

CHAPTER 8
HUMANE TREATMENT OF
DOMESTIC LIVESTOCK

Authority
N.J.S.A. 4:22-16.1.

Source and Effective Date
Effective: October 26, 2017.
See: 49 N.J.R. 3589(a).

Chapter Expiration Date
Chapter 8, Humane Treatment of Domestic Livestock, expires on October 26, 2024.

Chapter Historical Note
Chapter 8, Humane Treatment of Domestic Livestock, was adopted as R.2004 d.205, effective June 7, 2004. See: 35 N.J.R. 1873(a), 36 N.J.R. 2637(a).

In accordance with N.J.S.A. 52:14B-5.1d, the expiration date of Chapter 8, Humane Treatment of Domestic Livestock, was extended by gubernatorial directive from June 7, 2009 to December 7, 2010. See: 41 N.J.R. 2647(b).

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 8, Humane Treatment of Domestic Livestock, was scheduled to expire on June 5, 2013. See: 43 N.J.R. 1203(a).

Chapter 8, Humane Treatment of Domestic Livestock, was readopted as R.2012 d.026, effective December 30, 2011. See: 43 N.J.R. 3(a), 44 N.J.R. 219(a).

Chapter 8, Humane Treatment of Domestic Livestock, was readopted, effective October 26, 2017. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS

2:8-1.1 Purpose

(a) These rules establish minimum humane standards for the raising, keeping, care, treatment, marketing, and sale of domestic livestock and procedures for the enforcement of those standards, pursuant to the direction of N.J.S.A. 4:22-16.1. For purposes of these rules, an animal's status or well-being shall be determined based on a holistic evaluation of the animal.

(b) It shall be presumed that the raising, keeping, care, treatment, marketing and sale of domestic livestock for pur-

poses that include, but are not limited to, their use for food, fiber or service, in accordance with these standards, does not constitute cruelty to or inhumane care and treatment of domestic livestock in violation of N.J.S.A. 4:22-15 et seq.

1. The specific husbandry practices identified in and performed in accordance with this chapter, have been determined by the Department to meet the standards of humane treatment of domestic livestock and qualify for the presumption.

2. For husbandry practices not specifically identified in this chapter that do not qualify for the presumption but may be found to be humane, based upon techniques for necessary livestock management and producers included in the following science-based sources or other sources, which may be shown to incorporate similar science-based standards:

i. The Handbook of Livestock Management, Battaglia, fourth edition, 2007. A copy of this document is on file in the Director's Office, Division of Animal Health, New Jersey Department of Agriculture, Health and Agriculture Building, John Fitch Plaza, Trenton, New Jersey 08625;

ii. The Guide for the Care and Use of Agricultural Animals in Research and Teaching, Federation of Animal Science Societies (FASS) third edition (2010), www.fass.org/docs/agguide3rd/Ag_Guide_3rd_ed.pdf;

iii. American Veterinary Medical Association (AVMA) Guidelines on Euthanasia (June 2007), available at http://www.avma.org/issues/animal_welfare/euthanasia.pdf;

iv. The American Association of Equine Practitioners (AAEP) equine welfare, available at http://www.aaep.org/equine_welfare.htm;

v. The Rutgers School of Environmental and Biological Sciences, New Brunswick, New Jersey, available at <http://sebs.rutgers.edu/>; and

vi. The New Jersey Agricultural Experiment Station, available at <http://njaes.rutgers.edu/pubs/category.asp?cat=2>.

(c) Nothing in this chapter shall prohibit owners from providing medical care and treatment to their own animals provided it is performed in compliance with all local, State and Federal laws.

1. Certain treatments may be withheld for food safety considerations (for example, antibiotics, anti-inflammatory medicine, analgesics).

Amended by R.2012 d.026, effective February 6, 2012.
See: 43 N.J.R. 3(a), 44 N.J.R. 219(a).

Added (b)1 and (b)2; and in the introductory paragraph of (c), substituted "this chapter" for "these rules" and deleted "in a sanitary manner, in such a way to minimize pain, and" following "performed".

Case Notes

In a suit challenging the regulations governing the raising, keeping, and marketing of domestic livestock, the appellate court erred by rejecting the challenges in whole as, although the facial challenge to the regulations was properly rejected, the provisions in the regulations regarding reliance on routine husbandry practices as defined therein and reliance on the standard of a knowledgeable individual to minimize pain when a certain practice was used were held arbitrary and capricious. Further, the specific challenges to the various practices, with the exception of the practice of tail docking, were rejected. *New Jersey SPCA v. New Jersey Dep't of Agric.*, 196 N.J. 366, 955 A.2d 886, 2008 N.J. LEXIS 894 (2008).

2:8-1.2 Definitions

(a) The following words and terms, as used in this chapter, shall have the following meanings. Words of art undefined in the following paragraphs shall have the meaning attributed to them by trade usage or general usage as reflected by definition in a standard dictionary, such as Webster's.

"Air quality" means the nature of the air with respect to its effects on the health and well-being of the animals in that environment. Acceptable air quality is achieved by adequate ventilation, waste management and husbandry practices. Acceptable air quality results in minimal irritation of the sensitive membranes of an animal's mouth, eyes, nose and respiratory tract caused by elevated levels of irritants such as ammonia in the air.

"Ambulatory disabled livestock" means livestock capable of walking but with physical impairment such as central nervous system signs, lameness or similar conditions.

"Animal feed" means any ingredient or material fed to animals to provide nutrients and may include, but is not limited to, natural or manufactured material that can include roughages, concentrates, protein supplements, by-product feeds and crop residues, special feeds, plate waste, minerals, vitamins and feed additives so long as all State and Federal laws are followed.

"Animal housing techniques" means methods used to keep livestock within a certain area or environment and include, but are not limited to, pasture, stanchion barns, stalls, cages and feed-lots.

"Animal identification" means the use of visible tags, bands, electronic devices, tattooing, branding, ear notching or other means to identify individuals of any species.

"Animal waste" means livestock manure, unconsumed feed and associated bedding materials and animal carcasses from normal mortalities of livestock on a farm as defined and regulated in N.J.A.C. 2:91 and 7:14A-2.13.

"Animal welfare" means a state or condition of physical and psychological harmony between the animal and its surroundings characterized by an absence of deprivation, aversive stimulation, over stimulation or any other imposed condition that adversely affects health and productivity of the animal.

“Biosecurity” means all measures required to prevent the spread of infections and toxins and to protect animals from pathogenic organisms that can be transferred by humans, vectors or fomites.

“Body Condition Score” (BCS) means a quantitative score of an animal’s body condition taking into account fat and muscle deposition as it occurs in various places on the animal’s body. Body Condition Scoring systems assign a numerical value for body conditions ranging from emaciated to obese and is based on visual observation or manual palpation of the rump, tail, head and hips of the animal. Different methods are used for different species, breeds or types of animals.

“Cattle” includes cattle, including calves, bison, buffalo and other domesticated Bovidae.

“CLI” means NJDA-certified livestock inspector.

“Condition” means state of nutritional fitness or readiness for agricultural use such as for calving, reproduction, exercise or slaughter.

“Cruel or inhumane” refers to the raising, keeping, marketing, care, treatment, or sale of domestic livestock in violation of the standards set forth at N.J.A.C. 2:8-2 through 7 or any other acts or treatment of domestic livestock as prohibited as by N.J.S.A. 4:22-17; 4:22-18; 4:22-20; 4:22-21; 4:22-22 and 4:22-26.

“Cushing” means a resting position of camelids in sternal recumbency with their legs folded under them and their necks and heads held erect.

“Daily maintenance requirements” refer to the minimum level of nutrients that must be provided on a daily basis to sustain health and maintenance of an animal.

“Describe” (as to documents incorporated by reference) means explain precisely and in detail the way a given procedure is to be performed.

“Environmental conditions” refer to the sum of all physical (housing, temperature, humidity, photoperiod, etc.) and social (presence of other animals) factors affecting an animal.

“Enforcement action” means any action taken to require compliance with these standards, to seek civil or criminal penalties for the cruel or inhumane treatment of domestic livestock, or to confiscate or seek the forfeiture of domestic livestock, as authorized by N.J.S.A. 4:22-15 et seq.

“Extraordinary or catastrophic conditions” means an act or event exclusively characterized by an unanticipated, grave, natural or man-made disaster which occurs without input or fault by the owner, and which is of sufficient magnitude to excuse compliance with these rules.

“Fencing material” means material used to contain an area and includes, but is not limited to, materials such as plain or

treated wood, PVC and other plastics, electric wire, barbed wire, tensile wire, woven wire and metal pipe.

“Floor housing” means the keeping of uncaged animals in a building on a dirt or constructed floor that the animals and human caretakers can walk on.

“Fomite” means inanimate objects that serve to carry infections or toxins from one animal to another.

“Handling techniques” mean techniques used to move, train, restrain or otherwise manipulate livestock and may be accomplished manually or with devices that allow the sorting, driving, roping, separating, and relocating of livestock in a manner that provides safety for both handler and animal.

“Holistic” means the consideration of the animal functioning as a complete, integrated unit.

“Horses” includes horses, ponies, donkeys and mules and miniature breeds.

“Humane” means marked by compassion, sympathy, and consideration for the welfare of animals.

“Humane treatment” means raising, keeping, care, treatment, marketing and sale of domestic livestock in accordance with this chapter.

“Hyperthermia” means an above normal temperature of the body.

“Hypothermia” means a subnormal temperature of the body.

“Induced molting” is a management practice that simulates the natural molting event and is designed to bring the entire flock in to a nonlaying and oviduct rejuvenation period. After the molt, a new plumage develops and the birds resume egg production at a higher rate with better egg quality.

“Investigation” means activities undertaken to gather information to identify a possible violation of these standards for the humane treatment of domestic livestock, set forth in N.J.A.C. 2:8-2, and includes the examination or inspection of domestic livestock or of any facility, location or vehicle where the same are kept, or of records containing information regarding domestic livestock.

“Knowledgeable individual” means someone familiar with a particular practice, identified in this chapter, by having been taught at a course listed by an academic institution referenced in this chapter; having learned the technique through veterinary or agricultural extension agent demonstration; or having learned practices through others on a site, such as a family farm.

“Layer diet” means a nutritionally balanced, palatable diet that is adequate for the body maintenance of a laying hen.

“Maintenance diet” means a nutritionally balanced, palatable diet that is high in fiber and low in protein and energy and that is adequate for the body maintenance of a non-laying hen. This diet is designed to bring the flock into a non-laying and oviduct rejuvenation period.

“Marketing” refers to the transfer of an animal to other producers or consumers, via private sales, auctions, etc.

“Minor violations” include actions that occur due to neglect and unintentional acts of substandard practices which do not place the animal’s life in imminent peril or do not cause protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of a limb or bodily organ.

“Molting” is a natural seasonal event in which birds substantially reduce their food intake, cease egg production, and replace their plumage.

“NJDA” means the New Jersey Department of Agriculture.

“Non-ambulatory disabled livestock” means livestock that cannot rise from a recumbent position (downer) or that cannot walk, including, but not limited to, those with broken appendages, severed tendons or ligaments, nerve paralysis, fractured vertebral column or metabolic conditions.

“Owner” or “person” includes a corporation; the knowledge and acts of an agent or employee of a corporation in regard to animals transported, owned, employed or in the custody of the corporation shall be imputed to the corporation.

“Physical restraint” means the confinement or restriction of an animal or part of an animal to accomplish a required task such as vaccination, examination, feeding, milking, grooming, hoof trimming, etc., and can be accomplished manually or with devices including, but not limited to, restraint stocks, head gates, stanchions, chutes and ropes.

“Poultry” includes chickens, roosters, capons, hens, ducks, geese, turkeys, pigeon and guinea fowl (N.J.S.A. 4:5-94) and ratites (N.J.S.A. 4:2-17).

“Production level” refers to quantitative production measures for livestock, such as pounds of milk produced, average daily body weight gain, or number of eggs per clutch.

“Production stage” represents a point in the timeline of an animal’s productive period.

“Rabbits” include all rabbit breeds used or intended for food or fiber.

“Recommend” (as to documents incorporated by reference) means identify certain procedures and the general parameters in which they can be performed (age of animal, use of medication, etc.).

“Reproductive techniques” means methods used to breed and produce livestock and include, but are not limited to, artificial insemination, pregnancy checking, semen collection, embryo collection and transfer, neonatal delivery and care, pre-and postpartum care and estrous synchronization.

“Rest” means the interruption of training or work to avoid or recover from fatigue, exhaustion or over training.

“Resting diet” means a nutritionally balanced, palatable diet that is lower in fiber and higher in protein and energy than a maintenance diet.

“Severe violations” include any intentionally cruel or inhumane acts as well as actions due to neglect or substandard practices which place an animal’s life in imminent peril or which cause protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of a limb or bodily organ. Nothing in this definition shall limit accepted veterinary practices or routine husbandry practices when performed in accordance with these rules.

“Small ruminants” include sheep, goats, llama, alpaca, and farm-raised Cervidae.

“State Veterinarian” means the Director, Division of Animal Health, NJDA.

“Swine” include domestic and exotic porcine breeds.

“Training techniques” refer to techniques used to teach an animal appropriate responses to cues, usually with respect to getting it to stop, stand still or move in a certain manner. The cues employed may include, but are not restricted to, the use of restraining devices such as halters or neck/leg bands, tethers, motivational devices, correction devices or repetitive routines.

“Transport” means the process of carrying domestic livestock in a vehicle from one location to another and does not include the process of loading and unloading either on or off a vehicle.

“Vector” means a living organism that serves to carry infections or toxins from one animal to another.

“Water quality” refers to the acceptability of water sources for animal consumption with respect to the presence of contaminants, accessibility and quantity. Acceptable water quality means that the water is provided in ways that minimize contamination by urine, feces and other materials but is accessible to the animals. It may be provided from natural sources or manmade containers and must be provided in sufficient quantities to prevent dehydration. Signs of dehydration include sunken eyes, increased capillary refill time of the gums, and/or skin that tents when pinched. Human standards for potability are not required but there should not be contaminants present in amounts that discourage the animals from drinking adequate amounts.

“Weight measurement devices” mean an objective method to measure or estimate the weight of livestock and include the use of scales and/or weight tapes, recognizing that weight tapes and scales are most effectively used to measure weight gain or loss relative to previous measurements performed in the same manner by the same individual using the same equipment.

“Well-being” means good health and welfare.

(b) Whenever, in describing or referring to any person, party, matter or thing, any word importing the singular number or masculine gender is used, the same shall be understood to include and to apply to several persons or parties as well as to one person or party and to females as well as males, and to bodies corporate as well as individuals, and to several matters and things as well as one matter or thing.

Amended by R.2005 d.207, effective July 5, 2005.

See: 36 N.J.R. 2586(a), 37 N.J.R. 2465(b).

Amended “Hyperthermia”, “Minor violations”, “Routine husbandry practices”, and “Severe violations”.

Amended by R.2006 d.411, effective December 4, 2006.

See: 38 N.J.R. 1491(a), 38 N.J.R. 4991(a).

Added definitions “Layer diet”, “Maintenance diet” and “Resting diet”.

Amended by R.2012 d.026, effective February 6, 2012.

See: 43 N.J.R. 3(a), 44 N.J.R. 219(a).

Added definitions “Animal waste”, “Describe”, “Humane treatment”, “Knowledgeable individual” and “Recommend”; and deleted definitions “Manure management”, “Restricted exercise”, “Restricted feeding”, “Restricted watering” and “Routine husbandry practices”.

Case Notes

In a suit challenging the regulations governing the raising, keeping, and marketing of domestic livestock, the appellate court erred by rejecting the challenges in whole as, although the facial challenge to the regulations was properly rejected, the provisions in the regulations regarding reliance on routine husbandry practices as defined therein and reliance on the standard of a knowledgeable individual to minimize pain when a certain practice was used were held arbitrary and capricious. Further, the specific challenges to the various practices, with the exception of the practice of tail docking, were rejected. *New Jersey SPCA v. New Jersey Dep’t of Agric.*, 196 N.J. 366, 955 A.2d 886, 2008 N.J. LEXIS 894 (2008).

2:8-1.3 General provisions

(a) The permanent identification of individual animals may be performed by a knowledgeable individual by wing-banding, leg-banding, ear-notching, ear tattooing, electronic transponders and branding as recommended in the Guide for the Care and Use of Agricultural Animals in Research and Teaching, Federation of Animal Science Societies, third edition, 2010 and described in Handbook of Livestock Management, Battaglia, fourth edition, 2007, which are adopted and incorporated by reference. Identification of animals by group, cage or pen may be permitted.

(b) Animal waste management shall be performed pursuant to the NJDA’s animal waste management rules, N.J.A.C. 2:91 or the New Jersey Department of Environmental Protection’s Concentrated Animal Feeding Operation rule, N.J.A.C. 7:14A-2.13.

(c) Fencing materials should be selected to contain an area while minimizing potential injury based on the number, age and temperament of the animals on the premises and the amount of land fenced.

(d) Restraint of livestock and poultry may be performed by a knowledgeable individual as taught at Rutgers School of Environmental and Biological Science in Livestock Production and Management; at Centenary College; at Purdue University School of Veterinary Medicine in Behavior, Husbandry and Diagnostic Techniques; and as described in the Handbook of Livestock Management, Battaglia, fourth edition, 2007, which restraints as taught and which Handbook are adopted and incorporated by reference.

(e) Castration may be performed by a knowledgeable individual as recommended in the Guide for the Care and Use of Agricultural Animals in Research and Teaching, Federation of Animal Science Societies, third edition, 2010 and described in the Handbook of Livestock Management, Battaglia, fourth edition, 2007, which recommendations and descriptions are adopted and incorporated by reference.

(f) Disbudding and dehorning may be performed by a knowledgeable individual as recommended in the Guide for the Care and Use of Agricultural Animals in Research and Teaching, Federation of Animal Science Societies, third edition, 2010 and described in the Handbook of Livestock Management, Battaglia, fourth edition, 2007, which recommendations and descriptions are adopted and incorporated by reference.

New Rule, R.2012 d.026, effective February 6, 2012.

See: 43 N.J.R. 3(a), 44 N.J.R. 219(a).

SUBCHAPTER 2. STANDARDS FOR CATTLE

2:8-2.1 General provisions

(a) This subchapter establishes humane standards for the humane raising, treatment, care, marketing, and sale of cattle, pursuant to the authority accorded by N.J.S.A. 4:22-16.1.

1. All determinations as to whether these humane standards for cattle have been met shall take into account age, breed, type, physiologic condition, size, production level/
stage of development of the animal, the daily maintenance requirements necessary for the particular animal, and environmental conditions.

2:8-2.2 Feeding

(a) Each animal shall be assessed individually for purposes of determining compliance with the humane standards for cattle feeding set forth in this section. Compliance with these standards shall not be determined by averaging the treatment or condition in a herd or group of animals.

(b) Each animal must have daily access to sufficient and nutritious feed to allow for growth and maintenance of an adequate body condition, as determined according to the criteria set forth in (b)1 and 2 below.

1. Body condition can be measured by direct measurement using a weight scale, when available, or by indirect measurement using a weight tape, when available; or

2. The NJDA adopts and incorporates by reference the following BCS methods:

i. For dairy cows, (hereinafter referred to as BCS-Dairy) using the scoring method set forth in Patton R.A., Bucholtz H.F., Schmidt M.K., and F.M. Hall, *Body Condition Scoring—A Management Tool*, Department of Animal Science, Michigan State University, East Lansing, Michigan. September 1988. Copies of this document may be procured by contacting Dr. Herbert Bucholtz, Professor, Dept. Animal Science, 2265 H Anthony Hall, Michigan State University, E. Lansing, MI 48824. Phone: 517-355-8432; Fax: 517-432-0147; Email: bucholtz@msu.edu.

ii. For replacement dairy heifers, (hereinafter referred to as BCS-heifers) using the scoring method set forth in Patton R.A., Bucholtz H.F., Schmidt M.K., and F.M. Hall, *Body Condition Scoring—A management Tool*, Department of Animal Science, Michigan State University, East Lansing, Michigan, September 1988. Copies of this document may be procured by contacting Dr. Herbert Bucholtz, Professor, Dept. Animal Science, 2265 H Anthony Hall, Michigan State University, E. Lansing, MI 48824. Phone: 517-355-8432; Fax: 517-432-0147; Email: bucholtz@msu.edu.

iii. For beef cattle, (hereinafter referred to as BCS-Beef) using the scoring method set forth in Westendorf M.L. and R.C. Mickel, *Beef Cow Condition Scoring* (1994), Rutgers Cooperative Extension, New Jersey Agricultural Experiment Station, Rutgers, The State University of New Jersey, New Brunswick, New Jersey. Copies of this document may be procured at <http://njaes.rutgers.edu/pubs/publication.asp?pid=FS764>.

iv. Other cattle for which such standards are not published must meet or exceed an appearance comparable to the most appropriate BCS above.

3. A copy of the documents listed in (b)2 above is on file in the Director's Office, Division of Animal Health, New Jersey Department of Agriculture, Health and Agriculture Building, John Fitch Plaza, Trenton, New Jersey 08625.

4. Where the BCS methods identified in (b)2 above are used, each animal shall maintain the minimum BCS score in (b)4i through iv below. For purposes of (b)4i through iii below, a "reasonable period of time" refers to the amount of time it would be expected to take to restore an animal to

an acceptable body condition, using diligent efforts to do so.

i. For dairy cows: a BCS of at least 2.0; provided, however, that a score lower than a 2.0 may be permitted for a reasonable period of time, if stage or level of production, physiologic conditions, or other factors results in such an appearance, during which time the animal's management is being altered to improve the condition.

ii. For replacement dairy heifers: a BCS of at least 2.0, provided, however, that a score lower than a 2.0 may be permitted for a reasonable period of time, if stage or level of growth, physiologic conditions, or other factors results in such an appearance, during which time the animal's management is being altered to improve the condition.

iii. For beef cattle: a BCS score of at least 2.0, provided, however, that a score lower than a 2.0 may be permitted for a reasonable period of time, if stage or level of production, physiologic conditions, or other factors results in such an appearance, during which time the animal's management is being altered to improve its condition.

iv. A score of 1.0 is permitted at slaughter.

5. If pasture alone does not provide sufficient nutrition to adequately maintain the cattle's BCS-dairy, BCS-heifer or BCS-beef, supplemental feeds must be provided in sufficient amounts to maintain the minimum acceptable BCS.

6. Cattle unable to maintain a BCS which meets the minimum score set forth in (b)2 and 3 above, due to group feeding practices, must be fed in a manner that allows the cattle to maintain an adequate BCS.

Amended by R.2005 d.207, effective July 5, 2005.

See: 36 N.J.R. 2586(a), 37 N.J.R. 2465(b).

In (b), substituted "iv" for "iii" in the first sentence of the introductory paragraph of 4 and added 4iv.

Amended by R.2012 d.026, effective February 6, 2012.

See: 43 N.J.R. 3(a), 44 N.J.R. 219(a).

In (b)2iii, substituted "at <http://njaes.rutgers.edu/pubs/publication.asp?pid=FS764>." for "by contacting the Publications Distribution Center, Cook College, Rutgers, The State University of New Jersey, 16 Ag Extension Way, New Brunswick, NJ 08901-8551. Phone: 732-932-9762; Internet: www.rce.rutgers.edu."

Case Notes

In a suit challenging the regulations governing the raising, keeping, and marketing of domestic livestock, the appellate court erred by rejecting the challenges in whole as, although the facial challenge to the regulations was properly rejected, the provisions in the regulations regarding reliance on routine husbandry practices as defined therein and reliance on the standard of a knowledgeable individual to minimize pain when a certain practice was used were held arbitrary and capricious. Further, the specific challenges to the various practices, with the exception of the practice of tail docking, were rejected. *New Jersey SPCA v. New Jersey Dep't of Agric.*, 196 N.J. 366, 955 A.2d 886, 2008 N.J. LEXIS 894 (2008).

2:8-2.3 Watering

(a) Each animal shall be assessed individually for purposes of determining compliance with the humane standards for cattle set forth in this section. Compliance with these standards shall not be determined by averaging the treatment or condition in a herd or group of animals.

1. Each animal shall have daily access to water in sufficient quantity and quality to satisfy the animal's physiologic needs as evidenced by the animal's hydration status.

Case Notes

In a suit challenging the regulations governing the raising, keeping, and marketing of domestic livestock, the appellate court erred by rejecting the challenges in whole as, although the facial challenge to the regulations was properly rejected, the provisions in the regulations regarding reliance on routine husbandry practices as defined therein and reliance on the standard of a knowledgeable individual to minimize pain when a certain practice was used were held arbitrary and capricious. Further, the specific challenges to the various practices, with the exception of the practice of tail docking, were rejected. *New Jersey SPCA v. New Jersey Dep't of Agric.*, 196 N.J. 366, 955 A.2d 886, 2008 N.J. LEXIS 894 (2008).

2:8-2.4 Keeping

(a) The animal's environment must provide relief from the elements, such as excessive wind, excessive temperature and excessive precipitation, that result in hyperthermia or hypothermia detrimental to the animal's health.

(b) Relief under (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.

(c) Where constructed shelters are provided, they shall:

1. Be of sufficient size to provide adequate space for each animal seeking shelter within to stand, lie down, rest, get up, and move its head freely;

2. Be structurally sound;

3. Have a safe interior surface, reasonably free of injurious matter;

4. Shall provide an environment that supports cattle health;

5. Have natural or mechanical ventilation to provide air quality and maintain an environment suitable for the animals;

6. In the case of calf hutches, where used, be large enough to allow calves to rest on bedding material; and

7. Be maintained at a level of repair such that they continue to fulfill the requirements of (c)1 through 6 above.

(d) If enclosed yards are used to contain cattle, the following conditions shall be met:

1. Sharp objects or debris that pose an actual threat to the animals' health shall be minimized to reduce the risk of injury to the animals.

2. If stationary objects that pose a risk of injury cannot be removed, reasonable efforts must be made to minimize contact of the cattle with these objects by fencing off or covering the object, or through similar means.

(e) Constructed floor surfaces on which animals are kept must provide footing that minimizes injury to the animals.

(f) Bedding or matting, if used, shall provide an environment that supports animal health.

(g) Nothing in these rules 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 as Special-Fed veal, the NJDA adopts and incorporates by reference the recommendations for rearing and housing outlined in the Guide for the Care and Production of Veal Calves, Sixth Edition 2001 (American Veal Association, Inc., Middletown, PA 17507) as amended and supplemented.

(i) A copy of the Guide for the Care and Production of Veal Calves (Sixth Edition 2001) is on file in the Director's Office, Division of Animal Health, NJDA, Health and Agriculture Building, John Fitch Plaza, Trenton, New Jersey 08625. Copies may be procured by contacting the American Veal Association, 1500 Fulling Mill Road, Middletown, PA 17057. Phone: (717) 985-9125; Fax: (717) 985-9127; Email: info@vealfarm.com.

2:8-2.5 Marketing and sale

(a) The driver of the transport vehicle, and/or any person who is present in the vehicle for purposes of transporting the cattle, shall be responsible for the welfare of the animals at all times during transport.

(b) Cattle transported for any purpose must be handled (loaded and off-loaded) and transported in a manner that minimizes injury, illness and death.

1. During loading and unloading, the cattle owner or owner's agent, if present, is responsible for handling the cattle.

2. If the animals' owner or owner's agent is absent, the driver of the transport vehicle, and/or any person who is present in the vehicle for purposes of transporting the cattle, shall be responsible for the welfare of the animals during handling.

- (c) Cattle shall be transported with minimal delay.
- (d) Cattle shall be provided with adequate ventilation during transport.
- (e) During transport, the animals' environment must provide relief from the elements that result in hyperthermia or hypothermia detrimental to the animals' health.
- (f) Cattle shall be grouped according to size and behavior when in a vehicle.
- (g) Cattle shall be able to stand in normal posture within the vehicle.
- (h) Disabled cattle shall be moved in conformity with N.J.A.C. 2:8-2.6(a) 2.
- (i) The NJDA adopts and incorporates by reference the loading and truck space requirements outlined in the Live-stock Trucking Guide by Temple Grandin for the National Institute for Animal Agriculture (revised September 2001), available at <http://www.animalagriculture.org/Education/Pamphlets/Livestock%20Trucking%20Guide.pdf>; and adopts and incorporates by reference the Recommended Animal Handling Guidelines & Audit Guide: A Systematic Approach to Animal Welfare, Temple Grandin, AMI Foundation (2010), available at <http://www.meatami.com/ht/a/GetDocumentAction/i/61388>.
- (j) There shall be sufficient room in the holding pen for cattle held overnight to lie down, in accordance with 9 C.F.R. § 313.2(e).
- (k) Animals not moved from an auction barn, transfer station or similar location shall have access to water in holding pens, and if held longer than 24 hours, access to feed, in accordance with 9 C.F.R. § 313.2(e).

1. These are maximum times without feed and water and are not in addition to transportation times.

Amended by R.2012 d.026, effective February 6, 2012.
See: 43 N.J.R. 3(a), 44 N.J.R. 219(a).

Rewrote (i); deleted former (j); and recodified former (k) and (l) as (j) and (k).

2:8-2.6 Care and treatment

- (a) Sick or injured cattle shall be promptly treated or humanely euthanized.

1. The NJDA adopts and incorporates by reference the acceptable methods of euthanasia as set forth in the American Veterinary Medical Association (AVMA) Guidelines on Euthanasia (June 2007), available at http://www.avma.org/issues/animal_welfare/euthanasia.pdf.

2. Non-ambulatory disabled cattle and other animals unable to move, as defined in 9 C.F.R. § 301.2:

- i. Shall be separated from normal ambulatory cattle, at all times including during transport, so that the

normal ambulatory cattle do not injure the disabled cattle;

- ii. Shall not be dragged while conscious, except when necessary to provide life-saving treatment, although cattle in a state equivalent with one of surgical anesthesia may be dragged;

- iii. Disabled cattle must be moved as safely as possible, in order to minimize injury to the animal and handler;

- iv. Shall be provided with appropriate medical care if they can reasonably be expected to survive and the owner chooses to attempt treatment;

- v. Shall be handled humanely at all times even if they are to be slaughtered or euthanized, so as not to cause unnecessary pain and injury, and disposed of property; and

- vi. Shall not be transported to a livestock market.

(b) Dead cattle must be promptly removed from contact with live cattle or other livestock within 24 hours and disposed of in a manner consistent with all applicable Federal, State and local regulations governing disposal.

(c) Proper medical care for the diagnosis or management of injury or disease must be provided to sick, injured, or non-ambulatory disabled cattle.

(d) Nothing in this chapter shall prohibit owners from providing medical care and treatment to their own animals provided it is performed in compliance with all local, State and Federal laws.

(e) Plugging of teats, injecting material into udders or teats for non-medical purposes, or otherwise artificially modifying the appearance or conformation of the udder is prohibited.

(f) Tail docking of cattle is permitted only upon determination by a veterinarian for individual animals.

(g) Removal of supernumerary teats may be performed by a knowledgeable individual as described in the Handbook of Livestock Management, Battaglia, fourth edition, 2007.

Amended by R.2005 d.207, effective July 5, 2005.
See: 36 N.J.R. 2586(a), 37 N.J.R. 2465(b).

In (a)3, added vi.

Administrative correction.

See: 39 N.J.R. 27(b).

Amended by R.2012 d.026, effective February 6, 2012.

See: 43 N.J.R. 3(a), 44 N.J.R. 219(a).

In (a)1, substituted "Guidelines on Euthanasia (June 2007), available at http://www.avma.org/issues/animal_welfare/euthanasia.pdf" for "2000 Report of the AVMA Panel on Euthanasia (JAVMA, Vol. 218, No. 5, March 1, 2001) as amended and supplemented"; deleted former (a)2 and (a)4; recodified former (a)3 as (a)2; in (b), inserted "or other livestock"; in (d), substituted "this chapter" for "these rules" and deleted "in a sanitary manner, in such a way to minimize pain, and" following "performed"; rewrote (f); and added (g).

Case Notes

In a suit challenging the regulations governing the raising, keeping, and marketing of domestic livestock, the appellate court erred by reject-

ing the challenges in whole as, although the facial challenge to the regulations was properly rejected, the provisions in the regulations regarding reliance on routine husbandry practices as defined therein and reliance on the standard of a knowledgeable individual to minimize pain when a certain practice was used were held arbitrary and capricious. Further, the specific challenges to the various practices, with the exception of the practice of tail docking, were rejected. *New Jersey SPCA v. New Jersey Dep't of Agric.*, 196 N.J. 366, 955 A.2d 886, 2008 N.J. LEXIS 894 (2008).

2:8-2.7 Exceptions

(a) Exceptions to the standards set forth in this subchapter may be made for cattle provided the practices meet one or more of the following conditions:

1. Cattle are under the direct care of a veterinarian who can provide a medically supportable written explanation for the conditions;
2. Cattle may be confined in a vehicle or vessel for up to 28 consecutive hours without unloading for feeding and watering, in accordance with 49 U.S.C. § 80502.
 - i. For purposes of determining this period of confinement, time spent in loading and unloading is not included; and/or
3. Nothing herein shall prohibit the confinement of cattle in holding cages or pens where feed may be withheld for up to 24 hours in accordance with 9 C.F.R. § 313.2.
 - i. For purposes of determining this period of confinement, time spent in a vehicle or vessel shall not be included.

SUBCHAPTER 3. STANDARDS FOR HORSES

2:8-3.1 General provisions

(a) This subchapter establishes standards for the humane raising, treatment, care, marketing, and sale of horses, pursuant to the authority accorded by N.J.S.A. 2:44-16.1.

1. All determinations as to whether the standards for horses have been met shall take into account the age, breed, type, physiologic condition, size, production level/stage of development of the animal, the daily maintenance requirements necessary for that particular animal, and environmental conditions.

Case Notes

In a suit challenging the regulations governing the raising, keeping, and marketing of domestic livestock, the appellate court erred by rejecting the challenges in whole as, although the facial challenge to the regulations was properly rejected, the provisions in the regulations regarding reliance on routine husbandry practices as defined therein and reliance on the standard of a knowledgeable individual to minimize pain when a certain practice was used were held arbitrary and capricious. Further, the specific challenges to the various practices, with the exception of the practice of tail docking, were rejected. *New Jersey SPCA v. New Jersey Dep't of Agric.*, 196 N.J. 366, 955 A.2d 886, 2008 N.J. LEXIS 894 (2008).

2:8-3.2 Feeding

(a) Each horse shall be assessed individually for purposes of determining compliance with the standards for feeding set forth in this section. Compliance with these standards shall not be determined by averaging the treatment or condition in a herd or group of horses.

1. Each horse must have daily access to sufficient and nutritious feed to allow for growth and maintenance of an adequate body condition, as determined pursuant to the criteria in (a)2 and 3 below.

2. Body condition can be measured using one of the following methods:

- i. By direct measurement using a weight scale, when available, or by indirect measurement using a weight tape, when available; or
- ii. The NJDA adopts and incorporates by reference the BCS method (hereinafter referred to as BCS-horse) described in the Carroll C.L., and Huntington P.J., *Body Condition Scoring and Weight Estimation of Horses*, *Equine Veterinary Journal* (1988) 20(1), (41-45) as amended and supplemented.

3. A copy of the document is on file in the Director's Office, Division of Animal Health, NJDA, Health and Agriculture Building, John Fitch Plaza, Trenton, New Jersey 08625. Copies of this document may be procured by contacting the Equine Veterinary Journal Ltd., 351 Exning Road, New Market, Suffolk, CB8 0AU, UK. Phone: +44 (0) 1638 666 160; Fax: +44 (0) 1638 668 665; Bookshop Direct Line Phone: +44 (0) 1638 663 853.

4. Each horse must have a BCS of at least a level 2.0 using the BCS-horse provided, however, a score lower than a 2.0 may be permitted for a reasonable period of time if stage or level of production, physiologic conditions, or other factors result in such an appearance, during which time the horse's management is being altered to improve the condition.

- i. For purposes of (a)2ii above, a "reasonable period of time" refers to the amount of time it would be expected to take to restore an animal to an acceptable body condition, using diligent efforts to do so.

- ii. A score of 1.0 is permitted at market.

5. If pasture alone does not provide sufficient nutrients to adequately maintain the BCS-horse, supplemental feeds must be provided in sufficient amounts to maintain the minimum acceptable BCS.

6. Horses unable to maintain a BCS-horse which meets the minimum score set forth in (a)2 and 3 above due to group feeding practices, must be fed in such a manner that allows the horse to maintain an acceptable BCS.

2:8-3.3 Watering

(a) Each horse shall be assessed individually for purposes of determining compliance with the standards for watering set forth in this section. Compliance with these standards shall not be determined by averaging the condition or treatment in a herd or group of horses.

1. Each horse shall have daily access to water in sufficient quantity and quality to satisfy the animal's physiologic needs as evidenced by the horse's hydration status.

2:8-3.4 Keeping

(a) The horses' environment must provide relief from the elements, such as excessive wind, excessive temperature and excessive precipitation, that result in hyperthermia or hypothermia detrimental to the horses' health.

(b) Relief under (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.

(c) Where constructed shelters are provided, they shall:

1. Be of sufficient size to provide adequate space for each horse seeking shelter within to stand, lie down, get up, rest, and move its head freely;
2. Be structurally sound;
3. Have a safe interior surface, reasonably free of injurious matter;
4. Have natural or mechanical ventilation to provide air quality and maintain an environment suitable for the horses;
5. Provide an environment that supports horse health;
6. Be maintained at a level of repair such that they continue to fulfill the requirements of (c)1 through 5 above.

(d) If enclosed yards are used to contain horses, the following conditions shall be met:

1. Sharp objects or debris that pose an actual threat to the animals' health shall be minimized to reduce the risk of injury to the animals.
2. If stationary objects that pose a risk of injury cannot be removed, reasonable efforts must be made to minimize contact of the horses with these objects by fencing off or covering the object, or through similar means.

(e) Constructed floor surfaces on which horses are kept must provide footing that minimizes injury to the horses.

(f) Where cement floors are used, bedding or matting must be provided and kept reasonably clean.

(g) Dirt floors or rubber mats are acceptable without bedding if adequate drainage is provided.

(h) Bedding or matting, if used, shall provide an environment that supports horse health.

(i) Horses not in transit may be tied using halters or neck bands in their stalls or to stationary objects for up to 12 hours if feed and water are not available and for longer periods of time if feed and water are offered at reasonable intervals and the horses can lie down safely.

2:8-3.5 Marketing and sale

(a) The driver of the transport vehicle, and/or any person who is present in the vehicle for purposes of transporting the horses, shall be responsible for the welfare of the horses at all times during transport.

(b) Horses transported for any purpose must be handled (loaded and off-loaded) and transported in a manner that minimizes injury, illness and death.

1. During loading and unloading, the horses' owner or owner's agent, if present, shall be responsible for handling horses.

2. If the horses' owner or owner's agent is absent, the driver of the transport vehicle, and/or any person who is present in the vehicle for purposes of transporting the horses, shall be responsible for the welfare of the horses.

(c) Horses must be transported with minimal delay.

(d) Horses shall be provided with adequate ventilation during transport.

(e) During transport, the horses' environment must provide relief from the elements that result in hyperthermia or hypothermia detrimental to the horses' health.

(f) Horses must be transported in a manner that complies with the Commercial Transportation of Equines to Slaughter, 9 C.F.R. § 88.

(g) Horses not moved from an auction barn, transfer station or similar location shall have access to water in holding pens, and if held longer than 24 hours, access to feed in accordance with 9 C.F.R. § 313.2(e).

1. These are maximum times without feed and water and are not in addition to transportation times.

2:8-3.6 Care and treatment

(a) Equine management and training shall be carried out by a knowledgeable individual in accordance with these guidelines or courses:

1. Battaglia, Handbook of Livestock Management, fourth edition, 2007; Horse Management 11-067-384, Equine Nutrition 11:067:390 from Rutgers School of Environmental and Biological Science; Equine science and management and Equine racing management taught through Morrisville State College, Morrisville, NY; or Eq-

uine Studies taught through the Equine Studies Department at Centenary College, Hackettstown, NJ; and

2. For equine rescue operations care must be consistent with AAEP Care Guidelines for Equine Rescue and Retirement Facilities, 2004; http://www.aaep.org/pdfs/rescue_retirement_guidelines.pdf or Equine Rescue and Facility Guidelines, UC Davis, 2009, <http://www.vetmed.ucdavis.edu/ceh/docs/special/pubs-Sanctuary-bkm-sec.pdf>.

(b) All horses for public hire must have routine hoof care, medical care and sufficient strength and rest to maintain their health to be used for the purpose for which they were hired.

(c) Proper hoof care should be provided.

(d) Sick or injured horses shall be promptly treated or humanely euthanized.

1. The NJDA adopts and incorporates by reference, the acceptable methods of euthanasia as set forth in the American Veterinary Medical Association (AVMA) Guidelines on Euthanasia (June 2007), available at http://www.avma.org/issues/animal_welfare/euthanasia.pdf.

(e) Dead horses must be promptly removed from contact with live horses or other livestock within 24 hours and disposed of in a manner consistent with all applicable Federal, State and local regulations governing disposal.

(f) Proper medical care for the diagnosis or management of injury or disease must be provided to sick, injured, or non-ambulatory disabled horses.

1. Nothing in this chapter shall prohibit owners from providing medical care and treatment to their own animals provided it is performed in compliance with all local, State and Federal laws.

Administrative correction.

See: 39 N.J.R. 27(b).

Amended by R.2012 d.026, effective February 6, 2012.

See: 43 N.J.R. 3(a), 44 N.J.R. 219(a).

Rewrote the section.

Case Notes

In a suit challenging the regulations governing the raising, keeping, and marketing of domestic livestock, the appellate court erred by rejecting the challenges in whole as, although the facial challenge to the regulations was properly rejected, the provisions in the regulations regarding reliance on routine husbandry practices as defined therein and reliance on the standard of a knowledgeable individual to minimize pain when a certain practice was used were held arbitrary and capricious. Further, the specific challenges to the various practices, with the exception of the practice of tail docking, were rejected. *New Jersey SPCA v. New Jersey Dep't of Agric.*, 196 N.J. 366, 955 A.2d 886, 2008 N.J. LEXIS 894 (2008).

2:8-3.7 Exceptions

Exceptions to the standards set forth in this subchapter may be made for horses provided the horses are under the direct care of a veterinarian who can provide a medically supportable written explanation for the conditions.

SUBCHAPTER 4. STANDARDS FOR POULTRY

2:8-4.1 General provisions

(a) This subchapter establishes standards for the humane raising, treatment, marketing, and sale of poultry pursuant to the authority accorded by N.J.S.A. 4:22-16.1.

1. All determinations as to whether the standards for poultry have been met shall take into account the age, breed, type, physiologic condition, size, production level/ stage of development of the animal, the daily maintenance requirements necessary for poultry, and environmental conditions.

Case Notes

In a suit challenging the regulations governing the raising, keeping, and marketing of domestic livestock, the appellate court erred by rejecting the challenges in whole as, although the facial challenge to the regulations was properly rejected, the provisions in the regulations regarding reliance on routine husbandry practices as defined therein and reliance on the standard of a knowledgeable individual to minimize pain when a certain practice was used were held arbitrary and capricious. Further, the specific challenges to the various practices, with the exception of the practice of tail docking, were rejected. *New Jersey SPCA v. New Jersey Dep't of Agric.*, 196 N.J. 366, 955 A.2d 886, 2008 N.J. LEXIS 894 (2008).

2:8-4.2 Feeding

(a) Each bird shall be assessed individually for purposes of determining compliance with the standards for feeding of poultry set forth in this section. Compliance with these standards shall not be determined by averaging the treatment or condition in a flock or group of birds.

(b) Each bird must have daily access to sufficient and nutritious feed to allow for growth and maintenance of an adequate body condition.

(c) Exceptions to feeding requirements for poultry are as follows:

1. Day-old poultry may be transported without feed, provided said poultry are delivered within 72 hours of hatching, and feed is provided immediately following unloading.

2. Birds may be transported without feed in accordance with the United States Postal Regulations, 39 C.F.R. § 111.5. (US Postal Service Domestic Mail Manual, § C022 Perishables; Subsection 3.1, Day-old poultry, Subsection 3.3 Adult fowl, Subsection 3.4 Adult Chickens.)

3. Induced molting is permitted provided that the following conditions are met:

i. Feed may not be withdrawn during the molt. Molting hens must have daily access to a maintenance diet or resting diet.

ii. Mortality and body weight loss shall be monitored daily throughout the molt, and if the average

weight loss exceeds 30 percent of pre-molt weight, or if mortality exceeds 1.2 percent molting hens must be returned to a resting or a layer diet.

Amended by R.2006 d.411, effective December 4, 2006.
See: 38 N.J.R. 1491(a), 38 N.J.R. 4991(a).

In (c)3, substituted "Induced molting is permitted" for "Feed may be withdrawn from adult poultry during an induced molt."; rewrote (c)3i; and in (c)3ii, deleted "feed must be returned immediately" preceding "if the average weight loss" and substituted "molting hens must be returned to a resting or a layer diet" for "during the feed withdrawal".

2:8-4.3 Watering

(a) Each bird shall be assessed individually for purposes of determining compliance with the standards for watering poultry set forth in this section. Compliance with these standards shall not be determined by averaging the treatment or condition in a flock or group of birds.

1. Each bird must have daily access to water in sufficient quantity and quality to satisfy the bird's physiologic needs.

2. During induced molting of poultry, sufficient water shall be available to satisfy the maintenance requirements of each bird.

(b) Exceptions to watering requirements are as follows:

1. Day-old poultry may be transported without water, provided said poultry are delivered within 72 hours of hatching, and water is provided immediately following unloading.

2. Birds may be transported without water in compliance with the United States Postal Regulations 39 C.F.R. § 111.5. (US Postal Service Domestic Mail Manual, § C022 Perishables; Subsection 3.1, Day-old poultry, Subsection 3.3 Adult fowl, Subsection 3.4 Adult Chickens.)

2:8-4.4 Keeping

(a) The birds' environment must provide relief from the elements, such as excessive wind, excessive temperature and excessive precipitation, that result in hyperthermia or hypothermia detrimental to the birds' health.

(b) Relief under (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. Constructed shelters shall:

i. Be of sufficient size to provide adequate space for each bird seeking shelter within to stand, lie down, get up, walk, spread its wings, move its head freely, turn around and rest;

ii. Be structurally sound;

iii. Have a safe interior surface, reasonably free of injurious matter;

iv. Maintain air quality by natural or mechanical ventilation;

v. Minimize extremes in environmental temperature; and

vi. Be maintained at a level of repair such that they continue to fulfill the requirements of (b)1i through v above.

(c) If enclosed yards are used to contain poultry, the following conditions shall be met:

1. Sharp objects that pose an actual threat to the birds shall be minimized to prevent an unreasonable risk of injury to the birds.

2. If stationary objects that pose a risk of injury cannot be removed, reasonable efforts must be made to minimize contact of the poultry with these objects by fencing off or covering the object, or through similar means.

(d) Cage housing, not including transport crates, shall be:

1. Of sufficient size to allow each bird to stand upright in the cage without having its head protrude through the top of the cage, lie down, get up, walk, spread its wings, move its head freely, turn around and rest;

2. Constructed to minimize the risk of injury or entrapment; and

3. Constructed to minimize soiling of birds by fecal material from birds in cages above them.

(e) Floor housing shall provide:

1. Each bird enough room to stand, lie down, get up, walk, spread its wings, move its head freely, turn around and rest; and

2. A sufficient number of nesting boxes for laying hens seeking access to a nesting box.

(f) Constructed floor surfaces on which poultry are kept must provide a suitable environment for poultry health.

(g) Poultry shall be provided with an environment that supports poultry health.

(h) When inducing a molt in egg-laying hens, the light period should be reduced to not less than eight hours in closed houses or to natural day length in open houses for the duration of the molt period. When the flock is placed back on a layer diet, lights should be returned to the normal layer program schedule.

Amended by R.2006 d.411, effective December 4, 2006.
See: 38 N.J.R. 1491(a), 38 N.J.R. 4991(a).
Added (h).

2:8-4.5 Marketing and sale

(a) The driver of the transport vehicle, and/or any person who is present in the vehicle for purposes of transporting the

poultry, shall be responsible for the welfare of the birds at all times during transport.

(b) Poultry transported for any purpose must be handled (loaded and off-loaded) and transported in a manner that minimizes injury, illness and death.

1. During loading and unloading, the birds' owner or owner's agent, if present, shall be responsible for handling poultry.

2. If the birds' owner or owner's agent is absent, the driver of the transport vehicle, and/or any person who is present in the vehicle for purposes of transporting the poultry, shall be responsible for the welfare of the animals.

(c) Poultry may be mailed in compliance with the United States Postal Regulations Federal rule 39 C.F.R. § 111.5. (US Postal Service Domestic Mail Manual, § C022 Perishables; Subsection 3.1, Day-old poultry, Subsection 3.3 Adult fowl, Subsection 3.4 Adult Chickens.)

(d) Birds that are transported by any method other than mailing shall be:

1. Transported with minimal delay;
2. Provided with adequate ventilation during transport; and
3. Protected from the elements in order to minimize illness or mortality.

(e) Crates, trays or carts for transport must be:

1. Designed in such a manner that loading, transport, and removal of birds may be carried out with minimal injury or mortality;
2. Designed to remain intact during normal processing;
3. Constructed to confine the birds; and
4. Ventilated properly.

(f) During transport, the birds' environment must provide relief from the elements that result in hyperthermia or hypothermia detrimental to the birds' health.

(g) Consideration shall be given to minimize exposure of poultry during transport to excessive solar radiation and excessive precipitation.

(h) Mortality in broilers or turkeys shall not exceed 1.0 percent during transport and mortality in spent hens shall not exceed 2.5 percent during transport.

(i) Birds shall not be transported for more than 24 hours without access to feed and water.

(j) Once delivered to the destination, birds must not be kept in transport crates, trays or carts for longer than 18 hours.

2:8-4.6 Care and treatment

(a) Sick or injured poultry must be promptly treated or removed within 24 hours and humanely euthanized.

1. The NJDA adopts and incorporates by reference, the acceptable methods of euthanasia as set forth in the American Veterinary Medical Association (AVMA) Guidelines on Euthanasia (June 2007), available at http://www.avma.org/issues/animal_welfare/euthanasia.pdf.

2. The NJDA adopts and incorporates by reference the AVMA position on disposal of unwanted chicks poult and pipped eggs (1999) as amended and supplemented.

3. A copy of the documents listed in subsections (a)1 and 2 above is on file in the Director's Office, Division of Animal Health, NJDA, Health and Agriculture Building, John Fitch Plaza, Trenton, New Jersey 08625. Copies may be procured by contacting the AVMA at 1931 North Meacham Road—Suite 100, Schaumburg, IL 60173. Phone: 847-925-8070; Fax: 847-925-1329; Website: <http://www.avma.org/>; Email: avmainfo@avma.org.

4. Birds must be euthanized prior to disposal.

(b) Dead poultry must be promptly removed from contact with live birds or other livestock within 24 hours and disposed of in a manner consistent with all applicable Federal, State and local regulations governing disposal.

(c) Proper medical care for the diagnosis or management of injury or disease must be provided to sick or injured poultry.

1. Nothing in this chapter shall prohibit owners from providing medical care and treatment to their own animals provided it is performed in compliance with all local, State and Federal laws.

(d) Birds shall be inspected immediately prior to beginning an induced molt. Sick birds shall be removed from the flock before molting.

(e) All life-supporting mechanical equipment, including, but not limited to, feeders, drinkers, and ventilation systems, shall be inspected at least once daily and maintained in functioning order.

Administrative correction.

See: 39 N.J.R. 27(b).

Amended by R.2012 d.026, effective February 6, 2012.

See: 43 N.J.R. 3(a), 44 N.J.R. 219(a).

In (a)1, substituted "Guidelines on Euthanasia (June 2007), available at http://www.avma.org/issues/animal_welfare/euthanasia.pdf" for "2000 Report of the AVMA Panel on Euthanasia (JAVMA, Vol. 218, No. 5, March 1, 2001) as amended and supplemented"; deleted (a)4; recodified former (a)5 as (a)4; in (b), inserted "or other livestock"; and in (c)1, substituted "this chapter" for "these rules" and deleted "in a sanitary manner, in such a way to minimize pain, and" following "performed".

2:8-4.7 Handling of poultry

(a) Birds shall be caught, carried and removed in a manner that minimizes injury to the bird.

(b) All doors and openings through which birds are moved shall be large enough to provide passage of birds without injury to the bird.

(c) Catching and transport protocols shall minimize the number of times a bird is handled between capture and rehousing or slaughter.

(d) The time between capture and slaughter shall be minimized to the extent possible consistent with food safety considerations.

(e) The NJDA adopts and incorporates by reference the acceptable methods of beak trimming, catching and transport of laying hens as set forth in the United Egg Producers Animal Husbandry Guidelines for U.S. Egg Laying Flocks (2008 edition), available at <http://www.azda.gov/ASD/UEP-Animal-Welfare-Guidelines.pdf> when performed by a knowledgeable individual.

(f) Beak trimming, toe trimming and dubbing may be performed by a knowledgeable individual as recommended in the Guide for the Care and Use of Agricultural Animals in Research and Teaching, Federation of Animal Science Societies, third edition, 2010 and described in the Handbook of Livestock Management, Battaglia, fourth edition, 2007, with such recommendations and descriptions adopted and incorporated by reference.

Amended by R.2012 d.026, effective February 6, 2012.

See: 43 N.J.R. 3(a), 44 N.J.R. 219(a).

Rewrote (e) and (f).

Case Notes

In a suit challenging the regulations governing the raising, keeping, and marketing of domestic livestock, the appellate court erred by rejecting the challenges in whole as, although the facial challenge to the regulations was properly rejected, the provisions in the regulations regarding reliance on routine husbandry practices as defined therein and reliance on the standard of a knowledgeable individual to minimize pain when a certain practice was used were held arbitrary and capricious. Further, the specific challenges to the various practices, with the exception of the practice of tail docking, were rejected. *New Jersey SPCA v. New Jersey Dep't of Agric.*, 196 N.J. 366, 955 A.2d 886, 2008 N.J. LEXIS 894 (2008).

2:8-4.8 Exceptions

(a) Exceptions to the standards set forth in this subchapter may be made for poultry provided the practices meet one or more of the following conditions:

1. The poultry are under the direct care of a veterinarian who can provide a medically supportable written explanation for the conditions; and/or

2. To the extent permitted by law, poultry may be confined in a vehicle or vessel for up to 28 consecutive hours

without unloading for feeding and watering in accordance with 49 U.S.C. § 80502.

i. For purposes of determining this period of confinement, time spent in loading and unloading is not included.

SUBCHAPTER 5. STANDARDS FOR RABBITS**2:8-5.1 General provisions**

(a) This subchapter establishes standards for the humane raising, treatment, care, marketing, and sale of rabbits, pursuant to the authority accorded by N.J.S.A. 4:22-16.1.

1. All determinations as to whether these standards for rabbits have been met shall take into account age, breed, type, physiologic condition, size, production level/stage of development of the animal, the daily maintenance requirements necessary for that particular animal, and environmental conditions.

Case Notes

In a suit challenging the regulations governing the raising, keeping, and marketing of domestic livestock, the appellate court erred by rejecting the challenges in whole as, although the facial challenge to the regulations was properly rejected, the provisions in the regulations regarding reliance on routine husbandry practices as defined therein and reliance on the standard of a knowledgeable individual to minimize pain when a certain practice was used were held arbitrary and capricious. Further, the specific challenges to the various practices, with the exception of the practice of tail docking, were rejected. *New Jersey SPCA v. New Jersey Dep't of Agric.*, 196 N.J. 366, 955 A.2d 886, 2008 N.J. LEXIS 894 (2008).

2:8-5.2 Feeding

(a) Each rabbit shall be assessed individually for purposes of determining compliance with the standards for the feeding of rabbits set forth in this section. Compliance with these standards shall not be determined by averaging the treatment or condition in a herd or group of animals.

1. Each rabbit must have daily access to sufficient and nutritious feed to allow for growth and maintenance of an adequate body condition.

2:8-5.3 Watering

(a) Each rabbit shall be assessed individually for purposes of determining compliance with the standards for watering rabbits set forth in this section. Compliance with these standards shall not be determined by averaging the treatment or condition in a herd or group of animals.

1. Each rabbit shall have daily access to water in sufficient quantity and quality to satisfy the animal's physiologic needs as evidenced by the rabbit's hydration status.

2:8-5.4 Keeping

(a) The rabbits' environment must provide relief from the elements, such as excessive wind, excessive temperature and excessive precipitation, that result in hyperthermia or hypothermia detrimental to the rabbits' health.

(b) Relief under (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, move its head freely, turn around to groom itself and rest;
 - ii. Be structurally sound;
 - iii. Have a safe interior surface, reasonably free of injurious matter;
 - iv. Have natural or mechanical ventilation to provide air quality and maintain an environment suitable for the animals;
 - v. Provide an environment that supports rabbits' health;
 - vi. Have large enough doors and openings through which rabbits are moved to provide passage of rabbits without injury to the animal; and
 - vii. Be maintained at a level of repair such that they continue to fulfill the requirements of (b)1i through vi above.

(c) If enclosed yards are used to contain rabbits, the following conditions shall be met:

1. Sharp objects or debris that pose an actual threat to the rabbits' health shall be minimized to reduce the risk of injury to the rabbits.
2. If stationary objects that pose a risk of injury cannot be removed, reasonable efforts must be made to minimize contact of the rabbits with these objects by fencing off or covering the object, or through similar means.

(d) Constructed floor surfaces on which rabbits are kept must provide footing that minimizes injury to the rabbits.

2:8-5.5 Marketing and sale

(a) The driver of the transport vehicle, and/or any person who is present in the vehicle for purposes of transporting the rabbits, shall be responsible for the welfare of the animals at all times during transport.

(b) Rabbits transported for any purpose must be handled (loaded and off loaded) and transported in a manner that minimizes injury, illness and death.

1. During loading and unloading, the animals' owner or owner's agent, if present, is responsible for handling the rabbits.

2. If the animals' owner or owner's agent is absent, the driver of the transport vehicle, and/or any person who is present in the vehicle for purposes of transporting the rabbits, shall be responsible for the welfare of the animals.

(c) Crates and carts for transport must be:

1. Designed such that loading, transport, and removal of rabbits may be carried out with minimal injury and mortality;
2. Designed to remain intact during normal processing;
3. Constructed to confine the rabbits; and
4. Ventilated properly.

(d) Rabbits must be transported with minimal delay.

(e) Rabbits shall be provided with adequate ventilation during transport.

(f) During transport, the rabbits' environment must provide relief from the elements that result in hyperthermia or hypothermia detrimental to the rabbits' health.

(g) Rabbits shall not be transported for more than six hours without food and water.

Amended by R.2005 d.207, effective July 5, 2005.
See: 36 N.J.R. 2586(a), 37 N.J.R. 2465(b).
Added (g).

2:8-5.6 Handling of rabbits

(a) Rabbits shall be caught, carried and removed in a manner that minimizes injury.

(b) Catching and transport protocols shall minimize the number of times a rabbit is handled between capture and rehousing or slaughter.

(c) The time between capture and slaughter shall be minimized to the extent possible consistent with food safety considerations.

(d) The time between capture and rehousing shall be minimized.

2:8-5.7 Care and treatment

(a) Sick or injured rabbits must be promptly treated or removed and humanely euthanized.

1. The NJDA adopts and incorporates by reference the acceptable methods of euthanasia as set forth in the American Veterinary Medical Association (AVMA) Guidelines on Euthanasia (June 2007), available at http://www.avma.org/issues/animal_welfare/euthanasia.pdf.

(b) Dead rabbits must be promptly removed from contact with live rabbits or other livestock within 24 hours and disposed of in a manner consistent with all applicable Federal, State and local regulations governing disposal.

(c) Handling of rabbits shall comply with N.J.A.C. 2:8-5.6.

(d) Proper medical care for the diagnosis or management of injury or disease must be provided to sick or injured animals.

1. Nothing in this chapter shall prohibit owners from providing medical care and treatment to their own animals provided it is performed in compliance with all local, State and Federal laws.

(e) Teeth must be maintained in adequate condition to maintain the health of the animal.

1. Tooth trimming shall be performed only by knowledgeable individuals as described in the Textbook of Rabbit Medicine, Frances Harcourt Brown, Elsevier Science 2004, which is adopted and incorporated by reference. A copy of this textbook is on file in the Director's Office, Division of Animal Health, NJDA, Health and Agriculture Building, John Fitch Plaza, Trenton, New Jersey 08625.

Amended by R.2012 d.026, effective February 6, 2012.

See: 43 N.J.R. 3(a), 44 N.J.R. 219(a).

In (a)1, substituted "Guidelines on Euthanasia (June 2007), available at http://www.avma.org/issues/animal_welfare/euthanasia.pdf" for "2000 Report of the AVMA Panel on Euthanasia (JAVMA, Vol. 218, No. 5, March 1, 2001) as amended and supplemented"; deleted (a)2 and (a)3; in (b), inserted "or other livestock"; and in (d)1, substituted "this chapter" for "these rules" and deleted "in a sanitary manner, in such a way to minimize pain, and" following "performed"; rewrote (e)1; and deleted (e)2.

2:8-5.8 Exceptions

Exceptions to the standards set forth in this subchapter may be made for rabbits provided the rabbits are under the direct care of a veterinarian who can provide a medically supportable written explanation for the conditions.

SUBCHAPTER 6. STANDARDS FOR SMALL RUMINANTS

2:8-6.1 General provisions

(a) This subchapter establishes standards for the humane raising, treatment, care, marketing, and sale of small ruminants, pursuant to the authority accorded by N.J.S.A. 4:22-16.1.

1. All determinations as to whether the standards for small ruminants have been met shall take into account the age, breed, type, physiologic condition, size, production level/stage of development of the animal, the daily maintenance

requirements necessary for that particular animal, and environmental conditions.

Case Notes

In a suit challenging the regulations governing the raising, keeping, and marketing of domestic livestock, the appellate court erred by rejecting the challenges in whole as, although the facial challenge to the regulations was properly rejected, the provisions in the regulations regarding reliance on routine husbandry practices as defined therein and reliance on the standard of a knowledgeable individual to minimize pain when a certain practice was used were held arbitrary and capricious. Further, the specific challenges to the various practices, with the exception of the practice of tail docking, were rejected. *New Jersey SPCA v. New Jersey Dep't of Agric.*, 196 N.J. 366, 955 A.2d 886, 2008 N.J. LEXIS 894 (2008).

2:8-6.2 Feeding

(a) Each animal shall be assessed individually for purposes of determining compliance with the standards for feeding small ruminants set forth in this section. Compliance with these standards shall not be determined by averaging the treatment or condition in a herd or group of animals.

1. Each small ruminant shall have daily access to sufficient and nutritious feed to allow for growth and maintenance of an adequate body condition.

2. If pasture alone does not provide sufficient nutrients to adequately maintain the animal's health, supplemental feeds must be provided in sufficient amounts to maintain health.

2:8-6.3 Watering

(a) Each animal shall be assessed individually for purposes of determining compliance with the standards for watering small ruminants set forth in this section. Compliance with these standards shall not be determined by averaging the treatment or condition in a herd or group of animals.

(b) Each small ruminant shall have daily access to water in sufficient quantity and quality to satisfy the animal's physiologic needs as evidenced by the animal's hydration status.

2:8-6.4 Keeping

(a) The small ruminants' environment must provide relief from the elements, such as excessive wind, excessive temperature and excessive precipitation, that result in hyperthermia or hypothermia detrimental to the animals' health.

(b) Relief under (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.

(c) Where constructed shelters are provided, they shall:

1. Be of sufficient size to provide adequate space for each animal seeking shelter within to stand, lie down, rest, get up, groom itself and move its head freely;

2. Be structurally sound;
3. Have a safe interior surface, reasonably free of injurious matter;
4. Have natural or mechanical ventilation to provide air quality and maintain an environment suitable for the animals;
5. Provide an environment that supports small ruminant health; and
6. Be maintained at a level of repair such that they continue to fulfill the requirements of (c)1 through 5 above.

(d) If enclosed yards are used to contain small ruminants, the following conditions shall be met:

1. Sharp objects or debris that pose an actual threat to the small ruminants' health shall be minimized to reduce the risk of injury to the animals.
2. If stationary objects that pose a risk of injury cannot be removed, reasonable efforts must be made to minimize contact of the small ruminants with these objects by fencing off or covering the object, or through similar means.

(e) Constructed floor surfaces on which small ruminants are kept must provide footing that minimizes injury to the small ruminants.

(f) Bedding or matting, if used, shall provide an environment suitable for small ruminant health.

(g) Small ruminants not in transit may be tied using halters or neck bands in their stalls or to stationary objects for up to 12 hours if feed and water are not available and for longer periods of time if feed and water are offered at reasonable intervals and the small ruminants can lie down safely.

2:8-6.5 Marketing and sale

(a) The driver of the transport vehicle, and/or any person who is present in the vehicle for purposes of transporting the small ruminants, shall be responsible for the welfare of the animals at all times during transport.

(b) Small ruminants transported for any purpose must be handled (loaded and off-loaded) and transported in a manner that minimizes injury, illness and death.

1. During loading and unloading, the animals' owner or owner's agent, if present, is responsible for handling the small ruminants.
2. If the animals' owner or owner's agent is absent, the driver of the transport vehicle, and/or any person who is present in the vehicle for purposes of transporting the animals, shall be responsible for the welfare of the animals.

(c) Small ruminants shall be transported with minimal delay.

(d) Small ruminants shall be provided with adequate ventilation during transport.

(e) During transport, the small ruminants' environment must provide relief from the elements that result in hyperthermia or hypothermia detrimental to the animals' health.

(f) Small ruminants shall be grouped according to size in the vehicle, and be able to stand or "cush" in normal posture within the vehicle.

1. The NJDA adopts and incorporates by reference the loading and truck space requirements outlined in the Livestock Trucking Guide by Temple Grandin for the National Institute for Animal Agriculture (revised September 2001), available at <http://www.animalagriculture.org/Education/Pamphlets/Livestock%20Trucking%20Guide.pdf>; and Recommended Animal Handling Guidelines & Audit Guide: A Systematic Approach to Animal Welfare, Temple Grandin, AMI Foundation (2010), available at <http://www.meatami.com/ht/a/GetDocumentAction/i/61388>.

(g) Animals not moved from an auction barn, transfer station or similar location shall have access to water in holding pens, and if held longer than 24 hours, access to feed in accordance with 9 C.F.R. § 313.2(e).

1. These are maximum times without feed and are not in addition to transportation times.

Amended by R.2012 d.026, effective February 6, 2012.

See: 43 N.J.R. 3(a), 44 N.J.R. 219(a).

Rewrote (f)1; and deleted (f)2.

2:8-6.6 Care and treatment

(a) Sick or injured small ruminants must be promptly treated or humanely euthanized.

1. The NJDA adopts and incorporates by reference the acceptable methods of euthanasia as set forth in the American Veterinary Medical Association (AVMA) Guidelines on Euthanasia (June 2007), available at http://www.avma.org/issues/animal_welfare/euthanasia.pdf.

2. Non-ambulatory disabled small ruminants and other animals unable to move, as defined in 9 C.F.R. § 313.1(c) and § 313.2(d):

- i. Shall be separated from normal ambulatory small ruminants, both while being held and during transport, so that the normal ambulatory small ruminants do not injure the disabled small ruminants;
- ii. Shall not be dragged while conscious, except when necessary to provide life-saving treatment, although a small ruminant in a state equivalent with one of surgical anesthesia may be dragged;
- iii. A disabled small ruminant must be moved as safely as possible, in order to minimize injury to the animal and handler;

iv. Shall be provided with appropriate medical care, if they can reasonably be expected to survive and the owner chooses to attempt treatment; and

v. Shall be handled humanely at all times even if they are to be slaughtered or euthanized, so as not to cause unnecessary pain and injury, and disposed of properly.

(b) Dead small ruminants must be promptly removed from contact with live small ruminants or other livestock within 24 hours and disposed of in a manner consistent with all applicable Federal, State and local regulations governing disposal.

(c) Proper medical care for the diagnosis or management of injury or disease must be provided to sick or injured animals and non-ambulatory disabled small ruminants.

1. Nothing in this chapter shall prohibit owners from providing medical care and treatment to their own animals provided it is performed in compliance with all local, State and Federal laws.

(d) Tail docking may be performed by a knowledgeable individual as recommended in the Guide for the Care and Use of Agricultural Animals in Research and Teaching, Federation of Animal Science Societies, third edition, 2010 and described in the Handbook of Livestock Management, Battaglia, fourth edition, 2007.

Amended by R.2012 d.026, effective February 6, 2012.
See: 43 N.J.R. 3(a), 44 N.J.R. 219(a).

In (a)1, substituted "Guidelines on Euthanasia (June 2007), available at http://www.avma.org/issues/animal_welfare/euthanasia.pdf" for "2000 Report of the AVMA Panel on Euthanasia (JAVMA, Vol. 218, No. 5, March 1, 2001) as amended and supplemented"; deleted former (a)2 and (a)4; recodified former (a)3 as (a)2; in (b), inserted "or other livestock"; and in (c)1, substituted "this chapter" for "these rules" and deleted "in a sanitary manner, in such a way to minimize pain, and" following "performed"; and rewrote (d).

2:8-6.7 Exceptions

(a) Exceptions to the standards set forth in this subchapter may be made for small ruminants provided the practices meet one or more of the following conditions:

1. Small ruminants are under the direct care of a veterinarian who can provide a medically supportable written explanation for the conditions;

2. Small ruminants may be confined in a vehicle or vessel for up to 28 consecutive hours without unloading for feeding and watering in accordance with 49 U.S.C. § 80502.

i. For purposes of determining this period of confinement, time spent in loading and unloading is not included; and/or

3. Small ruminants may be confined in holding cages or pens where feed may be withheld for up to 24 hours in accordance with 9 CFR § 313.2.

i. For purposes of determining this period of confinement, time spent in a vehicle or vessel shall not be included.

4. Exception to transport requirements:

i. Sheep may be confined for an additional eight consecutive hours without being unloaded when the 28-hour period of confinement ends at night in accordance with 49 U.S.C. § 80502.

SUBCHAPTER 7. STANDARDS FOR SWINE

2:8-7.1 General provisions

(a) This subchapter establishes standards for the humane raising, treatment, care, marketing, and sale of swine, pursuant to the authority accorded by N.J.S.A. 4:22-16.1.

1. All determinations as to whether the standards for swine have been met shall take into account age, breed, type, physiologic condition, size, production level/stage of development of the animal, the daily maintenance requirements necessary for that particular animal, and environmental conditions.

Case Notes

In a suit challenging the regulations governing the raising, keeping, and marketing of domestic livestock, the appellate court erred by rejecting the challenges in whole as, although the facial challenge to the regulations was properly rejected, the provisions in the regulations regarding reliance on routine husbandry practices as defined therein and reliance on the standard of a knowledgeable individual to minimize pain when a certain practice was used were held arbitrary and capricious. Further, the specific challenges to the various practices, with the exception of the practice of tail docking, were rejected. *New Jersey SPCA v. New Jersey Dep't of Agric.*, 196 N.J. 366, 955 A.2d 886, 2008 N.J. LEXIS 894 (2008).

2:8-7.2 Feeding

(a) Each swine shall be assessed individually for purposes of determining compliance with the standards for feeding swine set forth in this section. Compliance with these standards shall not be determined by averaging the treatment or condition in a herd or group of swine.

1. Each swine must have daily access to sufficient and nutritious feed to allow for growth and maintenance of an adequate body condition as determined pursuant to the criteria in (b) and (c) below.

(b) Body condition can be measured using one of the following methods:

1. By direct measurement using a weight scale, when available, or by indirect measurement using a weight tape, when available; or

2. The NJDA adopts and incorporates by reference the BCS method (hereinafter referred to as BCS-Swine) de-

scribed by Richard D. Coffey and Gary R. Parker in *Assessing Sow Body Condition*, University of Kentucky, College of Agriculture, Cooperative Extension Service, Publication ASC-158 Copyright 10-1999. 2pp. as amended and supplemented.

3. A copy of the above document is on file in the Director's Office, Division of Animal Health, NJDA, Health and Agriculture Building, John Fitch Plaza, Trenton, New Jersey 08625. Copies may be procured on the World Wide Web at: <http://www.ca.uky.edu/agc/pubs/asc/asc158/asc158.pdf> or by contacting Richard D. Coffey, Research and Education Center, PO Box 469, Princeton, KY 42445-0469. Phone: 270-365-7541, Extension 244.

(c) Swine must have a BCS of at least level 2.0 using BCS-swine, provided, however, that a score lower than a 2.0 may be permitted for a reasonable period of time, if stage or level of production, physiologic conditions, or other factors results in such an appearance, during which time the animals management is being altered to improve the condition.

1. For purposes of (c) above, a "reasonable period of time" refers to the amount of time it would be expected to take to restore an animal to an acceptable body condition, using diligent efforts to do so.

i. A score of 1.0 is permitted at slaughter.

(d) Swine unable to maintain a BCS which meets the minimum score set forth in (b) and (c) above due to group feeding practices, must be fed in a manner that allows the swine to maintain an adequate BCS.

Amended by R.2005 d.207, effective July 5, 2005.
See: 36 N.J.R. 2586(a), 37 N.J.R. 2465(b).

In (c)1, added i.

2:8-7.3 Watering

(a) Each swine shall be assessed individually for purposes of determining compliance with the standards for watering swine set forth in this section. Compliance with these standards shall not be determined by averaging the treatment or condition in a herd or group of animals.

1. Each swine shall have daily access to water in sufficient quantity and quality to satisfy the animal's physiologic needs as evidenced by the swine's hydration status.

2:8-7.4 Keeping

(a) The swine's environment must provide relief from the elements, such as excessive wind, excessive temperature and excessive precipitation, that result in hyperthermia or hypothermia detrimental to the swine's health.

(b) Relief under (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, and move its head freely;

ii. Be structurally sound;

iii. Have a safe interior surface, reasonably free of injurious matter;

iv. Have natural or mechanical ventilation to provide air quality and maintain an environment suitable for the animals;

v. Provide an environment that supports swine health; and

vi. Be maintained at a level of repair such that they continue to fulfill the requirements of (b)1i through v above.

2. Stalls may be used to feed and monitor individual sows and gilts and to minimize injury to piglets.

i. The sow's head must not have to rest on an adjacent feeder.

ii. The 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 sow's head must not have to rest in the water trough.

iv. A pregnant sow's stall must be wide enough to allow the sow to stand up and lie down unimpeded, rest, and move its head freely.

(c) If enclosed yards are used to contain swine, the following conditions shall be met:

1. Sharp objects or debris that pose an actual threat to the swine's health shall be minimized to reduce the risk of injury to the swine.

2. If stationary objects that pose a risk of injury cannot be removed, reasonable efforts must be made to minimize contact of the swine with these objects by fencing off or covering the object, or through similar means.

(d) Constructed floor surfaces on which swine are kept must provide footing that minimizes injury to the swine.

2:8-7.5 Marketing and sale

(a) The driver of the transport vehicle, and/or any person who is present in the vehicle for purposes of transporting the swine, shall be responsible for the welfare of the animals at all times during transport.

(b) Swine transported for any purpose must be handled (loaded and off-loaded) and transported in a manner that minimizes injury, illness and death.

1. During loading and unloading, the animals' owner or owner's agent, if present, shall be responsible for handling the swine.

(c) If the animals' owner or owner's agent is absent, the driver of the transport vehicle, and/or any person who is present in the vehicle for purposes of transporting the swine, shall be responsible for the welfare of the animals.

(d) Swine shall be transported with minimal delay.

(e) Swine shall be provided with adequate ventilation during transport.

(f) During transport, the swine's environment must provide relief from the elements that result in hyperthermia or hypothermia detrimental to the animal's health.

(g) Swine must be grouped according to size and behavior when in a vehicle.

(h) Swine must be able to stand in normal posture within the vehicle.

1. The NJDA adopts and incorporates by reference the loading and truck space requirements outlined in the Livestock Trucking Guide by Temple Grandin for the National Institute for Animal Agriculture (revised September 2001), available at <http://www.animalagriculture.org/Education/Pamphlets/Livestock%20Trucking%20Guide.pdf>; Recommended Animal Handling Guidelines & Audit Guide: A Systematic Approach to Animal Welfare, Temple Grandin, AMI Foundation (2010), available at <http://www.meatami.com/ht/a/GetDocumentAction/i/61388>; Transportation Quality Assurance Handbook (National Pork Board 2009), available at http://www.pork.org/Producers/docs/TQA_08.pdf.

(i) Swine shall be loaded according to the truck space requirements set forth in the Livestock Trucking Guide, (Livestock Conservation Institute, 1910 Lyda Drive, Bowling Green, KY), available at <http://www.animalagriculture.org/Education/Pamphlets/Livestock%20Trucking%20Guide.pdf>; Recommended Animal Handling Guidelines & Audit Guide: A Systematic Approach to Animal Welfare, Temple Grandin, AMI Foundation (2010), available at <http://www.meatami.com/ht/a/GetDocumentAction/i/61388>; Transportation Quality Assurance Handbook (National Pork Board 2009), available at http://www.pork.org/Producers/docs/TQA_08.pdf.

(j) There shall be sufficient room in the holding pen for swine held overnight to lie down as required by 9 C.F.R. § 313.2(e).

(k) Animals not moved from an auction barn, transfer station or similar location shall have access to water in holding pens, and if held longer than 24 hours, access to feed, in accordance with 9 C.F.R. § 313.2(e).

1. These are maximum times without feed and water and are not in addition to transportation times.

Amended by R.2012 d.026, effective February 6, 2012.

See: 43 N.J.R. 3(a), 44 N.J.R. 219(a).

Rewrote (h)1 and (i); and deleted (h)2.

2:8-7.6 Care and treatment

(a) Sick or injured swine must be promptly treated or humanely euthanized.

1. The NJDA adopts and incorporates by reference the acceptable methods of euthanasia as set forth in the American Veterinary Medical Association (AVMA) Guidelines on Euthanasia (June 2007), available at http://www.avma.org/issues/animal_welfare/euthanasia.pdf.

2. Non-ambulatory disabled swine and other animals unable to move, as defined in 9 C.F.R. § 313.1(c) and § 313.2(d):

i. Shall be separated from normal ambulatory swine, both while being held and during transport, so that the normal ambulatory swine do not injure the disabled swine;

ii. Shall not be dragged while conscious, except when necessary to provide life-saving treatment, although swine in a state equivalent with one of surgical anesthesia may be dragged;

iii. All disabled swine must be moved as safely as possible, in order to minimize injury to the animal and handler;

iv. Shall be provided with appropriate medical care, if they can reasonably be expected to survive and the owner chooses to attempt treatment;

v. Shall be handled humanely at all times even if they are to be slaughtered or euthanized, so as not to cause unnecessary pain and injury, and disposed of properly; and

vi. Shall not be transported to a livestock market.

(b) Dead swine must be promptly removed from contact with live swine or other livestock within 24 hours and disposed of in a manner consistent with all applicable Federal, State and local regulations governing disposal.

(c) Proper medical care for the diagnosis or management of injury or disease must be provided to sick, injured, or non-ambulatory disabled swine.

1. Nothing in this chapter shall prohibit owners from providing medical care and treatment to their own animals provided it is performed in compliance with all local, State and Federal laws.

(d) Tail docking, teeth trimming and tusk trimming may be performed by a knowledgeable individual as recommended in the Guide for the Care and Use of Agricultural Animals in Research and Teaching, Federation of Animal Science Societies, third edition, 2010 and described in the Handbook of Livestock Management, Battaglia, fourth edition, 2007.

Amended by R.2005 d.207, effective July 5, 2005.
See: 36 N.J.R. 2586(a), 37 N.J.R. 2465(b).

In (a)3, added vi.

Amended by R.2012 d.026, effective February 6, 2012.
See: 43 N.J.R. 3(a), 44 N.J.R. 219(a).

In (a)1, substituted "Guidelines on Euthanasia (June 2007), available at http://www.avma.org/issues/animal_welfare/euthanasia.pdf" for "2000 Report of the AVMA Panel on Euthanasia (JAVMA, Vol. 218, No. 5, March 1, 2001) as amended and supplemented"; deleted former (a)2 and (a)4; recodified former (a)3 as (a)2; in (b), inserted "or other livestock"; in (c)1, substituted "this chapter" for "these rules" and deleted "in a sanitary manner, in such a way to minimize pain, and" following "performed"; and rewrote (d).

Case Notes

In a suit challenging the regulations governing the raising, keeping, and marketing of domestic livestock, the appellate court erred by rejecting the challenges in whole as, although the facial challenge to the regulations was properly rejected, the provisions in the regulations regarding reliance on routine husbandry practices as defined therein and reliance on the standard of a knowledgeable individual to minimize pain when a certain practice was used were held arbitrary and capricious. Further, the specific challenges to the various practices, with the exception of the practice of tail docking, were rejected. *New Jersey SPCA v. New Jersey Dep't of Agric.*, 196 N.J. 366, 955 A.2d 886, 2008 N.J. LEXIS 894 (2008).

2:8-7.7 Exceptions

(a) Exceptions to the standards set forth in this subchapter may be made for swine provided the practices meet one or more of the following conditions:

1. Swine are under the direct care of a veterinarian who can provide a medically supportable written explanation for the conditions.
2. Swine are confined in a vehicle or vessel for up to 28 consecutive hours without unloading for feeding and watering in accordance with 49 U.S.C. § 80502.
 - i. For purposes of determining this period of confinement, time spent in loading and unloading is not included.
3. Swine may be confined in holding cages or pens where feed may be withheld for up to 24 hours in accordance with 9 C.F.R. § 313.2.
 - i. For purposes of determining this period of confinement, time spent in a vehicle or vessel shall not be included.

SUBCHAPTER 8. THE INVESTIGATION AND ENFORCEMENT OF ALLEGED VIOLATIONS OF HUMANE STANDARDS

2:8-8.1 General

(a) The purpose of this subchapter is to establish procedural rules governing the investigation of complaints alleging the cruel and inhumane treatment of domestic livestock, and the commencement of actions for enforcement of the standards for the humane care and treatment of domestic livestock set

forth in N.J.A.C. 2:8-2 through 7 (hereinafter referred to as "standards").

(b) No investigations or enforcement actions pursuant to N.J.S.A. 4:22-15 et seq., pertaining to the cruel or inhumane raising, keeping, care, treatment, marketing, and sale of domestic livestock in violation of these standards, shall be instituted or conducted except in accordance with the rules set forth in this subchapter.

1. Any interested party may request training on how to interpret these rules.

i. Training will be jointly prepared and conducted by the NJDA and Rutgers School of Environmental and Biological Sciences, New Jersey Agricultural Experiment Station.

(c) Infectious agents or toxins may be spread to new hosts by contact with humans, vectors, fomites and other animals. Clothing, footwear, feed, bedding, and equipment, including automobile tires, can harbor disease-causing organisms. Therefore, all inspections must be performed according to biosecurity protocols to prevent the spread of infectious or contagious agents on or from the premises.

1. Vehicle: To avoid transporting infectious agents or toxins from one farm to another, vehicles shall be driven and parked in areas to avoid surfaces traveled by animals, farm equipment and farm vehicles. Car windows shall remain closed to prevent flying insects from getting inside vehicle.

2. Protective clothing: Clean cloth or disposable Tyvek coveralls shall be worn at each site. Cleaned and disinfected rubber boots or disposable boots are required. These items shall be changed or cleaned and disinfected between sites. If more than one species or group is housed on a site, each area shall be treated as a different site.

3. Equipment: All equipment shall be thoroughly cleaned and disinfected upon arrival and prior to leaving a site.

i. New equipment, if clean, may not need to be disinfected upon arrival.

4. Order of inspection: The owner or manager of the site shall be consulted to determine the order for the site visitation. The areas with the lowest risk of exposure to infectious agents shall be visited first.

5. Cleaning: Removal of organic debris (urine, feces) and washing of surfaces that have been exposed to organic debris must precede disinfection to be effective. Cleaning is the most labor-intensive part of the cleaning and disinfection process.

i. Failure to remove the organic material by effectively cleaning an object may result in the survival of infectious agents or toxins. Efficient cleaning removes almost 99 percent of the agent from a contaminated object.

Disinfectants should be applied only after removal of contaminated organic matter. Washed surfaces should be allowed to dry before applying disinfectants. Disinfectants should be allowed to remain on treated surfaces for a minimum of seven minutes.

ii. Detergents should be used on non-disposable boots and equipment to facilitate the removal of organic debris from these objects. Tools used to clean these items must also be cleaned and then disinfected prior to additional use.

6. Disinfecting: Detergents shall be rinsed off thoroughly prior to the application of disinfectants to avoid any potentially hazardous chemical reactions.

i. The use of disinfectants that have the broadest spectrum of activity, including efficacy on porous surfaces with organic debris, and contact safety is ideal. No single disinfectant will satisfy all considerations. Disinfectant properties should be evaluated with regard to the intended areas of use.

(d) Complaints involving illness, injury or death, that may be the result of microorganisms, toxins or radiation must be reported to the State Veterinarian immediately and in any case within 48 hours in accordance with N.J.A.C. 2:2-1.5.

(e) Diseases that are dangerous to animal health and are enumerated in N.J.A.C. 2:2-1.1 may result in one or more of the following clinical signs in livestock:

1. Death;
2. Excessive discharges from body orifices;
3. Anorexia (off-feed), cachexia (weight loss);
4. Skin lesions including blisters, pustules, discoloration;
5. Abnormal behavior, excessive vocalization, depression;
6. Excessive urination; excessive salivation; excessive tearing;
7. Lameness, off balance; falling down; difficulty rising; circling, partial or complete paralysis;
8. Muscle tremors; seizures;
9. Sneezing, open mouthed breathing, gasping for air, nasal discharge, coughing, difficulty breathing;
10. Diarrhea, vomiting; constipation, excessively dry manure;
11. Twisting of head and neck;
12. Foaming at mouth or nose;
13. Head pressing, stargazing, no menace response, uneven pupil sizes;

14. Drooping wings, feather or hair loss, excessive loss of mane and tail hairs;

15. Partial to complete drop in egg production; production of thin-shelled eggs;

16. Swelling of the tissues around eyes, neck or legs; opaqueness of eyes;

17. Abortions, still births, weak neonates; and/or

18. Abnormal body temperature.

Amended by R.2005 d.207, effective July 5, 2005.
See: 36 N.J.R. 2586(a), 37 N.J.R. 2465(b).

In (c)3, added i.

Amended by R.2012 d.026, effective February 6, 2012.
See: 43 N.J.R. 3(a), 44 N.J.R. 219(a).

In (b)1i, substituted "Rutgers School of Environmental and Biological Sciences" for "Cook College".

Case Notes

In a suit challenging the regulations governing the raising, keeping, and marketing of domestic livestock, the appellate court erred by rejecting the challenges in whole as, although the facial challenge to the regulations was properly rejected, the provisions in the regulations regarding reliance on routine husbandry practices as defined therein and reliance on the standard of a knowledgeable individual to minimize pain when a certain practice was used were held arbitrary and capricious. Further, the specific challenges to the various practices, with the exception of the practice of tail docking, were rejected. *New Jersey SPCA v. New Jersey Dep't of Agric.*, 196 N.J. 366, 955 A.2d 886, 2008 N.J. LEXIS 894 (2008).

2:8-8.2 Identification and prohibition of cruel or inhumane treatment

(a) The cruel or inhumane treatment of domestic livestock is prohibited.

(b) Any owner or person who owns or controls a facility or property that houses domestic livestock, or who has custody of, direction over or authority to control domestic livestock, who fails to provide care for or to treat such domestic livestock in a manner that meets the standards for the humane keeping, care, treatment, marketing and sale of domestic livestock as established in N.J.A.C. 2:8-2 through 7, shall be deemed to be cruel and inhumane in the care of these animals, except when experiencing extraordinary or catastrophic conditions, or as otherwise provided by these rules.

(c) There shall be a presumption that the raising, keeping, care, treatment, marketing, and sale of domestic livestock in accordance with the standards adopted at N.J.A.C. 2:8-2 through 7 does not constitute cruelty to, or inhumane care or treatment of, domestic livestock, as prohibited by N.J.S.A. 4:22-15 et seq.

(d) Nothing in these rules shall prohibit the slaughter of domestic livestock in accordance with 9 C.F.R. § 313.

2:8-8.3 Complaints

(a) Complaints or allegations of animal cruelty concerning domestic livestock may be made by any person including, but

not limited to, CLI, officers of the SPCA, Animal Control Officers, other local or State authorities, or private individuals.

(b) The complaints shall be submitted in writing or by phone, fax or e-mail to the NJDA, the NJSPCA, county SPCAs or other State or local government authority.

(c) Complaints may be mailed to the State Veterinarian, New Jersey Department of Agriculture, Division of Animal Health, PO Box 330, Trenton, NJ 08625, faxed to the State Veterinarian at 609-777-8395, or emailed to the State Veterinarian at State.Veterinarian@ag.state.nj.us.

(d) Complaints must identify as completely as possible:

1. The date of the observed acts;
2. An identification of any unique characteristics of the domestic livestock that will enable the animal(s) in question to be distinguished from other domestic livestock;
3. The location of the domestic livestock at the time of the incident and current location if different; and
4. A specific description of the nature of the alleged acts of cruelty or inhumane treatment.

(e) Complaints shall be evaluated as soon as they are received. The authority receiving the complaint may reject it if it fails to provide sufficient information in the categories described in (d)1 through 4 above to facilitate investigation of the complaint.

(f) The NJSPCA, county SPCAs or other State or local government authority receiving a complaint shall immediately notify the New Jersey Department of Agriculture and, if the complaint is in writing, provide a copy to the NJDA at the address provided in N.J.A.C. 2:8-8.3(c).

(g) The NJSPCA, county SPCAs, or other State or local government authority shall, whenever possible, provide notice to the State Veterinarian of its intent to inspect the location of domestic livestock.

(h) The NJSPCA, county SPCAs and other State or local government authorities are strongly encouraged to consult with the State Veterinarian prior to conducting an investigation and to conduct the investigation in conjunction with the State Veterinarian. Nothing in this section shall limit the authority of the NJSPCA, county SPCAs or other State or local authority to investigate or bring enforcement actions.

2:8-8.4 Certification and role of a certified livestock inspector (CLI)

(a) The rules set forth in this subsection are only applicable to investigations conducted by or on behalf of the Department of Agriculture.

(b) If the State veterinarian concludes that a complaint is credible and identifies adequate cause to believe that a viola-

tion of the standards may have occurred, he or she shall assign a CLI to the case.

1. The NJSPCA, county SPCAs and other State or local governmental authority may request that the State veterinarian assign a CLI to investigate a complaint.

(c) The CLI assigned to the case shall investigate the complaint by means including the inspection of domestic livestock and the premises on which the livestock is located.

(d) The CLI shall investigate all complaints received by the State Veterinarian as soon as reasonably practicable.

(e) Only those persons certified as CLIs by the State Veterinarian and the Secretary of Agriculture may investigate complaints regarding the cruel or inhumane treatment of domestic livestock on behalf of the Department of Agriculture.

1. (Reserved)

(f) Only individuals meeting the following qualifications may be certified as CLIs in New Jersey:

1. A veterinarian, animal health technician or investigator who is an employee of the NJDA or the USDA, APHIS, whom the State Veterinarian determines to be qualified to conduct inspections; or

2. A New Jersey licensed veterinarian.

(g) A certified CLI shall demonstrate sufficient knowledge and experience as to the type(s) of animals to be investigated.

1. The State Veterinarian shall find that a CLI has demonstrated sufficient knowledge and experience as to the type(s) of animals to be investigated upon finding that:

i. The CLI is board-certified in a specialty that emphasizes the species to be inspected;

ii. The CLI is a veterinary practitioner who has recent extensive experience with the particular species (such as, for inspecting horses, Doctors of Veterinary Medicine who own, train, judge, or show horses); or

iii. The CLI can otherwise demonstrate that he or she is knowledgeable in the area of keeping, care, treatment, marketing and sale of the species of domestic livestock inspected (such as, for inspecting horses, Doctors of Veterinary Medicine who teach equine related subjects in an accredited college or school of veterinary medicine or have an equine practice).

(h) All CLI shall complete a continuing education program of relevant course work conducted at various venues (for example, colleges or universities, professional organizations or other animal welfare conferences) and approved by the State Veterinarian, consisting of not less than four hours of instruction, before commencing his or her duties and each year thereafter in order to maintain certification.

1. The CLI shall provide a written certification that the requirements in (h) above were met.

2:8-8.5 Procedures for obtaining inspection of premises and records

(a) Any investigating authority shall make reasonable efforts to contact each person having custody of or responsibility for any domestic livestock, or the manager of any show, exhibition, sale, auction, slaughter house or other facility which keeps or holds domestic livestock, in order to obtain consent for the inspection of any animal, or of any records pertinent to the alleged violation.

(b) If the investigating authority is unable to obtain consent for an adequate and timely inspection as provided in (a) above, he or she shall make an application to a court having jurisdiction over violations of these rules for a warrant to enter and search buildings or places wherein it is reasonably believed that such law or regulation is being violated.

(c) The biosecurity protocols set forth in N.J.A.C. 2:8-8.1 must be followed during each investigation on all livestock premises.

(d) If the inspecting authority determines that animals' lives are in imminent peril; that it would be fruitless to pursue a request for a voluntary inspection; that there is a possibility that the animals will be moved if advance notice is given; or that a consensual inspection otherwise is not practical, it shall not be necessary to make efforts to arrange for voluntary access to premises and inspection of animals or records before seeking a warrant.

(e) For the purpose of examination, testing, or taking of evidence, the investigating authority may recommend that the State Veterinarian quarantine the domestic livestock, where there is probable cause to believe they are being treated cruelly, to any premises on which they are located, including, but not limited to, a show, exhibition, sale or auction.

1. Such detained animals must be marked for identification and such identifying markings shall not be removed by any person other than a representative or agent of the Department of Agriculture.

i. Animals under quarantine shall only be moved with the authorization of the State Veterinarian.

(f) The NJSPCA, county SPCAS, State or local authorities may also apply to a court of competent jurisdiction for an injunction preventing the removal of the animals.

(g) An investigating authority conducting an inspection of domestic livestock and premises shall:

1. Visit the location where the complainant indicates that cruelty has occurred, or the current location of the animal;

2. Identify the domestic livestock about which the complaint was made, using the complainant's description of the animal;

3. Inspect the animal and the conditions under which the animal is kept; and, if the inspection is conducted by a New Jersey licensed veterinarian, examine the animal;

4. Collect any necessary site samples for testing, and record findings; however, samples may be taken from the animals only by a New Jersey licensed veterinarian;

5. Request any necessary records from the person having custody of or responsibility for any domestic livestock; and

6. Provide a receipt for any records removed from the site.

(h) After the inspection, the investigating authority will record:

1. The results of the investigation; and

2. The nature and purpose of any samples taken for later analysis.

(i) The investigating authority that takes the samples is responsible for maintaining and recording a custody chain for any samples collected.

(j) Nothing in these rules shall be deemed to insulate an investigating authority from liability as otherwise provided by law.

(k) If the investigation is conducted by or on behalf of the Department of Agriculture, the CLI who takes the samples is responsible for maintaining and recording a custody chain for any samples collected.

1. The custody chain protocol, as determined by the NJDA, will be maintained.

2. A CLI conducting a re-inspection will prepare and provide to the State veterinarian a full set of the same records as are required for an initial inspection.

2:8-8.6 Records of the complaint and inspection required and disposition thereof

(a) Upon completing the inspection, the investigating authority shall provide the State veterinarian with the results of the inspection. This may be done by phone, e-mail, fax or in writing.

1. Results shall be provided within 24 hours of the completion of the inspection for violations considered to be "severe."

2. Results shall be provided within two business days of the completion of the inspection for all other violations.

(b) The investigating authority shall include in the records of the inspection forwarded within seven days to the State Veterinarian the following information:

1. Current contact information of the complainant, if available (for example, name, address, phone number, fax, email address);

i. Nothing in this section limits the assertion of the informer's privilege as found in the New Jersey Rules of Evidence.

2. The date and time the complaint was received;

3. The identity, location and description of the animal; the nature of the complaint; and, if known, the standard that was violated;

4. The date and place of the visit to the affected animal;

5. Current contact information of the person having custody of or responsibility for the domestic livestock (for example, name, address, phone number, fax, email address);

6. Current contact information of the owner of the livestock (for example, name, address, phone number, fax, email address);

7. The observations of the animal before it is physically examined;

8. The results of a physical examination performed by a New Jersey licensed veterinarian, if available;

9. A description of the livestock housing and other husbandry practices; and

10. The name of the person or persons employed to conduct the inspection.

Amended by R.2005 d.207, effective July 5, 2005.

See: 36 N.J.R. 2586(a), 37 N.J.R. 2465(b).

In (b)1, added i.

2:8-8.7 Actions on violations or other acts of cruelty

(a) The following apply to minor violations:

1. Where the State veterinarian, NJSPCA, county SPCAs, or other State or local government authority determines that the person who has custody of, or is responsible for, and/or is the owner of the domestic livestock has committed a minor violation of this chapter, that official or authority shall:

i. Inform the person having immediate custody of or responsibility for the domestic livestock in a written warning of the provisions violated;

(1) The initial notification may be in person, by telephone, fax, or email.

(2) If the initial notice is not in writing, the investigating authority shall, within 24 hours of the finding that the minor violation has occurred, serve on the person or mail to the person's last known address, a written notification of the findings of the inspection,

of the standard of statutes violated or other acts of cruelty.

(3) Either of these notifications, if in writing, shall constitute the written warning of the offense in those cases where required by N.J.S.A. 4:22-16.1.

ii. If the inspection is conducted by the State veterinarian, the written notice will also include corrective measures which must be taken to achieve compliance with the standards contained in N.J.A.C. 2:8-2, including the amount of time allowed to take corrective measures;

iii. The NJSPCA, county SPCAs and other State and local authorities are encouraged to consult with the State veterinarian to determine appropriate corrective measures and the amount of time necessary for same; and

iv. Advise other authorities of the action taken.

2. If the person who has custody of, or is responsible for, and/or is the owner of the domestic livestock, after receiving notice of violation under this section, fails to cure the violation within a reasonable time, the State veterinarian, NJSPCA, county SPCAs or other State or local authority may determine that the person is in continuing violation of this chapter, and initiate enforcement of these standards as provided by N.J.S.A. 4:22-15 et seq.

3. For subsequent minor violations, no written warning need be provided.

(b) The following apply to severe violations:

1. Where the State veterinarian, NJSPCA, county SPCA or other State or local authority determines that the person who has custody of, or is responsible for, and/or the owner of the domestic livestock has committed a severe violation of this rule, that official or authority shall initiate enforcement or penalty proceedings pursuant to N.J.S.A. 4:22-15 et seq.

2. Where severe violations of these standards are continuing, the NJSPCA, county SPCAs or other State or local authority may:

i. Take any steps authorized by N.J.S.A. 4:22-15 et seq. to assure that the animal is cared for appropriately including, but not limited to, feeding, watering, providing medical care, euthanasia and disposal; and

ii. Bring an action in a court of competent jurisdiction to allow it to confiscate the domestic livestock from the person as allowed by N.J.S.A. 4:22-26.1.

3. Where the State veterinarian determines that a severe violation is continuing, he or she shall request the SPCA, ACO or other State or local authority to take the actions identified in (b)2i and ii above.

Administrative correction.

See: 39 N.J.R. 27(b).