has to be able to modify the case definitions in an expedient manner in order to reflect the most current diagnostic methods and disease trends. As the Department gathers data from veterinarians, the Department will share this information so

practitioners can benefit from the data. The NJDA does not include case definitions in its rules for the diseases that it has made reportable in livestock and poultry and as the Department understands, there has not been issues with “veterinarians and animal owners” not having the case definitions in rules. The rules specify the responsibility of the “veterinarians and animal owners” in terms of what they are required to report and how the report should be made. The Department believes that the rules are precise about what is required.

The Department disagrees with commenter 3’s assertions that the proposed rules were not prepared in consultation with the Department of Agriculture. From the comments submitted, it appears that the commenter acknowledges the commenter’s agency participated in stakeholder meetings, submitted written comments, and requested and had a separate meeting with the Department in response to the development of the rule. In addition, the Commissioner met with the former Secretary of Agriculture to review the proposed rule prior to publication. The various meetings and discussions are consistent with the term consultation. The Public Health Council’s agenda is published in advance of the meeting including the notice of proposed rulemaking and is open to the public. The commenter did not require an invitation to attend a meeting or to address the Council.

The Department disagrees with the commenter’s contention that the proposal of these rules was substandard. The Department in

developing the proposed rules relied on staff's professional expertise, skills, and knowledge of public health practices in the initial development. After consultation with stakeholders, a final proposal was submitted for Department's legal compliance review. After the completion of legal and administrative review by the Department, the proposed rules were reviewed by the Governor's Office including consultation between the Secretary of Agriculture and the Commissioner of Health and Senior Services, Smart Growth Ombudsman, and the Public Health Council. The Department then transmitted the proposed rules to the Office of Administrative Law for administrative review and publication in the New Jersey Register. Contrary to the commenter's concerns over a failure of process, this rulemaking process was developed over many months to allow for significant involvement by all interested parties as well as consideration of comments. Ultimately, it is the Department's responsibility to implement administrative rules consistent within its scope of authority and practice. N.J.S.A. 52:14B-4(a)(2) requires the Department to address the socioeconomic impact of the rules, a regulatory flexibility analysis, and the impact of the proposed rules on jobs, agriculture and smart-growth development. The Department has done so.

The proposed rules were published in the New Jersey Register on April 21, 2008, provided an opportunity for a public hearing on the proposed readoption with amendments, new rules and repeals and

provided a 60-day comment period. The commenter and others have taken advantage of this comment period and made their views known to the Department. The Department does not agree that the proposal of these rules was contrary to law. Contrary to the commenter's assertion, the proposed rules have been made known to the public in full compliance with the requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The Department rejects the commenter's allegation that the rulemaking process used by the Department was substandard.

4. COMMENT: The commenter requests that the Department “delay the adoption of the new rule N.J.A.C. 8:57-1.8 covering the reporting of zoonotic diseases and any disease outbreaks in domestic companion animals (DCAs) by veterinarians, certified animal control officers, and animal facility management staff.” The Commenter states that the delay would not place any existing rules at risk although it would require delay in the deletion of current N.J.A.C. 8:23. (3)

RESPONSE: The Department declines the commenter’s request to delay the adoption of N.J.A.C. 8:57-1.8 to allow the Department’s rule to incorporate and reflect the commenter’s interpretation of the Department’s authority and jurisdiction in communicable diseases. The adoption of N.J.A.C. 8:57-1.8 is an integral component of the Department’s implementation of its authority and jurisdiction over communicable disease

reporting. The Department has no plan to delete or amend N.J.A.C. 8:23 at this time.

5. COMMENT: The commenter asks in varied but repeated sections of its comment “what statutory authority exists that allows DHSS to require reporting of non-zoonotic disease outbreaks in [domestic companion animals] outside kennels, shelters, pounds and pet shops to anyone, including Local Health Authorities?” The commenter asserts that the Department’s authority does not extend to “reporting of animal diseases or outbreaks that are not communicable to humans unless occurring in specified premises including: kennels, shelters, pounds and pet shops. Hence, this rule impermissibly expands [the Department’s] statutory authority by requiring veterinary reporting of non-zoonotic disease outbreaks in domestic companion animals outside of those premises.” (3)

RESPONSE: The Department does not agree that the statutory authority is not identified as part of this rulemaking process. The authority is articulated in the Notice of Proposal (40 N.J.R. 1962(a), April 21, 2008). Furthermore, in prior advice to the commenter, it was articulated that the Department’s authority, in consultation with the Public Health Council, included “any subject affecting public health,” including “regulating the detection, prevention and control of communicable disease.” N.J.S.A. 26:1A-7; see also 26:4-1 et seq. In addition, the Legislature has granted

separate authority to the Department of Health and Senior Services, to the Department of Environmental Protection Agency, and to the Department of Agriculture to respond to certain animal diseases that pose a potential threat to humans. The Department's statutory authority is correct as written.

6. COMMENT: The commenters believe that existing law already requires reporting of animal diseases, regardless of the species infected, by veterinarians and animal owners to the State Veterinarian, NJDA. The commenter is concerned that duplicative reporting will create unnecessary obstacles for the regulated community and can result in delays in the receipt of reports to the NJDA, which in turn may facilitate in disease spread. (2 and 3)

7. COMMENT: The commenter states that the proposal "mandates a more than 700% increase in disease reporting by veterinary professionals to public health officials who possess inadequate training or expertise in veterinary disease risk or response." (2)

8. COMMENT: The commenter expresses concern that local health officials lack the "expertise" and training to complete investigations or to implement this rule. The commenter states that the NJDA requires notification in "all cases of illness or infection in any species..." and is concerned that the rules at N.J.A.C. 8:57-1.8 will result in duplicate

reporting and will confuse veterinarians about their reporting responsibility.

(3)

9. COMMENT: The commenter states that the State Board of Veterinary Medical Examiners (SBVME) had the opportunity to review early versions of the proposed rules at “Title 8 Chapter 57, Communicable Diseases.” The commenter states that the Department’s proposal includes “a new section that expands the existing statutory requirement for veterinarians to report rabies and psittacosis to local health officials to include a number of additional diseases.” The commenter states that the additional diseases would include “potential agents of bioterrorism, even though they are not considered endemic in New Jersey, i.e., Anthrax, Q. Fever, Tularemia, Plague; bacteria commonly found in some animals without causing disease, i.e., Campylobacter, E. Coli, Salmonella; diseases that are extremely rare and very difficult to diagnose, i.e., Canine brucellosis, tuberculosis, leishmoniasis (sic); diseases commonly diagnosed, i.e., Leptospirosis, Giardia; and one disease CDC does not even recommend testing for in live animals, Lymphocytic choriomeningitis.”

The commenter expresses concern that the rules would require disease reporting to “local health officials who have no expertise or training in veterinary epidemiology or animal disease investigation” when most of the diseases are already “required to be reported directly to the

State Veterinarian at New Jersey Department of Agriculture, where veterinarians, with training in epidemiology carefully analyze the situation, assist practitioners in the investigation, and recommend confirmatory testing and other measures based on risk assessments of the potential for disease transmission.”

The commenter questions why the Department states that it will provide recommendations to local health officials that they should follow, when there is no requirement for them to do so unless there is an emergency health declaration. The commenter is concerned that the Department’s “veterinarians will receive and directly guide the investigations,” but the rule does not “provide confidential and direct reporting to those staff members until and unless a human health risk is identified.”

The commenter is concerned that because animal disease surveillance data is only beginning to be collected in the United States and globally in household pets for the new disease listed in the rules and “there is no scientific consensus as to the best methods for confirming diagnoses, determining the risk of transmission to and from animals, and what reasonable, effective protective measures could be taken,” “placing this information in the hands of local health officials who may implement draconian measures impacting both veterinarians and their practices, and animal owners at their residences, is premature.” The commenter states

“if the NJDHSS fails to remedy their rule by merely limiting initial reporting to the State office, and only disseminating it to local agencies upon identification of actual disease and risk, the SBVME requests retraction of section 1.8 from the proposed until further modifications can be made.”

(4)

10. COMMENT: The commenter suggests that the inclusion of the listed zoonotic diseases is arbitrary and capricious, and contraindicated by the Centers for Disease Control (CDC). The commenter suggests that the majority of diseases listed have no known prevalence in any animals in New Jersey and therefore inclusion of the diseases is arbitrary as it implies public health intervention is required to reduce incidence. (3)

RESPONSE TO COMMENTS 6 THROUGH 10: The Department disagrees with the commenters' statements and makes no changes on adoption. In New Jersey jurisdictional responsibilities over animal diseases are shared by three Departments, the New Jersey Department of Agriculture (NJDA), the New Jersey Department of Environmental Protection (NJDEP) and the Department. The Department has the authority to “declare what diseases are communicable” and prevent, control, and require the reporting of communicable diseases. N.J.S.A. 26:1A-7 and 26:4-2. The Department has the authority to control and respond to zoonotic diseases, communicable diseases that are transmissible to humans from animals, and diseases in animal facilities

such as kennels, pet shops, shelters and pounds. N.J.S.A. 26:1A-7; 4-78 to 4-81, and 4-19 et seq. The Department is only involved with domestic companion animals.

Each department is able to conduct animal health epidemiological investigations, including surveillance to determine the source of an animal disease occurrence. While all Departments are distinct in their responsibilities, they must collaborate and communicate because some diseases have the ability to infect and spread from one species to another, including to humans, and/or to impact the food supply. There are many joint surveillance and testing initiatives in place in New Jersey for animal diseases, including but not limited to, west Nile virus and avian influenza.

The three Departments also collaborate with their federal counterparts: NJDA with the United States Department of Agriculture (USDA), NJDEP with the United States Department of the Interior, and the Department with the Centers for Disease Control and Prevention (CDC). The Department has a long-standing, cooperative relationship with New Jersey veterinarians through various reporting mechanisms, including rabies and avian chlamydiosis reporting through local health department partners, pursuant to N.J.A.C. 8:23-1.1 through 1.5. Pursuant to N.J.A.C. 8:23A-1.9, the Department and local health departments collaborate with veterinarians, animal control officers and animal facility management regarding the diagnosis, treatment and prevention of communicable

disease in animals captured by animal control officers and housed in animal facilities. In addition, all animal facilities must have a disease control and health care program established and maintained by a licensed veterinarian. Veterinarians serving in this capacity must report to the local health department with jurisdiction whenever they diagnose a zoonotic disease case and when they cease to serve as the veterinarian responsible for disease control at the facility.

Veterinary practitioners, particularly those who specialize in domestic companion animals, pets that are distinct from livestock and poultry, commonly consult with the Department and local health departments regarding isolation, quarantine, biosecurity and other public health or disease control situations that they encounter in their practices. The Department's Veterinary Public Health Staff serves as a technical resource and distributes reference material to veterinarians.

With regard to the commenter's concerns that proposed N.J.A.C. 8:57-1.8 will result in veterinary practitioners reporting the same case to multiple agencies, the Department disagrees with the commenter. The rules require reporting of specific zoonotic diseases and outbreaks diagnosed only in domestic companion animals (not agricultural animals). Zoonotic diseases diagnosed in domestic companion animals pose a clear threat to the persons exposed to the animal but, in most situations, are unlikely to pose a threat to livestock and poultry. This reporting

requirement is distinct from N.J.S.A. 4:5-4, which is broader and requires the reporting of diseases that pose a “particular and dangerous menace” to animal health to the NJDA.

Investigations of zoonotic diseases diagnosed in domestic companion animals will focus on identifying people and other animals that may be exposed to disease. If the Department identifies an epidemiologic link to livestock, poultry or wildlife, the Department will immediately notify the NJDA and NJDEP that animals under their jurisdiction are at risk. In the event that a veterinarian notifies the Department or the Department otherwise suspects or becomes aware of a condition that could affect animals, plants or crops under the jurisdiction of NJDEP or NJDA, the Commissioner of the Department will immediately notify the NJDEP or the Secretary of Agriculture, under existing protocols.

Veterinarians identifying diseases in livestock and poultry species designated as reportable by the NJDA will continue to make reports to NJDA without any involvement by the Department or local health departments. The Department and local health departments will continue to forward disease reports in livestock and poultry to NJDA and this will continue to be reinforced during training sessions conducted by the Department. Veterinarians providing care for livestock and poultry may also continue to consult with Department and local health departments with regard to zoonotic disease transmission concerns in those species.

The Department and NJDA have held several meetings to establish a Memorandum of Understanding to better understand and articulate jurisdiction, reporting mechanisms, collaboration and data sharing of animal diseases, particularly those that can infect both humans and livestock or poultry such as, avian influenza. The Department believes that disease reporting should not be burdensome to veterinarians and is committed to collaborating with NJDA to eliminate dual reporting by veterinary practitioners, if that becomes an issue, based on each agency's established authority, as discussed above. Although the two agencies have not yet reached an agreement for addressing reportable animal diseases, the Department remains committed to the initiative so veterinary practitioners only need to make a single report to either the Department or the NJDA depending on the species of animals involved.

With regard to the commenter's statements that public health officials possess inadequate training or expertise in veterinary disease risk or response, the Department disagrees. The Commissioner of the Department has oversight of the public health activities of local health departments (see the Summary of the Notice of Proposal at 40 N.J.R. 1962(a) for an explanation of the change in the role of the Public Health Council.) N.J.S.A. 26:1A-7 and 26:3A2-1 et seq. Local health departments are the Department's communicable disease investigation partners. Personnel at local health departments responsible for

investigating disease reports are either health officers, epidemiologists, public health nurses, or registered environmental health specialists. They have all received a broad health-based education that includes zoonotic diseases and their control. The local health department staff that receives and investigates all human communicable disease reports in New Jersey are not medical doctors and do not need to be in order to effectively analyze the disease report, work with medical staff to investigate the case, recommend confirmatory testing, determine the potential for disease transmission and implement public health controls as appropriate. Therefore, the local health department staff should not be treated differently in terms of their responsibility just because N.J.A.C. 8:57-1.8 applies to zoonotic diseases.

Pursuant to N.J.A.C. 8:57-1.10, local health department staff investigating communicable disease or outbreak reports are mandated to follow the direction provided by the Department regarding such investigations. For animal disease situations, local health staff work under the direction of the Department's Veterinary Public Health Program, directed by the State Public Health Veterinarian with staff including the Deputy Public Health Veterinarian and three veterinary technicians. This collaboration between the Department and local health departments has been ongoing over several decades for all existing animal disease reports from veterinarians (for example, rabies, avian chlamydiosis, and animal

facility disease outbreaks) without a negative impact on veterinarians, their practices, their clients, or State and/or national agricultural markets.

The Department will conduct trainings throughout the State for veterinarians, animal control officers, animal facility managers and local health department staff. Protocols, including report forms and case definitions for reportable animal disease investigations, are under development and will be distributed to all veterinarians, animal control officers, animal facility managers and local health departments. Regular updates will be distributed to all constituents and continuing education will be conducted by the Department. During the training the Department will emphasize that any disease reports in livestock and poultry will be referred to NJDA and any report of disease in wildlife will be referred to NJDEP, or as appropriate based on the jurisdiction of animals other than domestic companion animals.

With regard to the commenter's statement that veterinarians' businesses and animal owners' residences may be negatively impacted by "draconian measures" implemented by local health departments, the Department disagrees. Although the Commissioner of the Department is granted broad powers to institute rapid measures (for example, isolation, quarantine, and facility closure) to prevent human illness, N.J.A.C. 8:57-11 "Isolation and quarantine for communicable disease" does not authorize the Department or local health departments to institute isolation and

quarantine of animals or close veterinary hospitals, or animal facilities. Pursuant to N.J.S.A. 26:13-2, the terms “isolation” and “quarantine” specifically refer to individuals or groups of human individuals and would not apply to animals. Therefore, N.J.A.C. 8:57-1.11 only applies to isolation and quarantine of persons and does not apply to animals, veterinary hospitals, or animal facilities. The Department has no interest in or intention to forcibly closing veterinary facilities.

The Department and local health departments, however, have specific authority to isolate or quarantine animals infected with, or suspected of, zoonotic diseases that are housed in licensed animal facilities (not veterinary facilities), pursuant to N.J.A.C. 8:23A-1.9(n). When isolation and quarantine of animals at animal facilities is appropriate, the Department’s veterinary staff collaborates with local health departments, involved veterinarians and facility management to devise specific protocols for control of the disease. Each disease outbreak is unique and protocols are modified to address each situation depending on the agent suspected or diagnosed, the layout of the facility, staffing, resources and other factors.

In the event of large scale disease outbreak in domestic companion animals, the Department, in collaboration with local health departments, may refer animals to veterinary hospitals and/or animal facilities and work with veterinarians to implement isolation and quarantine procedures

appropriate for the situation. Depending on the situation, the Department may assume this role as part of a coordinated emergency response. In these situations, the Department will support the operation of veterinary facilities and not impede their operation.

As noted in the summary statements, “Reporting of these specific zoonotic diseases and disease outbreaks in domestic companion animals by veterinarians, certified animal control officers, and animal facility managers to public health officials is necessary to prevent the transmission of disease between pets and people through appropriate public health intervention. The proposed animal reporting rules apply only to diseases diagnosed in DCAs and specifically exempt communicable diseases diagnosed in livestock, thus supplementing the New Jersey Department of Agriculture (NJDA) livestock and poultry disease surveillance, testing, sampling, detection and investigation activities, as set forth in N.J.S.A. 4:5. Proposed new N.J.A.C. 8:57-1.8(h) would articulate that the Department shall notify the Department of Environmental Protection or Secretary of Agriculture of any report made pursuant to this subchapter where the Commissioner suspects conditions that could potentially affect animals, plants or crops under the jurisdiction of the Department of Environmental Protection or Department of Agriculture.” (40 N.J.R. 1962(a), April 21, 2008) The Department does not agree with the comment that inclusion of reportable diseases is

arbitrary as the Department's statutory authority includes regulating the detection, prevention and control of communicable disease. The Department included in the list of reportable animal diseases zoonotic agents that are classified by the Centers for Disease Control and Prevention (CDC) as Category A and B bioterrorism agents (anthrax, plague, tularemia, Q fever, and avian chlamydiosis). Category A and B agents are those that pose the highest risk to national security. These agents are infrequently diagnosed in New Jersey animals and therefore have a low incidence. However, timely reporting when these diseases are suspected or diagnosed may be critically important to identify or rule-out a purposeful or accidental release of these agents into the environment that may pose a threat to persons or other animals. Contrary to the commenter's statement, CDC fully supports state health departments' efforts to augment the surveillance, testing, and investigation of Category A and B disease agents to ensure an appropriate and timely response to an animal or human case. The reporting of these specific zoonotic diseases and disease outbreaks is a reasonable articulated standard.

11. COMMENT: The commenter states "although concerns about the public health significance of the diseases should not be minimized results of infections would significantly impact not only the animal species at greatest risk, but other species also affected, as well as the associated industries and infrastructure." (3)

RESPONSE: The Department commends the commenter for its concerns to not minimize the public health significance of communicable disease reporting. As noted in prior responses, the Department will work closely with the NJDA and NJDEP.

N.J.A.C. 8:57-1.8(a)

12. COMMENT: The commenter states that the New Jersey Veterinary Medical Association (NJVMA) opposes the inclusion of *Giardia lamblia* (oocyst positive only) in the list of reportable zoonotic diseases because the NJVMA does not believe that this agent is easily transmitted to humans. The commenter states that the presence of *Giardia lamblia* on fecal examination tests conducted by commercial laboratories is not specified in reports to veterinarians. The NJVMA recommends that the Department remove *Giardia lamblia* from the list of reportable animal disease at N.J.A.C. 8:57-1.8(a). (1)

RESPONSE: Public health authorities, including the Centers for Disease Control and Prevention's, Division of Parasitic Diseases, regard *Giardia* infections as zoonotic, transmissible from animals to people, and *Giardia*-infected pets potentially may be a source of human infection. The Department acknowledges that human transmission from pet to person is infrequently documented and humans are much more likely to be infected with *Giardia* from a contaminated water source than from an infected pet. Therefore, the Department will delete *Giardia lamblia* from the list of

reportable animal diseases at N.J.A.C. 8:57-1.8(a) on adoption. The removal of *Giardia lamblia* from the list of reportable diseases would not decrease a protection to the public because of the infrequent transmission from pet to person and would decrease the reporting burden to veterinarians, certified animal control officers, and/or managers of animal facilities.

13. COMMENT: The commenter lists the following diseases, which are included in N.J.A.C. 8:57-1.8: Anthrax (*Bacillus anthracis*); *Brucella canis*; Campylobacteriosis (*Campylobacter* spp.); *Escherichia coli* shiga toxin producing strains (STEC) only; *Giardia lamblia* (oocyst positive only); Leishmaniasis; Leptospirosis; Lymphocytic choriomeningitis; *Mycobacterium tuberculosis*; Plague (*Yersinia pestis*); Q Fever (*Coxiella burnetti*); Salmonellosis (*Salmonella* spp.); and Tularemia (*Francisella tularensis*). The commenter requests additional technical information pertaining to reasons for inclusion, incidence, testing, diagnosis, and implementation. (3)

RESPONSE: The Department appreciates the commenter's detailed review of this rule. As explained in the response to the above comment, the Department on adoption will remove *Giardia lamblia* (oocyst positive only) from the list of reportable diseases at N.J.A.C. 8:57-1.8. The Department has already addressed the reasons for including these particular diseases at N.J.A.C. 8:57-1.8 and the implementation of the

rules in the response to comments 6 through 10. The response to comments 1 through 3 addressed the case definitions and guidance for veterinarians and local health departments on the testing and diagnosis of each of the reportable animal diseases. Upon adoption of the rule, the Department will provide case definitions to veterinarians, local health departments, the NJDA and NJDEP. Because the diseases were not reportable to the Department before adoption of the rules at N.J.A.C. 8:57-1.8, the Department does not have data on the disease incidence in domestic companion animals. Based on telephone calls received by the Department from domestic companion animal practitioners, the incidence appears to be low for most of the listed diseases, although the Department receives approximately 10 reports of canine leptospirosis annually. As the Department gathers data, the Department will share this information with the NJDA, NJDEP, veterinary practitioners and other stakeholders so that all can benefit from the data.

N.J.A.C. 8:57-1.8(e)

14. COMMENT: The commenter states that the requirement for veterinarians to gather information from animal owners on the number and species of animals housed on their premise, the date that infected animals were purchased or acquired, and the origin of the acquired animals is “outside the normal patient history obtained by veterinarians;” is apparently “intended for managers of kennels, pet shops, shelters and

pounds [animal facilities];” and should be removed from N.J.A.C. 8:57-1.8(e) for veterinarians. (1)

RESPONSE: When veterinarians suspect a communicable disease in their “patients,” they investigate by gathering a complete medical history of the animal from the owner. Such medical history will usually include information of potential sources of the suspected disease for example, the other animals of the same and different species that are in contact with the animal, places the animal has been that could be a source of infection, and the length of time that the animal has been housed on that premises. Communicable diseases in domestic companion animals frequently are related to recent travel, acquisition or a change in the husbandry of the animal. Understanding the factors set forth above is important to make an accurate diagnosis and this information will guide the veterinary practitioner in determining which diagnostic procedures they should conduct. In the event that a reportable zoonotic disease is identified in a domestic companion animal, the Department believes that that it is appropriate for the veterinary practitioner to gather any additional history required in N.J.A.C. 8:57-1.8(e) that would be necessary for investigators to investigate the potential sources of the disease and identify other animals that may be at risk of infection. Therefore, the Department disagrees that collecting this information from owners of domestic companion animals with a reportable

disease is “outside the normal patient history obtained by veterinarians” and declines to amend N.J.A.C. 8:57-1.8(e) as requested by this commenter.

15. COMMENT: The commenter recommends that the Department add an “on-line reporting option” to the rules at N.J.A.C. 8:57-1.8 in order to “facilitate reporting templates, central reporting location and ensure accuracy and speed of reporting.” (1)

RESPONSE: At this time, the Department does not have funding to develop and maintain an Internet-based on-line disease reporting system for reportable communicable diseases in domestic companion animals. Veterinarians, animal control officers and animal facility managers may make a report via mail, telephone or telefacsimile to the local health department with jurisdiction. The Department is developing a report form that will be posted on the Department's website, which veterinarians, animal control officers and animal facility managers may use for reporting to local health departments.

16. COMMENT: The commenter reflects on Department activities “typically” employed in 2005 related to N.J.A.C. 8:52 and makes inquiry as to comments and meetings related to that rulemaking and various implementation activities related to that rule. (3)

RESPONSE: The commenter's remarks focus on the contents of N.J.A.C. 8:52 and activities of the Department in 2005, which is not the

subject of this rulemaking. The Department does not agree that the commenter has sufficient knowledge of the Department to define the Department's typical processes in working with stakeholders or affected parties. The proposed rule is consistent with the applicable statutory mandates and Department rulemaking processes.

Federal Standards Statement

The readoption of N.J.A.C. 8:57-1 with amendments, repeals and new rules is not adopted under the authority of, or in order to implement, comply with, or participate in, any program established under Federal law or under a State statute that incorporates or refers to Federal law, Federal standards, or Federal requirements. Therefore, a Federal standards analysis is not required.

Full text of the adopted new rules follows (additions indicated in boldface with asterisks *thus*; deletions from the proposal indicated in brackets with asterisks *[thus]*):

8:57-1.8 Reporting of zoonotic diseases and any disease outbreaks in domestic companion animals by veterinarians, certified animal control officers, and animal facility management

(a) A veterinarian, certified animal control officer or manager of an animal facility shall report any case of a domestic companion animal that

is ill or infected with the following zoonotic diseases, as set forth in (d) and (e) below:

...

*[*Giardia lamblia* (oocyst positive only);]*

...

(b)-(h) (No change from proposal.)