

N.J.A.C. 1:19-15.1 describes the special rule of evidence that applies to Commission hearings that permit any relevant evidence, not subject to a claim of privilege, to be admitted regardless of any rule of evidence which would bar such evidence in judicial matters.

The Office of Administrative Law has reviewed these rules and found them to be necessary, reasonable, and proper for the purposes in which they were originally promulgated, as required by Executive Order No. 66 (1978). Therefore, in accordance with N.J.S.A. 52:14B-5.1.c(1), these rules are readopted and shall continue in effect for a seven-year period.

(a)

**OFFICE OF ADMINISTRATIVE LAW  
Notice of Readoption  
Special Hearing Rules  
Hearings Before the Public Employment Relations  
Appeal Board**

**Readoption: N.J.A.C. 1:20**

Authority: N.J.S.A. 52:14F-5(e), (f), and (g).

Authorized By: Ellen Bass, Acting Director, Office of Administrative Law.

Effective Date: November 5, 2021.

New Expiration Date: November 5, 2028.

**Take notice** that pursuant to N.J.S.A. 52:14B-5.1, the Special Hearing Rules for Public Employment Relations Appeal Board cases, N.J.A.C. 1:20, were scheduled to expire on October 16, 2021. Pursuant to Executive Order Nos. 127 (2020) and 244 (2021) and P.L. 2021, c. 103, any chapter of the New Jersey Administrative Code that would otherwise have expired during the Public Health Emergency originally declared in Executive Order No. 103 (2020) is extended through January 1, 2022. Therefore, this chapter has not yet expired and the 30-day filing date pursuant to N.J.S.A. 52:14B-5.1.c has not yet occurred, therefore, pursuant to Executive Order No. 244 (2021), and P.L. 2021, c. 103, this notice of readoption is timely filed.

N.J.A.C. 1:20 provides procedures for filing petitions, answers, evidence, and guidance for oral argument on exceptions and motions to reopen.

The Office of Administrative Law has reviewed these rules and found them to be necessary, reasonable, and proper for the purposes in which they were originally promulgated, as required by Executive Order No. 66 (1978). Therefore, in accordance with N.J.S.A. 52:14B-5.1.c(1), these rules are readopted and shall continue in effect for a seven-year period.

(b)

**OFFICE OF ADMINISTRATIVE LAW  
Notice of Readoption  
Special Hearing Rules  
Trade Secret Claims**

**Readoption: N.J.A.C. 1:21**

Authority: N.J.S.A. 52:14F-5(e), (f), and (g).

Authorized By: Ellen Bass, Acting Director, Office of Administrative Law.

Effective Date: November 5, 2021.

New Expiration Date: November 5, 2028.

**Take notice** that pursuant to N.J.S.A. 52:14B-5.1.c, the Special Hearing Rules for Trade Secret Claims were scheduled to expire on October 3, 2021. Pursuant to Executive Order Nos. 127 (2020) and 244 (2021) and P.L. 2021, c. 103, any chapter of the New Jersey Administrative Code that would otherwise have expired during the Public Health Emergency originally declared in Executive Order No. 103 (2020) is extended through January 1, 2022. Therefore, this chapter has not yet

expired and the 30-day filing date pursuant to N.J.S.A. 52:14B-5.1.c has not yet occurred, therefore, pursuant to Executive Order No. 244 (2021), and P.L. 2021, c. 103, this notice of readoption is timely filed.

N.J.A.C. 1:21 provides special procedures during transmission, discovery, motion practice, and recording processes that preserve confidentiality of trade secrets.

The Office of Administrative Law has reviewed these rules and found them to be necessary, reasonable, and proper for the purposes in which they were originally promulgated, as required by Executive Order No. 66 (1978). Therefore in accordance with N.J.S.A. 52:14B-5.1.c(1), these rules are readopted and shall continue in effect for a seven-year period.

(c)

**OFFICE OF ADMINISTRATIVE LAW  
Notice of Readoption  
Organization of the Office of Administrative Law  
Readoption: N.J.A.C. 1:31**

Authority: N.J.S.A. 52:14F-5(e), (f), and (g).

Authorized By: Ellen Bass, Acting Director, Office of Administrative Law.

Effective Date: November 5, 2021.

New Expiration Date: November 5, 2028.

**Take notice** that pursuant to N.J.S.A. 52:14B-5.1.c, the rules for organization of the Office of Administrative Law (OAL), N.J.A.C. 1:31, were scheduled to expire on May 18, 2022. The summary of the readopted subchapters follows:

Subchapter 1 describes the functions of the OAL. The OAL conducts contested case hearings, promulgates rules, coordinates rulemaking proceedings within the Executive Branch, publishes the New Jersey Register and Administrative Code, and makes copies of initial decisions available to the public.

Subchapter 2 outlines the process regarding OAL rulemaking. Specifically, it describes the procedure to petition for a rule, when a comment period will be extended, when a public hearing will be held on a proposed rule, and the manner in which the OAL will provide additional notice of its rulemaking activity.

Subchapter 3 sets forth the disciplinary process for Administrative Law Judges.

The Office of Administrative Law has reviewed these rules and found them to be necessary, reasonable, and proper for the purposes in which they were originally promulgated, as required by Executive Order No. 66 (1978). Therefore, in accordance with N.J.S.A. 52:14B-5.1.c(1), these rules are readopted and shall continue in effect for a seven-year period.

**AGRICULTURE**

(d)

**DIVISION OF MARKETING AND DEVELOPMENT  
Notice of Readoption  
Administration**

**Readoption: N.J.A.C. 2:1**

Authority: N.J.S.A. 4:1-11.

Authorized By: The State Board of Agriculture and Douglas H. Fisher, Secretary, Department of Agriculture.

Effective Date: October 29, 2021.

New Expiration Date: October 29, 2028.

**Take notice** that pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 2:1 were scheduled to expire on May 29, 2021. Pursuant to Executive Order Nos. 127 (2020) and 244 (2021) and P.L. 2021, c. 103, any chapter of the New Jersey Administrative Code that would otherwise have expired

during the Public Health Emergency originally declared in Executive Order No. 103 (2020) is extended through January 1, 2022. Therefore, this chapter has not yet expired and the 30-day filing date pursuant to N.J.S.A. 52:14B-5.1.c has not yet occurred, therefore, pursuant to Executive Order No. 244 (2021), and P.L. 2021, c. 103, this notice of readoption is timely filed.

Subchapter 1 contains the rules governing the designation of additional organizations to the annual State Agricultural Convention and sets forth the procedures an organization seeking to send delegates to the convention must follow. Organizations that have not sent delegates to the Annual Agricultural Convention (Convention) for three consecutive years will lose their right to send delegates thereafter, provided they have not been statutorily granted permission to send delegates to the Convention. Organizations may reapply any subsequent year, provided they meet the criteria set forth at N.J.A.C. 2:1-1.2 and follow the application procedures at N.J.A.C. 2:1-1.3. The Annual State Agricultural Convention is governed by Roberts' Rules of Order.

Subchapter 2 delineates the responsibilities of the Department of Agriculture (Department), lists and prescribes the functions of its departmental units, and sets forth the Department's table of organization. Specifically, Subchapter 2 describes the roles of the following departmental units: the State Board of Agriculture, the Office of the Secretary, the Division of Animal Health, the Division of Marketing and Development, the Division of Plant Industry, the Division of Agricultural and Natural Resources, the Division of Food and Nutrition, and the State Agriculture Development Committee, which is independent of, but allocated within, the Department of Agriculture.

Subchapter 3 primarily describes the purpose and development of rules by the Department and sets forth the procedures to petition the Department for a new rule, amendment, or repeal in a manner consistent with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. In addition, Subchapter 3 sets forth the procedures for submitting public comments to the Department concerning rule proposals and requests for extensions to the public comment period. N.J.A.C. 2:1-3.10 grants an opportunity for any person aggrieved by an action or inaction of the Department to receive a hearing, which may be referred to the Office of Administrative Law if it is determined to be a contested case. While N.J.S.A. 52:14B-1 et seq., and N.J.A.C. 1:30 require the provision of a quarterly rulemaking calendar, most of the rules promulgated by the Department are exempt from these provisions. The Department routinely provides a 60-day public notice for any new rule proposals. N.J.A.C. 2:1-3.6 delineates the criteria for when the public comment period may be extended. Finally, N.J.A.C. 2:1-3.13 and 14 prescribe the procedure for accessing public records and sets forth the fees associated therewith.

Subchapter 4 sets forth the disability discrimination grievance procedure required pursuant to the Americans with Disabilities Act (ADA). ADA prohibitions against discrimination found at 28 CFR 35.130(a), are cited at, and have been added to N.J.A.C. 2:1-4.3, which provides notice of the necessary procedures. Subchapter 4 includes ADA notice requirements, the designation of an ADA coordinator within the Department, and complaint procedures.

Therefore, pursuant to N.J.S.A. 4:1-11, and in accordance with N.J.S.A. 52:14B-5.1.c(1), these rules are readopted without amendment and shall continue in effect for a seven-year period.

(a)

## DIVISION OF ANIMAL HEALTH

### Notice of Readoption Avian Influenza

#### Readoption: N.J.A.C. 2:9

Authority: N.J.S.A. 4:1-11, 4:1-21.2, 4:1-21.5, 4:5-1 et seq., and 4:5-94 et seq.

Authorized By: The State Board of Agriculture and Douglas H.

Fisher, Secretary, Department of Agriculture.

Effective Date: October 29, 2021.

New Expiration Date: October 29, 2028.

**Take notice** that pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 2:9 were scheduled to expire on May 15, 2021. Pursuant to Executive Order Nos. 127 (2020) and 244 (2021) and P.L. 2021, c. 103, any chapter of the New Jersey Administrative Code that would otherwise have expired during the Public Health Emergency originally declared in Executive Order No. 103 (2020) is extended through January 1, 2022. Therefore, this chapter has not yet expired and the 30-day filing date pursuant to N.J.S.A. 52:14B-5.1.c has not yet occurred, therefore, pursuant to Executive Order No. 244 (2021), and P.L. 2021, c. 103, this notice of readoption is timely filed.

N.J.A.C. 2:9-1.1 and 1.2 deal with the payment of indemnities and disposal costs, including language intended to limit the number of times a stakeholder is entitled to indemnity and disposal costs. This language is intended to protect businesses and individuals who effectively follow biosecurity measures, but still suffer from an outbreak through no fault of their own. However, individuals or businesses that test positive for avian influenza twice within the registration year are not entitled to indemnification and disposal costs.

Subchapter 2, General Provisions, delineates the definitions to be used in Chapter 9 and establishes a registration system for live bird markets, poultry distributors, and production/supplier flocks. N.J.A.C. 2:9-2.2 sets forth the annual registration requirements for live bird markets, poultry distributors, and production/supplier flocks operating in New Jersey. As part of this registration process, applicants will be required to permit the New Jersey Department of Agriculture's (NJDA) authorized agents access to their premises for inspection and testing.

Subchapters 3, 4, and 5 describe the sanitation, biosecurity, and surveillance measures required for live bird markets, poultry distributors, and production/supplier flocks, respectively. Minimum biosecurity measures, including routine cleaning and disinfecting requirements, periodic testing, and periodic closures are imposed under these subchapters. These subchapters also set forth the quarantine procedures that will be implemented if avian influenza is found in a live bird market, poultry distributor, and/or production/supplier flock. Finally, these subchapters describe the requirements for the sale of poultry to, and movement of poultry into, live bird markets and movement of poultry into qualified poultry auctions. Recordkeeping responsibilities have been imposed in connection with these subchapters.

Specifically, Subchapter 3 requires poultry invoices to accompany all poultry entering live bird markets. Live bird markets are also required to undergo quarterly testing, closure, and inspection. Subchapter 4 requires poultry distributors to obtain a poultry inspection certificate for all poultry moved into a live bird market. In addition, poultry distributors are required, pursuant to Subchapter 4, to maintain a logbook certifying that they have complied with approved biosecurity measures. Poultry distributors must also undergo inspection and testing. Subchapter 5 prohibits unregistered production/supplier flocks from selling poultry directly to live bird markets. Random testing and inspection of production/supplier flocks is authorized pursuant to Subchapter 5, and production/supplier flocks are required to maintain records of bird transfers, flock test records, and biosecurity records.

Subchapter 6 addresses penalties to be imposed for violations of this chapter. The penalty for a first offense shall be not less than \$100.00, nor more than \$200.00 per unit or violation, while the penalty for any subsequent offense shall be \$200.00 per unit or violation or imprisonment for not more than one year, or both. In addition, after the second offense, the live bird market, poultry distributor, or production/supplier flock could lose their registration for the remainder of the registration year. Any person aggrieved by the findings of the Division of Animal Health will be afforded the opportunity for a hearing thereon in the manner provided for in contested cases pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1. Subchapter 6 also makes clear that the Division of Animal Health may quarantine any poultry found in violation of Chapter 9. Such quarantine will not be lifted until the owner can establish proof of compliance or the poultry have tested negative for avian influenza.

Therefore, pursuant to N.J.S.A. 4:1-11, 4:1-21.2, 4:1-21.5, 4:5-1 et seq., and 4:5-94 et seq., and in accordance with N.J.S.A. 52:14B-5.1.c(1),