

# RULE ADOPTIONS

## AGRICULTURE

### (a)

#### DIVISION OF MARKETING AND DEVELOPMENT Public Notice Regarding Proposed Rulemaking Adopted Amendment: N.J.A.C. 2:1-3.3

Proposed: February 21, 2023, at 55 N.J.R. 255(a).  
Adopted: June 28, 2023, by the State Board of Agriculture and  
Douglas H. Fisher, Secretary, Department of Agriculture.  
Filed: June 30, 2023, as R.2023 d.090, **without change**.  
Authority: N.J.S.A. 4:1-11, 52:14B-3, and 52:14B-4.  
Effective Date: August 7, 2023.  
Expiration Date: October 29, 2028.

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

In response to the notice of proposed amendments at N.J.A.C. 2:1-3.3, the Department of Agriculture (“Department” or “NJDA”) received comments from a Jean Public.

COMMENT: In her comment on the notice of proposal, Jean Public states that there currently isn’t enough notice for new rule publications and suggests that the rule proposal should be amended to include a rule that any member of the public can sign up for an email list to receive direct notifications of any proposed rule publications. She also asks what penalties there are if the Department fails to notify public.

RESPONSE: The Department endeavors to inform the public of all of its rulemaking activity, including rulemaking proposals on which public comment is sought, and the Department takes seriously its legal obligation to do so.

The Department provides multiple forms of notice to the public of pending rulemakings. The Department posts its rulemaking proposals to the NJDA website in order to inform the public of the text of each proposal and in order to advise the public of the opportunity to submit comments on the proposal. Information on pending NJDA rule proposals, and on rule adoptions and readoptions, can be found at <https://www.nj.gov/agriculture/rule/>. After a proposed rule is adopted, the link to the proposed rulemaking is removed from the website, at which time a copy of the Notice of Adoption is posted on that webpage. No new rules are adopted, and no substantive changes are made to existing regulations, without notice and information concerning the proposed rulemaking first appearing on the NJDA rules webpage noted above.

In addition to rulemaking proposals appearing on our website, the Department also places a timely Legal Notice in at least three newspapers of general circulation within the State as another means by which the Department advises members of the public of the promulgation of a rulemaking proposal and the opportunity to submit comments during the public comment period. Further, as required by law, the NJDA distributes the notice of proposal to news media maintaining a press office in the State House Complex, and the Office of Administrative Law submits the notice to the Senate and General Assembly. Those additional measures are intended to further the goal of providing the public with the opportunity to be informed of and comment on rulemaking proposals. All of these notices are in addition to publication of each proposed rulemaking and the adoption of each rulemaking in the New Jersey Register, which itself serves as a notice to the public.

Finally, the commenter’s request for an amendment is unnecessary, as N.J.A.C. 1:30-5.2(a)3 provides that the Department will mail or email a notice of proposal to those persons who have asked the NJDA to provide them with notice of its rule proposals. Any rule proposal that violates the notice requirements can potentially be challenged for its legality.

#### Federal Standards Statement

The adopted amendments are authorized pursuant to the New Jersey Administrative Procedure Act, N.J.S.A. 52:14B-1, and its implementing rules at N.J.A.C. 1:30 and are not subject to any Federal standards or requirements. Therefore, no further analysis is required.

Full text of the adoption follows:

#### SUBCHAPTER 3. RULES OF PRACTICE

##### 2:1-3.3 Public notice regarding proposed rulemaking

(a) The Department shall provide for the following four types of public notice for all rule proposals in accordance with the New Jersey Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Office of Administrative Law Rules for Agency Rulemaking, N.J.A.C. 1:30:

1. (No change.)

2. The notice of proposal shall be posted and made available electronically on the Department’s website no later than the date of publication of the notice in the New Jersey Register;

3. (No change.)

4. The notice of proposal, as filed with the Office of Administrative Law, or a statement of the substance of the proposed rulemaking, shall be made available to the public by an additional manner reasonably calculated to inform those persons most likely to be affected or interested in the proposed rulemaking.

i. (No change.)

ii. The additional method of publicity with regard to all rule proposals shall be by one or more of the following:

(1) (No change.)

(2) Distribution of a press release to the news media;

(3) Trade, industry, government, or professional publications; or

(4) Notice published on the Department’s website consistent with (a)2 above.

(b) Notice pursuant the methods described at (a)2, 3, and 4 above shall be provided at least 30 days prior to the close of the public comment period.

### (b)

#### DIVISION OF ANIMAL HEALTH Disease Control Program Quarantines and Embargoes on Animals

#### Readoption with Amendments: N.J.A.C. 2:5

#### Adopted New Rules: N.J.A.C. 2:5-1, 5, and 6.3

Proposed: March 20, 2023, at 55 N.J.R. 515(a).  
Adopted: June 28, 2023, by the State Board of Agriculture and  
Douglas H. Fisher, Secretary, Department of Agriculture.  
Filed: June 30, 2023, as R.2023 d.091, **without change**.

Authority: N.J.S.A. 4:1-11.1, 4:1-17, 4:1-18, 4:1-21.5, and 4:5-1 et seq.

Effective Dates: June 30, 2023, Readoption;  
August 7, 2023, Amendments and New Rules.

Expiration Date: June 30, 2030.

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

In response to the notice of proposed readoption of N.J.A.C. 2:5 with amendments and new rules, the Department of Agriculture (“Department” or “NJDA”) received two separately submitted comments from a Jean Public.

COMMENT: In her comments on the proposal, Jean Public states that: (1) she opposes changing the word “horses” to “Equidae” because it is not a commonly used term, and its use may be an attempt to confuse or deceive the public; (2) she opposes providing quarantine authority to the Board as too broad, and she expresses great distrust of governmental decisions regarding health matters; (3) she opposes any expanded reach of embargoes on the importation of animals; (4) she opposes any reliance on animal health information coming from Federal or foreign government sources because she believes that the recent pandemic demonstrates that government agencies cannot be trusted; (5) she likewise opposes any