

# RULE ADOPTIONS

## AGRICULTURE

### (a)

#### DIVISION OF ANIMAL HEALTH

#### Humane Treatment of Domestic Livestock

#### Adopted Amendments: N.J.A.C. 2:8-1.2, 2.4, and 7.4

Proposed: February 5, 2024, at 56 N.J.R. 171(a).

Adopted: April 24, 2024, by the State Board of Agriculture and Joseph A. Atchison III, Assistant Secretary, Department of Agriculture.

Filed: April 25, 2024, as R.2024 d.046, **without change**.

Authority: N.J.S.A. 4:1-11.1, 4:1-12, 4:1-17, 4:1-18, and 4:22-16.1; and P.L. 2023, c. 130.

Effective Date: May 20, 2024.

Operative Date: November 20, 2024.

Expiration Date: October 26, 2024.

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

In response to the notice of adopted amendments at N.J.A.C. 2:8, the New Jersey Department of Agriculture (“Department” or “NJDA”) received public comments from the following individuals and organizations: Sonia Arnold, Ph.D., President of the American Veal Association (AVA); Jean Public; and Allen Carter, President of the New Jersey Farm Bureau. The Department summarized and responded to each comment separately.

1. COMMENT: In their comment, Dr. Arnold reflects the views of the AVA, stating, in pertinent part, that “AVA membership supports the proposed changes ... regarding the humane standards for calves raised for veal and agrees that animals should be ethically and responsibly raised,” noting that “on our AVA member farms, our industry practices ensure animals are raised in areas that enable each calf to comfortably rest, easily stand, move about freely, turn around fully, and socialize with other animals. Additionally, veal calves are never tethered, per current industry standards.” Dr. Arnold does note, however, that “[w]hile the AVA supports the proposed changes ..., we highly recommend updating Subchapter 2, Sections H and I” because “the reference to the Guide for the Care and Production of Veal Calves, Sixth Edition 2001 (American Veal Association, Inc., Middletown, PA 17507) is dated and no longer relevant.” Dr. Arnold then points out that the AVA’s current animal care guidelines for veal are set forth in its Veal Quality Assurance (VQA) Certification Resource Manual, a copy of which may be found at <https://www.veal.org/veal-quality-assurance>, drawing particular attention to the Expected Outcome for Individual and Group Housing Considerations on pages 59 and 61 of the VQA Certification Resource Manual.

RESPONSE: The Department thanks Dr. Arnold and the AVA for their support of the proposed amendments regarding the humane standards for calves raised for veal. The Department notes that its notice of proposal does delete reference to the outdated 2001 edition of the Guide for the Care and Production of Veal Calves. As was further noted in the rulemaking, the Department believes that the humane standards set forth at Subchapter 2, as amended, are sufficient to ensure the humane treatment of all cattle, including calves raised for veal, and therefore reference to the new VQA Certification Resource Manual is unnecessary. To be sure, the new VQA Manual provides many guidelines that are helpful for producers to ensure that calves raised for veal are treated humanely, but its checklists and particularly its suggestions may cause confusion for farmers, humane law enforcement officers, and the public at large, resulting in an unclear or inconsistent understanding of what our humane standards actually require. For those reasons, the Department concludes that rules should not reference the new VQA Certification Resource Manual.

2. COMMENT: In their comment, Allen Carter notes that the New Jersey Farm Bureau is the largest general farm organization in the State and that the Farm Bureau and its members support the role of the

Department and the use of the humane standards in regulating the care and treatment of livestock by New Jersey producers. Specifically, with respect to the amendments proposed for calves raised for veal at Subchapter 2, Mr. Carter agrees with the Department’s proposed language as it relates to the production of calves raised for veal and the language defining those calves. Like the other commenters, Mr. Carter notes that the 2001 Guide that is now referenced in the rule is outdated, and he states that this would have been a good time for the Department to see if there are newer reference materials for producers to follow. Further, with respect to the amendments proposed for swine at Subchapter 7, Mr. Carter indicates that the Farm Bureau is supportive of those changes, recognizing that defining the “expected date of giving birth” as “14 days prior to giving birth” is what he terms “a hard date” that the Department has appropriately used for enforcement purposes.

RESPONSE: The Department thanks Mr. Carter and the New Jersey Farm Bureau for their support of the rulemaking. As to whether the rules concerning calves raised for veal should incorporate updated reference materials for producers to follow, the Department again notes that its notice of proposal deletes reference to the 2001 Guide because the Guide’s recommendations are outdated and inconsistent with the requirements of P.L. 2023, c. 130, and that the Department has identified no reference guide in its place. As explained in the rulemaking and in the response to Dr. Arnold’s comment above, because the humane standards set forth at Subchapter 2, as amended, will be sufficient to ensure the humane treatment of all cattle including calves raised for veal, the Department believes that no new reference materials specific to the care of calves raised for veal need to be identified in the rule at this time. That said, the Department does periodically review all of its rules, and it will substitute updated reference guides and materials in its rules, when appropriate.

3. COMMENT: In their comment, Jean Public contends that the standards set forth in the proposed amendments are “grossly inhumane,” asserting, in pertinent part, that “we need to insist that calves that are born get two months with their cow mothers to get milk from their mothers” and that “we need to insist that pigs at all stages of their lives can move about freely with their entire bodies, and not just move their head.” Jean Public is also critical of the purported use in the rules of “some [Pennsylvania] guide,” the text of which is not set forth in full in the rules themselves and only available at the Department.

RESPONSE: The Department does not agree with the views that have been expressed by Jean Public regarding the feeding of calves. The amendments being adopted provide additional humane protection to calves raised for veal in conformity with the requirements at P.L. 2023, c. 130. As to Jean Public’s contention that the rules should ensure that all pigs can move their entire body freely, and not just move their head, that is exactly what the rule will now provide, except during a brief period (not to exceed 14 days) prior to the day on which a sow or gilt gives birth, and during any day thereafter that the sow is nursing her piglets. The permitted and limited confinement of pigs during the birth and nursing process is intended to protect the welfare of the pig and her piglets as is recognized at P.L. 2023, c. 130, and the amendments at N.J.A.C. 2:8-7.4(b)1i prohibit the confinement of pigs in a way that restricts the ability of the animal to move about freely with their entire body at all other times. Finally, Jean Public, like Dr. Arnold on behalf of the AVA, criticizes the purported reliance on the 2001 edition of the Guide for the Care and Production of Veal Calves in the rule. However, as noted in the response to prior comments, the amendments that are being adopted will delete the references to that outdated guide. That said, the Department does not believe that it is inappropriate to reference third-party publications in its rules, so long as those publications reflect the current scientific analysis and understanding of the subject matter that is addressed in our rules. In such cases, it is usually the case that those publications are available electronically (with a weblink provided in the rule), and it is always the case that our rules will provide that a copy of any referenced publication is available for public inspection at the offices of the relevant Division within the Department. That ensures that the content of our rules is

available not only to the general public but also to every person or business that is required to comply with the rules.

**Federal Standards Statement**

N.J.S.A. 52:14B-23 requires State agencies that adopt, readopt, or amend any rules to include a statement as to whether the rule or regulation in question contains any standards or requirements which exceed the standards or requirements imposed by Federal law. A Federal standard analysis is not required because there are no Federal requirements or standards applicable to the adopted amendments.

Full text of the adoption follows:

SUBCHAPTER 1. GENERAL PROVISIONS

2:8-1.2 Definitions

(a) The following words and terms, as used in this chapter, shall have the following meanings. Terms of art undefined in this chapter shall have the meaning attributed to them by trade usage.

...  
 "Cattle intended to be raised for veal" or "calf raised for veal" means any calf of the bovine species that is kept for the purpose of producing the food product described as veal.

...  
 "Kept for the purpose of producing the food product described as veal" means raised through special feeding and husbandry practices with the direct intent of processing, selling, or distributing for human consumption as veal.

...

SUBCHAPTER 2. STANDARDS FOR CATTLE

2:8-2.4 Keeping

(a)-(f) (No change.)

(g) Except as provided at (h) below, nothing in this chapter shall prohibit the use of tethers to feed and monitor individual cattle, to prevent oral-fecal and urine contamination, and to prevent injury resulting from interaction amongst cattle. Tethers must be long enough to permit the cattle to stand, eat, rest in a natural sternal posture or with their head and neck turned to the side of their body, and allow movement forward and backward, yet be short enough to prevent strangulation.

(h) For cattle intended to be raised for veal, such calves must not be tethered or confined in a manner that prevents them from being able to turn around freely or fully extend the animal's limbs by stretching normally. Each such calf must be able to groom itself naturally and have visual contact with other calves. However, these restrictions on the confinement of calves raised for veal shall not apply to the following activities:

- i. Medical research;
- ii. Examination, testing, individual treatment, or operation for veterinary purposes, but only if performed by or pursuant to the supervision of a licensed veterinarian, either in-person or through a telemedicine appointment;
- iii. Transportation;
- iv. State or county fair exhibitions, 4-H programs, or similar temporary exhibitions; or
- v. Humane slaughter, in accordance with applicable laws, rules, and regulations.

SUBCHAPTER 7. STANDARDS FOR SWINE

2:8-7.4 Keeping

(a) (No change.)

(b) Relief pursuant to (a) above can be accomplished with natural features of the environment including, but not limited to, trees, land windbreaks, overhangs or other natural weather barriers, or constructed shelters.

- 1. Where constructed shelters are provided, they shall:
  - i. Be of sufficient size to provide adequate space for each animal seeking shelter within to stand, lie down, rest, get up, be able to turn around freely, and fully extend the animal's limbs;
  - ii.-vi. (No change.)

2. Stalls that do not allow a sow or gilt to turn around freely or allow them to fully extend their limbs may be used to feed and monitor individual sows and gilts and to minimize injury to piglets during the 14-day period prior to the date of giving birth or during any day when the pig is nursing.

- i. The gilt or sow's head must not have to rest on an adjacent feeder.
  - ii. The gilt or sow's rear quarters must not be in contact with the back of the stall with her nose in contact with the front of the stall.
  - iii. The gilt or sow's head must not have to rest in the water trough.
  - iv. A pregnant gilt or sow's stall must be wide enough to allow the sow to stand up and lie down unimpeded, rest, and move its head freely.
3. The confinement standards set forth at (b)1i and 2 above shall not apply to the following activities:
- i. Medical research;
  - ii. Examination, testing, individual treatment, or operation for veterinary purposes, but only if performed by or pursuant to the supervision of a licensed veterinarian, either in-person or through a telemedicine appointment;
  - iii. Transportation;
  - iv. State or county fair exhibitions, 4-H programs, or similar temporary exhibitions; or
  - v. Humane slaughter, in accordance with applicable laws, rules, and regulations.
- (c)-(d) (No change.)

**EDUCATION**

**(a)**

**STATE BOARD OF EDUCATION**

**Notice of Administrative Changes**

**Change of English Language Learner to Multilingual Learner**

**N.J.A.C. 6A:8-1.3, 3.1, 4.1, 4.2, 4.4, and 5.1; 6A:9-3.3; 6A:9B-9.3, 11.2, and 11.6; 6A:11-1.2, 4.5, and 4.8; 6A:13A-1.2, 4.2, and 5.1; 6A:14-2.5, 3.4, 3.5, and 3.7; 6A:20-1.2, 2.3, and 2.5; 6A:26A-1.2 and 2.1; 6A:31-2.1; 6A:32-13.1; and 6A:33-1.3 and 2.1**

Effective Date: April 22, 2024.

**Take notice** that the Department of Education (Department) requested, and the Office of Administrative Law agreed to permit, the administrative changes throughout Title 6A of the change in name of English language learner (ELL) to multilingual learner (ML). The State Board of Education approved the term change at its July 12, 2023, meeting through the readoption with amendments at N.J.A.C. 6A:15, Bilingual Education, and the change became effective on August 7, 2023 (see 55 N.J.R. 1708(a)). Therefore, the Department is changing "English language learner," which means a student whose primary language is not English, who is identified through the process set forth at N.J.A.C. 6A:15, and who is developing proficiency in multiple languages (for example, English and a primary language), and "ELL" to "multilingual learner" or "ML," respectively. The Department also is changing "limited English proficient" and "LEP," which were previously replaced at N.J.A.C. 6A:15 by "ELL," to "multilingual learner" or "ML," respectively.

This notice of administrative changes is published in accordance with N.J.A.C. 1:30-2.7.

**Full text** of the changed rules follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):