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**RULE PROPOSALS**

**AGRICULTURE  
DIVISION OF ANIMAL HEALTH**

*41 N.J.R. 4349(a)*

**Proposed Readoption with Amendments: N.J.A.C. 2:2**

[Click here to view Interested Persons Statement](#)

**Disease Control Program**

Authorized By: State Board of Agriculture, Douglas Fisher, Secretary.

Authority: N.J.S.A. 4:5-4.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2009-356.

Submit comments by February 5, 2010 to:

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New Jersey Department of Agriculture  
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The agency proposal follows:

**Summary**

Pursuant to N.J.S.A. 52:14B-5.1c, N.J.A.C. 2:2, **Disease Control Program**, which was scheduled to expire November 10, 2009, is now scheduled to expire May 9, 2010. The Department of Agriculture (Department) proposes to

readopt these rules with amendments, as they have been found to be necessary, reasonable and proper for the purposes for which they were promulgated. Re-adoption is necessary because N.J.A.C. 2:2 was originally promulgated to safeguard the health of livestock and poultry in the State. The New Jersey Department of Agriculture proposes to readopt N.J.A.C. 2:2 with amendments, as summarized below.

Subchapter 1 enumerates those reportable diseases designated as a particular and dangerous menace to animal health in the State of New Jersey; provides for declaring epidemics of emergent proportion; and, if funds are available, provides for the indemnification of livestock ordered sent to slaughter to prevent the spread of disease.

Subchapter 2 deals with the control and eradication of brucellosis in cattle by establishing requirements for the vaccination, testing, identification and quarantine of cattle, and disposition and indemnification of brucellosis reactors. The control and eradication of the disease is not only important to the economy of New Jersey's cattle industry, but also protection of public health.

Subchapter 3 contains general requirements relative to the control and eradication of tuberculosis in cattle by establishing requirements for testing, identification and quarantine of cattle and disposition and indemnification of cattle slaughtered to prevent the spread of disease. Tuberculosis is also a major economic concern in the bovine industry and is transmissible to humans.

Subchapter 4 contains requirements relative to the control of disease in swine. It establishes requirements for sheltering and feeding swine and the identification, quarantine, disposition and indemnification of swine infected with hog cholera.

Subchapter 5 establishes requirements to conduct a voluntary bovine leukemia program for the eradication of the leukemia virus in cattle.

Subchapter 6 adopts and incorporates by reference the rules and regulations of 9 *CFR* 85.1- 85.13 APHIS, USDA for the control of pseudorabies virus in swine. The subchapter also explains how to obtain copies of the rules.

Subchapter 7 contains general requirements for the control of disease in poultry, to include testing, reporting, quarantine and disposition of poultry infected with pullorum-typhoid.

Subchapter 8 regulates the activities of cattle, sheep and swine dealers by establishing requirements for recordkeeping.

Proposed amendments correct typographical errors, add definitions, clarify the list of diseases reportable to the New Jersey Department of Agriculture and make other changes consistent with Federal rules or guidelines.

At N.J.A.C. 2:2-1.1(a), the definition of Hog Cholera, which means Classical Swine Fever, is added.

At N.J.A.C. 2:2-1.1(b), the disease rabies is added to the list of Multiple Species Diseases, clarifying that rabies in any animal, not simply livestock, must be reported to the New Jersey Department of Agriculture to ensure that livestock owners may be adequately informed of the risk of this disease to livestock.

At N.J.A.C. 2:2-2.3(a) and (a)2, vaccination requirements for brucellosis in bovine are amended to be consistent with current Federal guidelines, which extends the required age of vaccination from 239 days to 365 days. Subsection (a) is deleted, as the prior change makes subsection (a) moot.

At N.J.A.C. 2:2-2.8(a), acceptable means of animal identification are clarified by specifying USDA or Department ear tags or breed registration tattoos.

At N.J.A.C. 2:2-2.9(c), testing requirements for dairy herds producing milk are amended to be consistent with Federal guidelines, which extend times for brucellosis testing from three to six months.

At N.J.A.C. 2:2-4.28(c), permitted carcass disposal methods are clarified to include only disposal methods approved by the Department based on available scientifically sound information consistent with State, Federal and local laws.

At N.J.A.C. 2:2-4.31(a)1vii, eligibility for swine owner indemnity is clarified to provide that any violation of Departmental rules will render a swine owner ineligible for indemnity, regardless of an impact to the herd.

At N.J.A.C. 2:2-5.2, the official test definition for bovine leukemia is modified to allow for inclusion of newer technologies, as they become available.

[page=4350] At N.J.A.C. 2:2-5.4(b), cross-reference is provided to existing regulations for diagnostic laboratory fees for laboratory serology services codified at N.J.A.C. 2:10-1.2(d); and the specific individual fees are removed from this section.

At N.J.A.C. 2:2-7.1, the reference to the USDA Poultry Improvement Plans is corrected to delete reference to "turkey" because "turkey" does not appear in the title.

N.J.A.C. 2:2-7.2(b) is deleted to remain consistent with the National Poultry Improvement Plan requirements without repeating them.

At N.J.A.C. 2:2-7.3, pullorum testing and testing agents is amended to provide for biannual instead of annual recertification training, and to include the cost of the materials for the training and testing of birds, which is clarified to be performed by the Department-Animal Health Diagnostic laboratory (The other laboratory previously included no longer exists). Recodified subsections are amended to include costs related to recovery of surveillance.

At N.J.A.C. 2:2-8.1, official livestock record book requirements are updated to allow for records maintained in books obtained by the license holder or alternatives allowing for alternative recordkeeping system that records the same information.

At N.J.A.C. 2:2-8.4, livestock recordkeeping requirements are updated to allow for alternative methods of information management (at subsections (a), (c) and (d)) and to allow for correction of errors with strike-out and initials at new paragraph(d)1.

At N.J.A.C. 2:2-8.5(a), the record retention time is extended from period of license to 10 years because biosecurity and food safety investigations require a reasonable time period, regardless of continuation of license.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirements pursuant to N.J.A.C. 1:30-3.3(a)5.

### **Social Impact**

The regulation of contagious, infectious, or hazardous diseases and agents is necessary to prevent their spread or introduction among the populations of New Jersey's livestock, poultry, aquacultured aquatic organisms or species and animals raised for fur. This prevention is a key element to the viability of animal agriculture and aquaculture.

The maintenance of rules to protect New Jersey's livestock from infectious, contagious, and hazardous diseases and agents not only affects animal owners and producers, but also prevents the spread of these diseases to other animals, wildlife and humans and enhances national security.

These proposed amendments will further protect the health of livestock, poultry, aquacultured aquatic organisms or species and animals raised for fur in New Jersey during a time of heightened disease awareness and risk. Therefore, these proposed amendments will have a positive social impact.

**Economic Impact**

The burden of these rules falls upon the veterinarian and the animal owner. Compliance imposes minimal costs to veterinarians and animal owners as a result of reporting diseases found. Amendments to N.J.A.C. 2:2-7.3 allow for recovery of costs necessary for pullorum-typhoid surveillance. These charges to owners are necessary in the absence of other resources at this time; however, they are at the lowest level possible to defray the costs incurred. Surveillance is necessary to maintain the United States pullorum-typhoid clean state status. The status is necessary to provide certification that New Jersey poultry and poultry products remain free from pullorum. Processing paperwork will be minimized as Department staff will assist with data collection. However, these costs are outweighed by the safety of the products produced, the protection of human health and safety and a higher economic return from the product as a result of compliance with the rules. The market is supplied with a larger and healthier supply of animals; those animals command a higher price for the producer; and the consumer benefits by receiving a safe and nutritious food product.

**Federal Standards Analysis**

Executive Order No. 27 (1994) and P.L. 1995, c. 65 require State agencies which adopt, readopt or amend State regulations that exceed any Federal standards or requirements to include in the rulemaking document a comparison with Federal law. A Federal standards analysis is not required because the subject matter of the proposed amendment is governed by the New Jersey Department of Agriculture and is not subject to any Federal requirements or standards.

Subchapter 1, Reportable Diseases, is in compliance with 9 CFR Part 71. Subchapter 2, Brucellosis Control and Eradication, includes amendments necessary to comply with 9 CFR Part 78. Subchapter 3, Tuberculosis Control and Eradication, is in compliance with 9 CFR Part 77.

Subchapter 6, Swine Pseudorabies Virus, is in compliance with 9 CFR Part 85. Subchapter 7, Poultry Disease Control, is in compliance with 9 CFR Parts 145 and 147.

Subchapter 4, Swine Disease Control, exceeds the Federal Swine Health Protection Act regulations, 9 CFR Part 166 by imposing time limits on the storage of untreated garbage and feeding of cooked garbage. In addition, this subchapter exceeds the Federal standards by implementing requirements to enhance the health and well-being of swine kept on garbage feeding farms, including feeding platform maintenance, pest control, trash removal and minimum standards of animal husbandry. These enhancements to the Federal regulations were implemented to protect the public health, safety and welfare, as well as to protect swine health and the surrounding environment. The rules proposed for readoption in Subchapter 4 impose requirements that are realistic and achievable without any additional farm equipment or expertise. The rules proposed for readoption in Subchapter 4 do not increase costs for the farmer beyond non-garbage feeding farm costs and ensure that garbage feeding practices do not become a threat to the health and well-being of farm animals or the general public.

**Jobs Impact**

The rules proposed for readoption with amendments will have no impact on the number of jobs generated or lost in the State of New Jersey.

**Agriculture Industry Impact**

The rules proposed for readoption with amendments will result in a positive impact on the New Jersey farm industry and State's citizens by helping prevent the introduction and spread of dangerous diseases and agents among livestock, poultry, aquaculture and animals raised for fur, thereby protecting the economic viability of New Jersey farms and health and well-being of New Jersey citizens.

### **Regulatory Flexibility Analysis**

Most farmers are small businesses as that term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules proposed for readoption with amendments were established to control the spread of disease, protect the public health, welfare and safety and ensure national security. The New Jersey Department of Agriculture has carefully attempted to balance the need for disease control with the impact on the citizen.

The rules proposed for readoption with amendments may impose compliance requirements as detailed in the Summary above. Professional services are likely to be needed to comply with the rules proposed for readoption with amendments in order to ensure that vaccinations or other veterinary medical procedures are properly performed and recorded. In addition, should control measures have to be implemented, then the burden of undertaking remedial measures may be imposed upon the individual businesses affected. In the absence of disease there will be no capital expenditures, except for those minimal expenditures described in the Economic Impact above, as a result of the rules proposed for readoption.

The Department has provided no lesser or differing requirements based upon business size. The Department has determined that the rules proposed for readoption with amendments represent the minimum standards necessary to protect against the potential endangerment to the agricultural industry of the State that might result from the spread of an animal disease.

### **Smart Growth Impact**

The Department believes that the rules proposed for readoption with amendments will have a positive impact on the achievement of smart growth, as it will reduce the threat of introduction and spread of [page=4351] dangerous diseases and agents among New Jersey livestock, poultry, aquaculture and animals raised for fur, thereby protecting the agricultural community.

Farmland preservation is one of the cornerstones of the "Agricultural Smart Growth Plan." Farmland has a positive environmental impact locally and nationwide. Well-managed, productive farmland provides a portion of the land base necessary to manage watersheds, recharge aquifers, manage wildlife and protect stream corridors. The New Jersey State Development and Redevelopment Plan outlines many agricultural policies and specific land use techniques that should be implemented in the agricultural regions of the State. These are the areas with most of New Jersey's prime farmland, which has the greatest potential of sustaining the agricultural industry in the future. The proposed amendments will have a positive impact on the State Development and Redevelopment Plan by protecting the economic viability of farms.

### **Housing Affordability Impact**

The rules proposed for readoption with amendments will have an insignificant impact on affordable housing in New Jersey and there is an extreme unlikelihood that the regulation would evoke a change in the average costs associated with housing because the rules address reportable diseases of livestock and poultry, their control and eradication.

### **Smart Growth Development Impact**

The rules proposed for readoption with amendments will have an insignificant impact on smart growth and there is an extreme unlikelihood that the regulation would evoke a change in housing production in Planning Areas 1 or 2 or with designated centers under the State Development and Redevelopment Plan in New Jersey because the rules address reportable diseases of livestock and poultry, their control and eradication.

**Full text** of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 2:2.

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

SUBCHAPTER 1. REPORTABLE DISEASES

2:2-1.1 Enumeration of diseases and agents contagious, infectious[,] or hazardous to the health of livestock, poultry, aquaculture[,] or animals raised for fur

(a) The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

...

"Cattle" includes cattle, calves, bison, buffalo and other domesticated [Bovidae] **Bovinae**.

...

**"Hog Cholera" means Classical Swine Fever.**

...

(b) The following diseases and agents are designated as a particular and dangerous menace to the animal health of the State. The chart below identifies categories of diseases and identifies the source location for these diseases. Diseases may be included on several or none of these lists. Those diseases not included on any list remain significant to animal health in the State of New Jersey and are therefore included in the chart.

<b>Multiple Species Diseases</b>	<b>FAD</b>	<b>S. Agent</b>	<b>OIE</b>	<b>USDA HCLD</b>
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...

<b>Rabies</b>			<b>X</b>	<b>X</b>
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...

(c) (No change.)

SUBCHAPTER 2. BRUCELLOSIS CONTROL AND ERADICATION

2:2-2.3 Vaccination of female bovine animals

[(a) All female cattle brought into the State under 239 days of age, that are not officially vaccinated, shall be vaccinated against brucellosis between the ages of 120 and 239 days, if they are to be sold for purposes other than immediate

slaughter. This shall not be construed to prohibit the sale of any female calf under the age of 120 days.]

[(b)] **(a)** Female bovine animals will be considered to be officially calfhood Brucella vaccinated only when all of the requirements below are met[.]:

1. Approved Brucella abortus vaccine shall be properly injected before the expiration date of the vaccine[.];
2. The calves shall be four through eight months of age or from 120 to [239] **365** days when vaccinated[.];
3. The vaccinated calves shall be identified by an ear tag or tattoo and marked as officially calfhood Brucella vaccinated animals by a special tattoo, as prescribed by the New Jersey Department of Agriculture[.]; **and**
4. (No change.)

Recodify existing (c) and (d) as **(b) and (c)** (No change in text.)

#### 2:2-2.8 Identification of animals

(a) Each animal shall be identified by **an official** ear tag or **breed registration** tattoo.

(b) (No change.)

#### 2:2-2.9 Times established for brucellosis tests

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

(c) All dairy herds producing milk for sale shall be brucellosis ring tested **at a minimum**, every [three] **six** months.

(d)-(f) (No change.)

### SUBCHAPTER 4. SWINE DISEASE CONTROL

#### 2:2-4.28 Removal of swine dead of hog cholera; construction of trucks

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

(c) Carcasses of swine dead of hog cholera may be [buried or burned on the premises] **disposed of by methods approved by the New Jersey Department of Agriculture in accordance with applicable local, State and Federal law and accepted science** under official supervision of an agent of the Department in lieu of rendering.

#### 2:2-4.31 Indemnity for swine destroyed by hog cholera

(a) Once official confirmation has been had of hog cholera in a herd of swine, the following measures shall apply, as long as funds are available:

1. All infected and exposed swine on the premises alive at the time initial notification of the disease was made to the official cooperating agencies shall be appraised under the following rules:

i.-vi. (No change.)

vii. Any swine owner who has willfully violated any rules of the Department[, that would result in the herd,] will be ineligible for indemnity.

viii. (No change.)

## SUBCHAPTER 5. BOVINE LEUCOSIS PROGRAM

### 2:2-5.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context indicates otherwise:

...

"Official test" means the [bovine leukemia agar gel immunodiffusion procedure] **test** recognized by the United States Department of Agriculture.

### 2:2-5.4 Costs and fees

(a) (No change.)

(b) The Division of Animal Health [is authorized to establish the following] fee schedule for **diagnostic** laboratory services[:] **appears in N.J.A.C. 2:10-1.2(d)**.

[1. Herds (per animal) in the official program: \$ 6.00 for the first samples, \$ 1.75 thereafter.

[page=4352] 2. Herds (per animal) not in the official program: \$ 6.00 per sample.]

## SUBCHAPTER 7. POULTRY DISEASE CONTROL

### 2:2-7.1 National Plan adopted, supplemented

(a) The State Board of Agriculture adopts the rules and regulations of the National Poultry [and Turkey] Improvement Plan[s] of the United States Department of Agriculture as the official rules and regulations of the New Jersey Program.

(b) (No change.)

### 2:2-7.2 General regulations

(a) (No change.)

[(b) All shipments of products, other than United States pullorum-typhoid clean or the equivalent, into the state are prohibited except for immediate slaughter.]

[(c)] **(b)** (No change in text.)

### 2:2-7.3 Pullorum-typhoid disease testing and testing agents

(a) All breeding birds to be tested shall be selected and banded [by] **at the discretion of** a veterinarian or inspector of the New Jersey Department of Agriculture or by qualified testing agents under Department supervision.



(b) (No change.)

(c) Testing agents shall take a minimum **biannual** one-day course of training as prescribed by the New Jersey Department of Agriculture and shall pass a written examination on National Poultry Improvement Plan (NPIP) rules and sanitation and a practical test to prove their ability to select and test birds for pullorum-typhoid diseases before being certified. [A refresher training course shall be required annually for recertification.] **A minimal registration fee of \$ 10.00 will be charged for this training, and will include a vial of pullorum-typhoid antigen.**

**(d) Testing agents will be charged at cost plus a reasonable administrative fee not to exceed \$ 10.00 for a vial of pullorum-typhoid antigen. Additional shipping charges may apply.**

[(d)] (e) Applications for certification **of participating flocks** shall be made in writing, sufficiently in advance to permit the early scheduling of work by the Department of Agriculture.

[(e)] (f) (No change in text.)

**(g) Certification of participating flocks by the Department will be subject to a reasonable charge based upon travel, time and cost of testing materials.**

[(f)] (h) Any reactors must be submitted for bacteriological examination for pullorum-typhoid disease. The bacteriological examination must be done [in one of the following laboratories:] **by the Animal Health Diagnostic Laboratory,**

[1.] New Jersey Department of Agriculture, Health and Agriculture Building, John Fitch Plaza, PO Box 330, Trenton, New Jersey 08625-0330[; or].

[2. Poultry Pathology, Department of Animal Science, Cook College/New Jersey Experiment Station, Rutgers, the State University, New Brunswick, New Jersey 08903.]

## SUBCHAPTER 8. RECORDS OF CATTLE, SHEEP AND SWINE DEALERS

### 2:2-8.1 Official livestock [record book] **recordkeeping system**

(a) Each license holder [will be furnished an official record book by the New Jersey Department of Agriculture. Each license holder shall request additional record books when needed] **will use an official livestock record book or alternative recordkeeping system that includes, with respect to the livestock in the transaction; the official identification, breed, color, sex, name and address of premises from which the livestock was moved; date of movement and name and address of premises to which the livestock was then consigned or sold; and the date of the transaction.**

[(b) Each New Jersey Department of Agriculture livestock record book is and shall remain the property of the New Jersey Department of Agriculture and the delivery of such a book into the care and possession of a license holder shall be in the nature of a loan for his convenience.]

**(b) All livestock record books or alternative livestock records shall be provided to the New Jersey Department of Agriculture upon demand or request.**

(c) License holders will be expected to use reasonable care and diligence to preserve and protect the [assigned] **livestock record book or alternative recordkeeping system.**

#### 2:2-8.4 Manner of keeping records

(a) The records required by this subchapter shall be recorded and kept in a [New Jersey Department of Agriculture] livestock record book except that upon request of a license holder the Secretary of Agriculture may authorize the license holder to use another type of record book, [or] ledger **or alternative recordkeeping system** provided that the other type of record book, [or] ledger **or alternative recordkeeping system** will permit the recording of information relating to livestock transactions **required by N.J.A.C. 2:2-8.1(a)**, in a manner that will, in the opinion of the Secretary of **Agriculture**, accomplish the purposes and objectives of [these regulations] **N.J.A.C. 2:2-8.1(a)**.

(b) (No change.)

(c) Information relative to a livestock transaction, which is entered in a livestock record book **or alternative recordkeeping system** shall be accurate and legible in each detail and it shall not be altered, obliterated, defaced or erased.

(d) If, after information relative to a livestock transaction has been entered in a [cattle] record book **or alternative livestock recordkeeping system**, it is found that the information so recorded is in some part in error, the correct information relative to that particular transaction shall be reentered in the next available space [in the record book] without altering or changing the original entry, except to note that the record is corrected by a later entry **or as noted in (d)1 below**.

#### **1. Errors can be corrected with a strike-out and initials.**

#### 2:2-8.5 Preservation of records; surrender

(a) The records of livestock sales and purchases required by this subchapter shall be kept and retained in possession of the license holder [only during such period as he holds the required license] **for a period of 10 years**.

(b)-(c) (No change.)