

# RULE ADOPTIONS

## AGRICULTURE

(a)

### DIVISION OF MARKETING AND DEVELOPMENT

#### Notice of Readoption Producers

#### Readoption: N.J.A.C. 2:50

Authority: N.J.S.A. 4:1-11.1, 4:1-25, and 4:12A-1 et seq., specifically 4:12A-7 and 4:12A-20.

Authorized By: Alfred W. Murray, Director, Division of Marketing and Development, the State Board of Agriculture and Douglas H. Fisher, Secretary, Department of Agriculture.

Effective Date: September 22, 2014.

New Expiration Date: September 22, 2021.

**Take notice** that pursuant to N.J.S.A. 52:14B-5.1.c, these rules at N.J.A.C. 2:50 will expire on October 24, 2014. These rules regulate the purchase and sale of milk between producers and dealers in the State of New Jersey, thereby providing protection to producers who sell and dealers who buy New Jersey milk. As such, the rules proposed for readoption primarily affect New Jersey dairy producers and milk dealers licensed by the State of New Jersey to buy milk from New Jersey dairy producers and will also benefit New Jersey milk dealers, producers, and consumers.

These rules provide the 28-day notice requirements for dairy farmers and milk dealers intending to discontinue the sale or purchase of milk; set forth the procedures for the licensing of weighers and samplers; and outline the weighing, measuring, and sampling procedures including sample maintenance.

These rules also mandate a fuel adjustment add-on to be paid to New Jersey producers by licensees who purchase New Jersey-produced milk; set forth the relative definitions; delineate the requirements and calculations for the payment of the fuel adjustment add-on; clarify how adjustments will be made for Class I utilization for the fuel adjustment add-on payments made by processors; set forth Premium program reporting requirements for licensees; detail the means of petitioning the Department for assistance when a producer feels a premium program change has been made for the purpose of circumventing the fuel adjustment add-on; and address the penalties to be imposed for violating or intentionally circumventing these provisions. In addition, these rules describe the conditions under which information will be held confidential and reference privileges and limitations set forth in 7 CFR 205.501 and 205.504 and N.J.S.A. 47:1A-1 et seq. regarding access to information.

The Department of Agriculture has reviewed the rules and has determined that the rules should be readopted without amendment. The rules are necessary, reasonable, and proper for the purpose for which they were originally promulgated. Therefore, pursuant to N.J.S.A. 52:14B-5.1.c(1), these rules are readopted and shall continue in effect for a seven-year period.

## CIVIL SERVICE

(b)

### CIVIL SERVICE COMMISSION

#### Notice of Administrative Change Selection and Appointment Working Test Period Duration

#### N.J.A.C. 4A:4-5.2

**Take notice** that Civil Service Commission discovered an outdated cross-reference in the text of N.J.A.C. 4A:4-5.2(d)2. Paragraph (d)2 states that appeals pertaining to the failure to complete the police training course shall be in accordance with the procedures established by the Police Training Commission. The paragraph then includes the following cross-reference, "See N.J.A.C. 13:1-11." When paragraph (d)2 was first promulgated effective June 6, 1988, the Police Training Commission rules on appeals were at N.J.A.C. 13:1-11. See 20 N.J.R. 327(a) and 1183(b). Effective July 5, 1988, N.J.A.C. 13:1 was repealed and a new N.J.A.C. 13:1 became effective, in which the rules on appeals were at N.J.A.C. 13:1-9. See 20 N.J.R. 622(a) and 1563(a). Through this notice of administrative change, published pursuant to N.J.A.C. 1:30-2.7, the cross-reference to N.J.A.C. 13:1-11 is updated to N.J.A.C. 13:1-9.

**Full text** of the changed rule follows (addition indicated in boldface **thus**; deletion indicated in brackets [thus]):

#### SUBCHAPTER 5. WORKING TEST PERIOD

##### 4A:4-5.2 Duration

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

(d) Persons appointed to entry level law enforcement, correction officer, juvenile detention officer and firefighter titles shall serve a 12-month working test period. A law enforcement title is one that encompasses use of full police powers, but shall not include the local service competitive title of Police Assistant. See N.J.A.C. 4A:3-3.7A. Persons appointed in local service to the competitive title of Police Assistant shall serve a three-month working test period.

1. (No change.)

2. Appeals from failure to successfully complete the police training course shall be in accordance with procedures established by the Police Training Commission. See N.J.A.C. 13:1-[11]9.

(e) (No change.)

## COMMUNITY AFFAIRS

(c)

### DIVISION OF LOCAL GOVERNMENT SERVICES

#### Qualified Purchasing Agents

#### Adopted Amendments: N.J.A.C. 5:34-5.1 and 5.2

#### Adopted Repeal: N.J.A.C. 5:34-5.3

Proposed: June 2, 2014, at 46 N.J.R. 909(a).

Adopted: September 12, 2014, by Thomas H. Neff, Director,  
Division of Local Government Services.

Filed: September 22, 2014, as R.2014 d.156, with **non-substantial changes** not requiring additional public notice and opportunity for comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 40A:11-9.i.

Effective Date: October 20, 2014.

Expiration Date: September 13, 2020.

**Summary of Public Comments and Agency Responses:**

Public comments were submitted by Dan Schustack, City of Cape May, N.J.; James H. Strimple, Jr., Interim School Business Administrator of the Freehold Borough School District; and Cheryl G. Fuller, Director of the Hudson County Department of Finance and Administration, which are summarized below.

COMMENT: Dan Shustack asks that the rule change be delayed in the interests of those taking the Qualified Purchasing Agent (QPA) exam in December.

RESPONSE: The commenter gives no specific reasons as to why the within rule amendments and repeal should not move forward, and is vague on what areas of the rule should be delayed. N.J.S.A. 40A:11-9.c requires all QPA certificate holders to receive instruction in the green purchasing subject area within a specified time frame. N.J.A.C. 5:34-5.1(d) requires that those obtaining QPA certification after June 30, 2015, must take at least 2.0 contact hours of coursework in the green purchasing subject area prior to taking the exam. Individuals obtaining certification before June 30, 2015, must earn at least 2.0 contact hours of continuing education credit in the green purchasing subject area as a condition precedent to renewing their QPA certification. The Director finds the adopted amendment the most efficient and effective way to implement the statute and ensure QPAs receive appropriate training in environmentally sensitive procurement.

COMMENT: James H. Strimple, Jr., objects to the QPA certificate renewal fee being put in place by N.J.A.C. 5:34-5.2(a), stating that the public procurement community was told that such a renewal fee would never be put into place.

RESPONSE: The cost of maintaining a professional status, which contains professional and employment benefits for the holder, are most appropriately borne by those who seek to maintain that status and not by general taxpayers. Commenter does not specify what individual gave such assurances. Regardless, N.J.S.A. 40A:11-9.d(1) enables the Director to institute a fee for the renewal of QPA certifications and, for the reason cited above, such a fee is being established. Even if the above-referenced statement were made by a Division representative in the past, such a statement does not bind the Director from implementing a renewal fee to defray the cost of the Division's examination, licensure, and oversight of Qualified Purchasing Agents. The renewal fee is set at a reasonable amount and is in proportion with the \$150.00 application fee set by N.J.S.A. 40A:9-11.b(6) for QPA candidates.

COMMENT: Cheryl G. Fuller states that forms for the renewals of all licenses issued by the Division of Local Government Services should be unified into a single multi-purpose renewal form. It is cumbersome to have to complete the same lines on different forms when many of the requirements are the same.

RESPONSE: The Division continues to review its forms and workflow processes, and will take the commenter's suggestion into consideration as part of this undertaking; however, no changes to existing license renewal forms are being considered for this rulemaking.

**Summary of Agency-Initiated Changes:**

Upon further review, the Director will not adopt the proposed amendment to N.J.A.C. 5:34-5.2(a)6, which would expressly permit the Director discretion to extend the grace period for Qualified Purchasing Agent certification renewal beyond six months where either a state of emergency is declared by the President of the United States and/or the Governor that affects an individual certificate holder or a group of certificate holders; or a medical event or condition affects an individual certificate holder, either of which preventing a certificate holder from obtaining the requisite continuing education credits before the expiration of the grace period. The proposed amendment as worded does not grant the Director sufficient discretion in determining whether the certificate holder's extension request is reasonable and appropriate. The Director intends to propose a similar provision, with amended wording, as a separate rule proposal in the future.

An additional change upon adoption is made at N.J.A.C. 5:34-5.1(d)1 to replace the reference to the effective date of the amendment with the actual effective date.

**Federal Standards Statement**

No Federal standards analysis is required because the adopted amendments and repeal are not being adopted in order to implement, comply with, or participate in any program established under Federal law or under a State law that incorporates or refers to Federal law, standards, or requirements.

**Full text** of the adoption follows (addition to proposal indicated in boldface with asterisks **\*thus\***; deletions from proposal indicated in brackets with asterisks **\*[thus]\***):

SUBCHAPTER 5. QUALIFIED PURCHASING AGENTS

5:34-5.1 Qualified purchasing agent

(a) (No change.)

(b) To meet the criteria of required training courses set forth in N.J.S.A. 40A:11-9.b(5), an applicant shall successfully complete the following courses, provided by the Center for Government Services at Rutgers, the State University, the Division of Local Government Services, or, with the approval of the Director, an alternative State University or county college:

1.-2. (No change.)

3. Principles of Public Purchasing III; and

4. Municipal Finance Administration, or either of the following courses: Municipal Finance Administration for Municipal Clerks or Municipal Finance Administration for Purchasing Agents.

(c) At least one of the courses established pursuant to (b) above shall incorporate the subject area of green purchasing.

(d) The following individuals who apply for qualified purchasing agent certification after June 30, 2015, must certify to having earned 2.0 contact hours of coursework on the subject area of green purchasing before being eligible to take the certification exam, said coursework shall be approved by the Director as relevant to the subject matter area and the duties of a QPA pursuant to N.J.S.A. 40A:11-9 and this chapter:

1. Successfully completed all training courses required pursuant to N.J.S.A. 40A:11-9.b(5) prior to **\*[(the effective date of this amendment)]\* \*October 20, 2014\***;

2. Successfully completed one or more of the training courses required pursuant to N.J.S.A. 40A:11-9.b(5) prior to June 30, 2015, and whose remaining coursework will not cover green purchasing;

3. Are otherwise exempt from taking the prerequisite training courses pursuant to N.J.S.A. 40A:11-9.b(7) or 40A:11-9.f.

(e) Those individuals applying for a qualified purchasing agent certificate after June 30, 2015, who are exempt from the certification exam pursuant to N.J.S.A. 40A:11-9.e(2), must certify to having earned 2.0 contact hours of coursework on the subject area of green purchasing before being eligible to receive a qualified purchasing agent certificate. Said coursework shall be approved by the Director as relevant to the subject matter area and the duties of a QPA pursuant to N.J.S.A. 40A:11-9 and this chapter.

(f) Applicants for a qualified purchasing agent examination and certification shall submit an application form available under the Professional Certification section on the Division website ([www.nj.gov/dca/divisions/dlgs](http://www.nj.gov/dca/divisions/dlgs)) to the Director. The application submission shall include proof(s) of meeting the requirements in N.J.S.A. 40A:11-9 and as described as part of the application form. Applications may be submitted at any time. At the discretion of the Director, additional documentation may be required upon receipt of an application. Upon meeting the requirements of law the applicant shall be issued a certificate as a qualified purchasing agent.

5:34-5.2 Continuing education requirements

(a) Renewal of a qualified purchasing agent certificate shall be required every three years, subject to the applicant's fulfillment of continuing education requirements, the submission of an application for renewal, and payment of a \$35.00 fee payable to the order of the Treasurer, State of New Jersey.

1. Applicants shall obtain 20 continuing education contact hours in subject areas of procurement procedures, office administrative/general duties, ethics, and green purchasing, said credits shall be approved by the Director as relevant to the subject matter area and the duties of a QPA

pursuant to N.J.S.A. 40A:11-9 and this chapter, with the following minimum contact hours for each subject area:

- i. 2.0 contact hours in the subject area of procurement procedures;
- ii. 2.0 contact hours in the subject area of office administrative/general duties;
- iii. 3.0 contact hours in the subject area of ethics; and
- iv. 2.0 contact hours in the subject area of green purchasing.

2. At the option of the applicant, contact hours in the subject area of information technology approved by the Director for relevance to the subject matter area and the duties of a QPA pursuant to N.J.S.A. 40A:11-9 and this chapter may be applied toward the 20 continuing education contact hours, required under (a)1 above, in addition to the required minimum contact hours for procurement procedures, office administrative/general duties, ethics, and green purchasing.

3. If an applicant has earned at least 20 continuing education contact hours within the renewal period, but has not achieved the minimum number of contact hours in a given subject area, the Director has discretion to waive the required minimum upon application and good cause shown. This waiver discretion shall not apply to the minimum number of green purchasing contact hours for certificate renewal cycles expiring no later than June 30, 2019.

Recodify existing 2.-3. as 4.-5. (No change in text.)

6. An individual who holds a qualified purchasing agent certificate and allows such certificate to lapse by failing to renew shall be required to apply to take the qualifying examination required pursuant to N.J.A.C. 5:34-5.1(c), and pay the requisite fee for such application in order to obtain a new qualified purchasing agent certification, except that, when an individual applies within six months of the expiration of the certificate, the application may be made in the same manner as a renewal. \*[The Director shall extend the six-month grace period where a substantial hardship exists. A substantial hardship, which prevents the required credits from being earned prior to the expiration of the six-month grace period, exists if:

- i. A state of emergency is declared by the President of the United States and/or the Governor that affects an individual certificate holder or a group of certificate holders; or
- ii. A medical event or condition affects an individual certificate holder.]\*

5:34-5.3 (Reserved)

## HIGHER EDUCATION

### (a)

#### EDUCATIONAL OPPORTUNITY FUND

#### Undergraduate EOF Academic and Financial Eligibility; Graduate EOF Financial Eligibility Grant Amounts

#### Adopted Amendments: N.J.A.C. 9A:11-2.6 and 3.4

Proposed: June 16, 2014, at 46 N.J.R. 1404(a).

Adopted: September 22, 2014, by the Educational Opportunity Fund

Board of Directors, Audrey Bennerson, Statewide Director.

Filed: September 22, 2014, as R.2014 d.157, **without change**.

Authority: N.J.S.A. 18A:71-28 et seq. and 18A:71-33 through 36; and Executive Reorganization Plan 005-2011.

Effective Date: October 20, 2014.

Expiration Date: May 13, 2016.

#### Summary of Public Comments and Agency Response:

COMMENT: Jean Public stated “it is time for this entire program to be shut down and defunded to zero.”

RESPONSE: Ms. Public was thanked for her remarks and the comment was rejected. The EOF Board believes it is important to note that Ms. Public provided no objective data for her remark. The need for New Jersey’s Educational Opportunity Fund (EOF) program is as relevant today as when it was started in 1968. EOF continues to

contribute to the development of a college-educated public that reflects the diversity of New Jersey, by working in partnership with New Jersey colleges and universities and the K-12 educational system to provide access to higher education for students from families/communities disadvantaged by low income and the lack of access to the quality educational preparation necessary to attend college. The program provides supplemental financial aid to help cover college costs that are not covered by the State’s Tuition Aid Grant (TAG) program and to reduce students’ loan encumbrance. To ensure that EOF students have a viable opportunity to succeed and graduate, the program provides a wide array of campus-based outreach and support services.

#### Federal Standards Statement

The adopted amendments do not require a Federal standards analysis under Executive Order No. 27 (1994) and N.J.S.A. 52:14B-22 et seq. because EOF was established by New Jersey legislation, is wholly supported by State appropriations, and is not subject to any Federal requirements or standards.

Full text of the adoption follows:

#### SUBCHAPTER 2. UNDERGRADUATE EOF ACADEMIC AND FINANCIAL ELIGIBILITY

#### 9A:11-2.6 Grant amounts

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

(d) The Board shall annually review the State grant amounts for EOF students and make adjustments, if necessary. The minimum and maximum semester and maximum academic year award ranges for full- and part-time Article III undergraduate student grants for each sector of higher education follows.

	Semester <u>Minimum</u>	Semester <u>Maximum</u>	Academic Year <u>Maximum</u>
<u>Undergraduate</u>			
<u>Community Colleges</u>			
Full-time	\$100.00	\$525.00	\$1,050
Part-time:			
6-8 credits	\$100.00	\$263.00	\$526.00
9-11 credits	\$100.00	\$394.00	\$788.00
<u>State Colleges and Universities</u>			
<u>Commuter</u>			
Full-time	\$100.00	\$575.00	\$1,150
Part-time:			
6-8 credits	\$100.00	\$288.00	\$576.00
9-11 credits	\$100.00	\$431.00	\$862.00
<u>Residential</u>			
Full-time	\$100.00	\$700.00	\$1,400
Part-time:			
6-8 credits	\$100.00	\$427.00	\$854.00
9-11 credits	\$100.00	\$560.00	\$1,120
<u>Public Research Universities</u>			
<u>Commuter</u>			
Full-time	\$100.00	\$575.00	\$1,150
Part-time:			
6-8 credits	\$100.00	\$288.00	\$576.00
9-11 credits	\$100.00	\$431.00	\$862.00
<u>Residential</u>			
Full-time	\$100.00	\$700.00	\$1,400
Part-time:			
6-8 credits	\$100.00	\$427.00	\$854.00