

RULE ADOPTIONS

AGRICULTURE

(a)

OFFICE OF THE SECRETARY

Administration

Readoption with Amendments: N.J.A.C. 2:1

Repeal and New Rule: N.J.A.C. 2:1 Appendix

Proposed: October 21, 2013, at 45 N.J.R. 2291(a).

Adopted: May 28, 2014, by the State Board of Agriculture and

Douglas H. Fisher, Secretary, Department of Agriculture.

Filed: May 29, 2014, as R.2014 d.106, **without change**.

Authority: N.J.S.A. 4:1-11, 52:14B-3, and 52:14B-4.

Effective Date: May 29, 2014, Readoption;
July 7, 2014, Amendments, Repeal, and New Rule.

Expiration Date: May 29, 2021.

Summary of Public Comment and Agency Response:

Jean Public commented in response to the rules proposed for readoption with amendments, repeal, and new rule.

COMMENT: The commenter stated that the public listened to at this Department appears to be only the public of ag (sic) choosing; and the commenter cited as an example that overwhelming comments received to make the humane standards for farm animals more humane were discounted by the Department.

RESPONSE: The Department does not agree with the commenter and responds to the example used by the commenter because the comment addresses general rulemaking procedures as set forth in the Administration rules at N.J.A.C. 2:1-3.4. The Department is required to respond and does respond to all comments received about proposed rules and amendments to the rules. In the commenter's example, many comments received addressed issues that were not relevant to the scientific basis for the standards; however, as required, the Department did read, consider, and respond to all of the comments made to the proposed standards and the proposed amendments.

COMMENT: A list of various practices involving animals identified as "abuse" was provided.

RESPONSE: The commenter's references to animals and various practices related to animals concern a different subject and rules, which are not part of this rulemaking. No changes have been proposed to rules in Chapter 8, which involve standards for the humane treatment of domestic livestock and that existing rule has not changed.

COMMENT: This Department should have clear e-mail addresses at all times so the general public can communicate with its employees.

RESPONSE: The Department thanks the commenter for this comment, which has been mentioned by this commenter in comments to other notices of proposal as well. The Department agrees and amended its Administration rules to provide additional e-mail addresses and specifically to include Division e-mail addresses to accept e-mail comments on proposed rules. Amendments were made to N.J.A.C. 2:1-3.4 to include the e-mail address for public comment on each specific notice of proposal and N.J.A.C. 2:1-3.8 and 3.11 were amended to add e-mail addresses.

COMMENT: Subchapter 3 seems to be written to stop public comment.

RESPONSE: The Department does not agree with the commenter's assessment of the Department approach to public comment and does not find the commenter's interpretation of Subchapter 3, Rules of Practice, to be consistent with the contents of Subchapter 3. For example, the subchapter requires the Department to use many kinds of public notice of proposed rules, provides the ways the comment period can be extended and gives guidance to assist interested parties in successfully requesting an extension of time or a public hearing. The subchapter also sets forth

the steps the public can follow to petition for a rule. The subchapter also includes information to request public records. As such, the subchapter attempts to provide in one concise place a roadmap for members of the public to use to obtain information, to learn about activities involved with rulemaking to make public comment, and to request public records.

COMMENT: The Department should take steps to make sure their website is actively managed and their e-mail addresses for communication are in working order.

RESPONSE: The Department thanks the commenter and notes that additional e-mail addresses have been added. The Department is making every effort with available resources to manage its website and the e-mail system to assure that these systems are in working order.

COMMENT: The commenter said that all documents requested should be copied at five cents a page and not at the extraordinary rates cited in this notice of proposal. She further noted that most other government entities in New Jersey charge five cents a page.

RESPONSE: The commenter appears to have identified a part of the rule that was amended to delete outdated fee levels and incorporate into N.J.A.C. 2:1-3.14 the fee structure that contains a charge of \$0.05 per page (letter size or smaller). The Department thanks the commenter for the support.

COMMENT: The annual report to the public appears to be completely unavailable to the general public for the last 20 years and that it needs to be on the website in full.

RESPONSE: The Department appreciates the commenter's interest in the annual reports prior to 1999 and regrets that these annual reports do not exist in a scannable format at this time. As the budget levels permit, the Department intends to work on this project as quickly as possible. The annual reports from 1999 through 2013 are available on the Department's website. To locate them from the Department of Agriculture's webpage <http://www.state.nj.us/agriculture/>, click on "Publications" at the top left side of the page, then click on "General Interest" on the top right side of page, here you will see the links for the annual reports listed by year, click on the year to view the annual report for the selected year.

Federal Standards Statement

A Federal standards analysis is not required because the rulemaking requirements of the Department and the procedure by which organizations are granted the ability to send delegates to the Convention are not subject to any Federal requirements or standards.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 2:1.

Full text of adopted amendments and new rule follows:

SUBCHAPTER 1. DESIGNATION OF ADDITIONAL ORGANIZATIONS TO THE ANNUAL STATE AGRICULTURAL CONVENTION

2:1-1.3 Procedure for making application

(a) An organization shall make application, on forms provided by the Department of Agriculture, by no later than July 1 in any year. Forms may be obtained by contacting the Office of the Secretary, Department of Agriculture, P.O. Box 330, Trenton, NJ 08625-0330 or on the Department website at <http://www.state.nj.us/agriculture/>.

(b)-(d) (No change.)

SUBCHAPTER 2. ORGANIZATION

2:1-2.3 Functions of departmental units

(a) Functions of the various units within the State Department of Agriculture are as follows:

1. (No change.)

2. The Office of the Secretary is responsible for, including but not limited to, executive management, policy development, personnel, budget, information technology, facilities management, legislative

liaison, public information programs, and legal services for the Department and the State Board of Agriculture.

3. (No change in text.)

4. The Division of Marketing and Development: operates programs which foster a stable and competitive dairy industry; conducts quality assurance programs for agricultural inputs; regulates credit buyers of perishable agricultural products; performs agricultural product grading and inspection; and promotes food safety by conducting third-party audits on fresh produce. The Division of Marketing and Development is accredited by USDA's National Organic Program to certify growers and handlers wishing to sell agricultural products under the organic designation and administers an organic registration program, which monitors all sectors of the organic industry in New Jersey. The Division of Marketing and Development also provides market development services; market news; support for agricultural cooperatives, fairs, and shows; equine programs; and product promotions.

Recodify existing 6.-9. as 5.-8. (No change in text.)

2:1-3.4 Public comments regarding existing rules and proposed rulemaking

(a) (No change.)

(b) Public comments are specifically sought regarding existing Department rules that may be perceived as being not necessary, adequate, reasonable, efficient, understandable, or responsive to the purposes for which they were promulgated. Public comments regarding existing rules should be submitted in writing and addressed to either the specific relevant division of the Department or the Department at:

New Jersey Department of Agriculture
Office of the Secretary
PO Box 330
Trenton, New Jersey 08625-0330

or at ContactAg@ag.state.nj.us

(c) The Department invites the public to utilize the opportunity to be heard during the official public comment period following the publication of a notice of pre-proposal or proposal in the New Jersey Register by means of submitting in writing, data, views, or arguments to the name and unit and mailing address or email address specified in the notice, which is also provided with the proposed rule at <http://www.state.nj.us/agriculture/rule>.

2:1-3.8 Procedure to petition for a rule

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

(c) Petitions shall be addressed to the specific relevant Division of the Department at:

(Insert Division Name) New Jersey Department of Agriculture
PO Box 330
Trenton, New Jersey 08625-0330
or the Department at ContactAg@ag.state.nj.us

2:1-3.11 Instructions for department forms on file

A description and instructions for use of the forms used in carrying out the Department's responsibilities may be obtained from the Office of the Secretary, Department of Agriculture, PO Box 330, Trenton, NJ 08625-0330 or <http://www.state.nj.us/agriculture>.

2:1-3.13 Information available to public

(a) The public may obtain complete information or make submissions or requests concerning any Departmental programs by contacting the Office of the Secretary, Department of Agriculture, PO Box 330, Trenton, NJ 08625-0330, ContactAg@ag.state.nj.us, or through <http://www.state.nj.us/agriculture>.

(b) An annual report of all Department activities is made to the Governor and Legislature. Copies are available from the Public Information Office, N.J. Department of Agriculture, PO Box 330, Trenton, NJ 08625-0330 or <http://www.nj.gov/agriculture/pub/general.html>.

2:1-3.14 Public records; copies; fees

(a) (No change.)

(b) Any person may obtain copies of public records by written request upon payment of a fee as set forth below. If the actual cost for duplication of the records exceeds the rates set forth in this subsection, the person will be charged the actual cost of duplicating the record.

1. \$.05 per page that is letter size or smaller; and
2. \$.07 per page that is legal size or larger.

(c) (No change.)

(d) Records may be requested for transmittal by a telefacsimile machine upon payment, for cost reimbursement, at the same rate as in (b) above.

(e) Records may be requested for transmittal by a data storage device upon payment, for actual cost reimbursement.

(f)-(g) (No change.)

APPENDIX

New Jersey Department of Agriculture



*In but not of Department of Agriculture
**In but not of the SADC
July 2013