

RULE ADOPTIONS

AGRICULTURE

(a)

DIVISION OF MARKETING AND DEVELOPMENT

Notice of Readoption Stores

Readoption: N.J.A.C. 2:53

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

Authorized By: Joseph Atchison III, Director, Division of Marketing and Development, the State Board of Agriculture and Edward D. Wengryn, Secretary, Department of Agriculture.

Effective Date: November 4, 2024.

New Expiration Date: November 4, 2031.

Take notice that pursuant to N.J.S.A. 52:14B-5.1.c, the rules at N.J.A.C. 2:53 were scheduled to expire on March 29, 2025.

The purpose of this chapter is to ensure that the dairy industry and consumers receive the benefit of effective milk control, which helps to ensure a stable milk market and fair competition.

The rules require New Jersey licensed stores to display current retail milk prices and set forth the display requirements to ensure that consumers are properly informed and to maintain accurate records on milk transactions to assist the Division of Marketing and Development (Division) in its evaluation of the licensee's business operations concerning the licensee's adherence to applicable New Jersey statutes and Division rules; outline the reports required to be maintained and the report filing and record retention criteria; and protect confidential information obtained in implementing the rules that constitute proprietary commercial or financial information, or is otherwise protected pursuant to State or Federal law.

To prevent predatory pricing, the rules define "variable cost" and make it unlawful and a violation to offer for sale or to sell milk or milk products below variable cost.

In addition, the rules define "supplier of record" and outline the requirements to be followed for a licensed store to change its supplier of record or engage an additional supplier of milk and milk products; including giving adequate notice and paying all its indebtedness for milk and milk products purchased to their current supplier of record. The rules also list the conditions through which notice is not required and the requirements for giving notice to the Division of Marketing and Development and the violation, mitigation, and hearing processes for failure to comply with the rules.

The Department of Agriculture has reviewed the rules and has determined that the rules should be readopted without change. These 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, these rules are readopted and shall continue in effect for a seven-year period.

EDUCATION

(b)

STATE BOARD OF EDUCATION

Regulatory Equivalency and Waiver

Readoption with Amendments: N.J.A.C. 6A:5

Proposed: July 15, 2024, at 56 N.J.R. 1224(a).

Adopted: November 6, 2024, by the State Board of Education,

Kevin Dehmer, Acting Commissioner, Department of Education and Acting Secretary, State Board of Education.

Filed: November 7, 2024, as R.2024 d.118, **without change**.

Authority: N.J.S.A. 18A:4-15.

Effective Dates: November 7, 2024, Readoption;
December 2, 2024, Amendments.
Expiration Date: November 7, 2031.

Summary of Public Comments and Agency Responses:

Comments were received from David Bander Esq., Kaitlyn Dunphy Esq., and Katrina Home, Esq., associate directors, Legal Services and Member Rights, and Elisabeth Yucis, Associate Director, Professional Development and Instructional Issues, New Jersey Education Association.

1. COMMENT: The commenter suggested that the Department of Education (Department) change the proposed amendment at N.J.A.C. 6A:5-1.7(b) to extend the definition of "district board of education" to mean all entities referenced at N.J.A.C. 6A:5-1.1(b) and not only the entities in the definition at N.J.A.C. 6A:3-1.2, as the Department has proposed.

RESPONSE: The Department's stated intent when proposing N.J.A.C. 6A:5-1.7(b) in 2001 was for the regulation to expressly provide that any challenge to a determination or action by a district board of education is to be made by initiating a contested case before the Commissioner of the Department (Commissioner) pursuant to N.J.A.C. 6A:3, Controversies and Disputes, notwithstanding that the determination or action being challenged involves a waiver or equivalency granted by the Commissioner. It is clear that the Department did not intend for the regulation to apply to the State agencies and private entities referenced at N.J.A.C. 6A:5-1.1 at that time. The Department maintains that it is not necessary to expand the regulation's covered entities beyond those mentioned in the definition of "district board of education" at N.J.A.C. 6A:3. Therefore, the Department declines to make the requested change.

2. COMMENT: The commenter asked how the Department arrived in the Jobs Impact statement that the rules proposed for readoption with amendments are not likely to create or eliminate jobs. The commenter suggested the continued monitoring of the regulations' impact on jobs.

RESPONSE: N.J.A.C. 6A:5 governs a process and does not require the entities eligible to submit an equivalency or waiver to create or eliminate a specific position or employee. The Department remains conscientious as to whether an approved equivalency or waiver submitted pursuant to N.J.A.C. 6A:5 could lead to the elimination of a position. For example, the Acting Commissioner of the Department recently denied an application that sought to provide students with library media services through access to county-level library-media services, rather than fulfilling the requirements at N.J.A.C. 6A:13-2.1(h) to provide library-media services that are connected to classroom studies in each school building and to provide the library-media services under the direction of a certified school library media specialist (SLMS).

Federal Standards Statement

The rules readopted with amendments are not inconsistent with or exceed Federal requirements or standards as there are no Federal requirements or standards relating to this chapter. However, the chapter cannot be used to grant equivalencies or waivers related to N.J.A.C. 6A:14, Special Education, pursuant to existing N.J.A.C. 6A:14-4.9(f) and new N.J.A.C. 6A:5-1.3(a)1ii. N.J.A.C. 6A:14 ensures that all students with disabilities have available to them a free, appropriate public education as that standard is set pursuant to the Federal Individuals with Disabilities Education Act (IDEA) (20 U.S.C. §§ 1400 et seq.). Existing N.J.A.C. 6A:5-1.3(a)1 also requires approved equivalencies and waivers to serve the spirit and intent of applicable Federal laws and regulations.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 6A:5.

Full text of the adopted amendments follows:

SUBCHAPTER 1. EQUIVALENCY AND WAIVER PROCESS

6A:5-1.1 Purpose and scope

(a) (No change.)