RULE ADOPTIONS

AGRICULTURE

(a)

DIVISION OF ANIMAL HEALTH
Laboratory Services
Readoption with Amendments: N.J.A.C. 2:10
Adopted New Rule: N.J.A.C. 2:10-2.4

Proposed: September 3, 2024, at 56 N.J.R. 1765(a).
Adopted: December 18, 2024, by the State Board of Agriculture and Edward D. Wengryn, Secretary, Department of Agriculture.
Filed: December 20, 2024, as R.2025 d.018, **with non-substantial changes** not requiring additional public notice or comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 4:5-2.1.

Effective Dates: December 20, 2024, Readoption; January 21, 2025, Amendments.
Expiration Date: December 20, 2031.

Summary of Public Comments and Agency Responses:

In response to the notice of the proposed readoption at N.J.A.C. 2:10 with amendments and a new rule, the New Jersey Department of Agriculture ("Department" or "NJDA") received public comments from the following individuals: Charlotte Lacroix, equine veterinarian; Michael N. Fugaro, VMD, DACVS; Kyle Clark, VMD; Ruth Lindberg, VMD, who is President of the New Jersey Association of Equine Practitioners (NJAEP) and who submitted her comment on behalf of the NJAEP; and a Jean Public.

The Department summarizes and responds to those comments as follows.

COMMENT: In their comments, Drs. Lacroix, Fugaro, Clark, and Lindberg object to the new fee at N.J.A.C. 2:10-1.2(i) for the processing of Coggins not performed at the NJDA Animal Health Diagnostic Laboratory (AHDL).

Dr. Lacroix contends that this fee penalizes veterinarians, and ultimately the horse owner, for using a laboratory other than AHDL for their EIA/Coggins testing. Dr. Lacroix asserts that, unlike the administrative responsibilities placed on the Department related to the processing of Certificates of Veterinary Inspection (CVIs), no similar burden is placed on NJDA when Coggins testing is performed at outside laboratories. Dr. Lacroix also expresses concern that this new fee might set a precedent for the Department to create, and later raise, fees for any mandated State testing regardless of the laboratory that has been used.

Similarly, Dr. Fugaro states that he sees no justification for the imposition of a fee when a veterinarian decides to use their preferred laboratory to perform a Coggins test, which to him seems only to serve as a penalty for not using the services of AHDL. Dr. Fugaro expresses concern for the precedent that might be established by imposing fees for services/tests not performed by AHDL.

Dr. Clark, too, objects to the processing fee for EIA testing not performed at the State AHDL, arguing that such a processing fee unjustly penalizes veterinarians for using their preferred laboratory for testing.

Likewise, Dr. Lindberg, on behalf of the NJAEP, objects to the processing fee for EIA testing not performed at the State AHDL. Dr. Lindberg states that the NJAEP board of directors could not find any evidence of another state agriculture department assessing a similar fee, and that the fee penalizes veterinarians, and ultimately horse owners, for using their preferred laboratory. Dr. Lindberg asserts that unlike the administrative responsibilities placed on the Department related to CVIs and their processing, no burden is placed on the NJDA when a Coggins test is performed at an outside laboratory. Dr. Lindberg also expresses concern that this new fee might set a precedent for the Department to create, and raise, fees for any mandated State testing regardless of the laboratory that has been used.

RESPONSE: The Department does not agree that the proposed fee for EIA/Coggins test processing is a penalty for use of a laboratory other than AHDL, but the Department understands that the way the notice of proposal was framed could be misunderstood as such. For that reason, non-substantial changes have been made to the rule as adopted in order to be clear that the fee for processing those test reports applies to all Coggins tests reported to the State Veterinarian.

Specifically, upon adoption, the phrase "for Coggins not performed at AHDL" has been deleted from the notice of proposal for a $1.00 EIA/Coggins processing fee at N.J.A.C. 2:10-1.2(i). That processing fee will apply to all EIA/Coggins testing that must be reported to the Department. At the same time, because that processing by the NJDA is part of the laboratory work that is being done for EIA/Coggins tests that are performed at AHDL, a notation has been added to the $8.00 fee for AGID EIA (Coggins) testing at N.J.A.C. 2:10-1.2(d), stating that the $8.00 fee includes the EIA/Coggins processing fee set forth at N.J.A.C. 2:10-1.2(i). That way, the rule will be clear that all Coggins testing that must be reported to the Department is subject to the processing fee, that the processing fee is not a penalty for using an approved laboratory other than AHDL, and that no precedent is being established to suggest that a fee can be charged for using a laboratory other than AHDL for required testing. Furthermore, it is important to note that, taken together, those two changes will have no net effect on the amount of fees that are to be charged to or collected from anyone when the rule as proposed is compared to the rule as adopted with those changes.

New N.J.A.C. 2:10-1.2(i) identifies the Department's processing of EIA/Coggins certification as an animal health test deemed necessary by the State Board of Agriculture for which a fee will be charged. As with the other fees established at N.J.A.C. 2:10-1.2, those fees will help to defray the costs involved in those activities. With respect to Coggins test results, the costs for those activities involve the review of those documents by the Department to ensure that the information that they provide is complete and that they demonstrate that the underlying testing or examination has been performed by a category II accredited veterinarian using an authorized laboratory.

The NJDA rules recognize the necessity and importance of the certification of Coggins test results. See, for example, N.J.A.C. 2:5-4.3 and 4.4; see also N.J.A.C. 2:3-6.2. Furthermore, in VS Guidance 15201.1, the United States Department of Agriculture (USDA) Animal and Plant Health Inspection Service (APHIS) Veterinary Services (VS) addresses EIA/Coggins testing by explaining, *inter alia*, what constitutes an "official test" for EIA, the "official test form" that is to be used for EIA test requests, the laboratory standards to be followed by an "approved EIA laboratory" when performing EIA testing, and the requirements that an approved EIA laboratory must follow with respect to the reporting of EIA test results. In particular, Section 6.G in VS Guidance 15201.1 provides, in pertinent part, that "Laboratories should forward official negative test results to the SAHO [State animal health official] ... where the animal resides ... at least monthly after completing the tests." The SAHO is to be provided with all preliminary non-negative test results (positive, suspect, discrepant, or equivocal), which are then sent to the National Veterinary Services Laboratories (NSVL) in Ames, Iowa for confirmation testing, which determines final results that are reported to the SAHO in the affected state. The State animal health official in New Jersey is the State Veterinarian or, in the case of the EIA test results, the NJDA Division of Animal Health staff member assigned the duty to review EIA test results. With respect to EIA test results, it is necessary for that NJDA staff member to review the results to ensure that all information required to be included therein is, in fact, reported and that the report has come from an authorized laboratory and category II accredited veterinarian. The necessity and importance of confirming that all EIA testing information has been properly reported has been reinforced by recent reports of fraudulent EIA test results. See https://paulickreport.com/horse-care-category/usda-revokes-eia-testing-approval-from-texas-lab-after-falsified-results.

What distinguishes EIA/Coggins tests results done by AHDL from test results performed and reported by outside laboratories is that, with respect to EIA testing done by AHDL, the assurance that all required information is included in the test report and that the report comes from an authorized laboratory and category II accredited veterinarians is part of the processing of the EIA testing results that is provided by AHDL, and, therefore, part of the $8.00 fee that is charged for EIA testing done by AHDL. When EIA testing results from AHDL are provided to the New Jersey State Veterinarian as required by VS Guidance 15201.1, no further processing by NJDA as to completeness and use of an authorized laboratory is necessary because that processing has occurred as part of the EIA testing services for which the user of the AHDL has already paid. Yet, that same processing is needed for EIA testing results for EIA testing that is not performed by AHDL, and that processing involves staff administrative time at a cost that exceeds the $1.00 fee provided at N.J.A.C. 2:10-1.2(i).

Department processing of Coggins tests is necessary to ensure their reliability and authenticity. The fee charged for that processing is not imposed as a penalty for laboratory choice, but rather it is a fee that defrays the administrative expense involved in accomplishing the review that ensures the reliability and authenticity of all Coggins test reports. As such, it is a critical part of the Department's efforts to prevent the transmission of Equine Infectious Anemia. Accordingly, for all the foregoing reasons and in consideration of the commenters' objections, the Department has decided to adopt the proposed processing fee for EIA/Coggins with the two non-substantial changes explained above that are intended to be responsive to the commenters' objections.

COMMENT: In his comment, Dr. Fugaro also states that he no longer uses AHDL for Coggins testing because of problems his staff purportedly had with the AHDL portal. He also criticizes the NJDA for not approving additional private laboratories to perform EIA testing in New Jersey. Dr. Fugaro also questions whether the NJDA can properly archive and maintain the data involved with the processing and storage of such EIA/Coggins information.

RESPONSE: Notwithstanding that those comments go beyond the scope of the notice of proposal, some response by the Department may be beneficial.

It is unclear precisely what problems Dr. Fugaro encountered with the AHDL portal other than his mention of cumbersome data entry and time involved in uploading information. AHDL uses two different third-party portals for Coggins reporting, namely, Global Vet Link (GVL) and USDA VSPS. The GVL portal charges a fee to veterinarians to submit a Coggins, irrespective of the laboratory that is used for the testing. USDA does not charge fees for use of the VSPS portal. However, VSPS is not user friendly. GVL is more user friendly. Veterinarians are encouraged to select the AHDL as their testing laboratory when submitting Coggins through GVL and send the samples to the AHDL using free overnight FedEx delivery provided by the AHDL. It is important to note that the NJDA AHDL does not own any electronic Coggins portals at this time.

As to Dr. Fugaro's criticism of the NJDA for not approving additional, private laboratories in New Jersey to perform EIA testing, the Department notes that AHDL has enough capacity to test all the horses in New Jersey. In addition, approving private laboratories to perform EIA testing in New Jersey will require personnel resources to regulate these labs pursuant to the USDA and State rules. The NJDA Division of Animal Health does not have the resources to take on the task of regulating additional laboratories.

Finally, as to Dr. Fugaro's concern that the NJDA may not be able to properly archive and maintain the data involved with the processing and storage of EIA/Coggins information, the Department notes that it has been doing so for years.

COMMENT: Drs. Fugaro, Clark, and Lindberg also object to the new $2.00 processing fee at N.J.A.C. 2:10-1.2(i) for all Certificates of Veterinary Inspection (CVIs). Dr. Fugaro asserts that many of the same arguments that he raised against the Coggins processing fee apply to the new processing fee for CVIs, but he does recognize that CVIs directly involve and create administrative responsibilities for the NJDA Division of Animal Health. Drs. Clark and Lindberg do not provide any specific arguments against the CVI processing fee, and Dr. Lindberg acknowledges that CVIs and their processing place administrative responsibilities on the Department.

RESPONSE: New N.J.A.C. 2:10-1.2(i) identifies the Department's processing of CVIs, and the Department's processing of EIA/Coggins certification for Coggins tests, as animal health tests deemed necessary by the State Board of Agriculture, for which a fee will be charged. As with the other fees established at N.J.A.C. 2:10-1.2, those fees will help to defray the costs involved in those activities.

The NJDA rules recognize the importance and necessity of the animal health certification that is documented by CVIs. See, for example, N.J.A.C. 2:3-1.2, 1.4, and 1.5. The nationwide system of CVIs that accompany the interstate movement of animals is designed to ensure that animals being moved interstate are healthy animals based on appropriate veterinary examination, testing, and certification. For animals in New Jersey that are to be moved interstate, CVIs are submitted on paper or electronically to the Department by an authorized veterinarian. When received, the New Jersey State Veterinarian is required to review and approve (endorse) those forms, perform data entry in the CVI database, and then route them to the state to which the animal is to be moved. That review requires the State Veterinarian to confirm that all required information is provided on the CVI form and that the New Jersey veterinarian who completed the CVI form is accredited in the State of New Jersey and allowed to complete a CVI for the animal species involved. Furthermore, the processing of a CVI by the Department involves staff administrative time at a cost that exceeds the $2.00 fee provided at N.J.A.C. 2:10-1.2(i). The processing of those forms by the Department to ensure their reliability and authenticity is essential to the proper functioning of that nationwide system designed to protect against the interstate transmission of animal diseases. Accordingly, for all the foregoing reasons and notwithstanding the commenters' objections, the Department has decided to adopt the proposed processing fee for CVIs.

COMMENT: In their comment, Jean Public makes the following points: (1) that the Department is not sufficiently protecting the health of farm animals, contending that sickness in animals is brought about by the use of chemicals, that the humane standards for the treatment of livestock have not improved since 1935, and that those rules should not be readopted without making changes; (2) that N.J.A.C. 2:10-2.3 should be eliminated, arguing that AHDL laboratory reports should be open to the public; (3) that, while agreeing that inflation has been substantial in recent years, cost increases affecting laboratory services are largely due to excessive government employee salaries and benefits, not the cost of the lab materials that are being used; and (4) that the proposed fees for the disposal of animal remains, particularly the disposal fee for small animals, appear to be very low compared to what private veterinarians seem to charge.

RESPONSE: The Department responds to each point made by the commenter as follows: (1) The Department believes that it properly and vigorously protects the health of livestock and poultry in New Jersey. Rules governing the humane treatment of domestic livestock are the subject of N.J.A.C. 2:8, not N.J.A.C. 2:10, which is the subject of this rulemaking. Nonetheless, it is not the case that the humane standards have not changed in nearly a century. N.J.A.C. 2:8 was first proposed in 2003 and adopted in 2004. Since then, those rules governing the humane treatment of domestic livestock have been reviewed at regular intervals by the Division of Animal Health and the State Board of Agriculture and readopted by the Department and the State Board of Agriculture, with amendments having been adopted in 2024. (2) As to N.J.A.C. 2:10-2.3, the Department believes that laboratory reports should continue to be regarded as confidential documents not subject to public disclosure for the reasons that were provided when that rule was proposed in 2019. See 50 N.J.R. 1920. (3) As to the need for fee increases, the commenter properly recognizes that economic inflation has been significant, but the commenter incorrectly places the blame on government employee salaries and benefits. As explained in the statements accompanying the notice of proposal, the major portion of each laboratory fee established at N.J.A.C. 2:10 is intended to defray the costs of the laboratory materials that are needed for the laboratory tests and other procedures performed at AHDL, and recent inflation has substantially increased the cost of those laboratory materials. (4) Lastly, the new definition of the term "disposal fee" at N.J.A.C. 2:10-1.1 makes clear that "NJDA AHDL does not accept animals for disposal separate or apart from the performance of necropsy services." Therefore, the commenter's suggestion that private veterinarians might be

charging higher amounts for the disposal of animal remains is not an appropriate comparison of like-kind services.

Federal Standards Statement

A Federal standards analysis is not required because there are no Federal standards or requirements applicable that govern the operation of animal health fee for service diagnostic laboratories.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 2:10.

Full text of the adopted amendments and new rule follows (addition to proposal indicated in boldface with asterisks ***thus***; deletion from proposal indicated in brackets with asterisks *[thus]*):

SUBCHAPTER 1. FEE SCHEDULE

2:10-1.1 Definitions

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.

. . .

"Certificate of Veterinary Inspection" means an official New Jersey certificate issued by an accredited New Jersey veterinarian indicating that an animal present in New Jersey has been examined and otherwise tested for disease and attesting to the good health of said animal. Such certificates are prepared by New Jersey veterinarians for submission to, and review by, the Division of Animal Health in connection with the export of animals from New Jersey. Such certificates may be submitted to the Division of Animal Health either in paper format on official forms provided by the Division of Animal Health, or in electronic format through vendors of electronic Certificates of Veterinary Inspection (eCVI) who have entered into an agreement with the Department to submit such certificates electronically in the manner and pursuant to the terms and conditions set forth in such agreement during the term of such agreement.

. . .

"Disposal fee" means the fee charged to dispose of the remains of an animal after a necropsy has been performed. NJDA AHDL does not accept animals for disposal separate or apart from the performance of necropsy services.

. . .

"Forensic necropsy" means a necropsy procedure that attempts to establish the manner of death, any contributory causes, and if possible, the time of death. This type of necropsy is reserved for investigation of animal-related crimes or other situations that have legal implications (including matters involving insurance claims) and goes beyond standard necropsy in its objectives and relevance.

. . .

"Laboratory" or "AHDL" means the New Jersey Department of Agriculture, Animal Health Diagnostic Laboratory.

"NJCHAP" means the New Jersey Cattle Health Assurance Program. As used in this chapter, "NJCHAP" shall also include the New Jersey Sheep and Goat Health Assurance Program.

. . .

2:10-1.2 Fees

(a) For all veterinary diagnostic services for which there is no flat rate user fee listed—for instance, due to the introduction of a new test format—the hourly rate user fee will be calculated for the actual time, labor, administrative, and material costs required to provide the service.

(b) Fees for bacteriology isolation and identification tests are as follows:

Technique	Charge
Aerobic culture and identification	$30.00
Anaerobic culture and identification	$40.00
. . .	
Fungal culture	$30.00
. . .	
Mycoplasma culture	$25.00
Sensitivities (Kirby Bauer)	$20.00
Sensitivities (MICs)	$30.00
Johne's culturing per animal (NJCHAP)	$20.00
Johne's culturing per animal (non-NJCHAP)	$30.00
Leptospira microagglutination titer (MAT)	$25.00
Caseous lymphadenitis SHI	$15.00
Bacterial isolate identification	$15.00

(c) Fees for virology identification tests are as follows:

Technique	Charge
. . .	
Serum neutralization	$20.00
Direct fluorescent antibody (for agent)	$25.00
Indirect fluorescent antibody (for antibody)	$20.00
IgM antibody capture ELISA	$25.00
IgG antibody capture ELISA	$25.00
Western blot	$45.00
Virus isolation	$70.00
Fish virus isolation per cell line	$25.00
Fish tissue collection for health inspection per fish	$3.00

(d) Fees for serology are as follows:

Technique	Charge
. . .	
AGID EIA (Coggins)	$8.00 ***(includes the EIA/Coggins processing fee set forth at (i) below***
. . .	
ELISA	$22.00
Agglutination tests (card, plate, tube, rivanol, microtiter)	$5.00

(e) Fees for pathology are as follows:

Technique	Charge
Ova and parasites, qualitative	$15.00
Ova and parasites, quantitative	$20.00
Necropsies for domestic livestock:	
Necropsy small livestock animal (up to 100 lbs) May include histopathology, up to two cultures, and fecal exam at discretion of the laboratory	$100.00
Necropsy large livestock animal (101 to 300 lbs) May include histopathology, up to cultures, and fecal exam at discretion of the laboratory	$150.00
Necropsy large livestock animal (greater than 300 lbs) May include histopathology, up to two cultures, and fecal exam at discretion of the laboratory	$200.00

Technique	Charge
Necropsy poultry (up to two birds) May include histopathology, aerobic up to two cultures, and fecal exam at discretion of the laboratory, and includes disposal	$75.00
Brain removal head only	$50.00
Histology ("necropsy in bottle")	
up to six tissues/sites	$125.00
More than six tissues/sites	$175.00
Histology (biopsies)	
First site	$75.00
Each additional site	$20.00
Field necropsy with sample collection	$75.00/hour
Field sample collection (field courier)	$35.00/hour
Necropsies for animals that are not domestic livestock	
Necropsy—Avian (pet/exotic/zoo/wildlife) per bird May include histopathology, up to two cultures, and fecal exam at the discretion of the laboratory	$250.00
Necropsy—Canine and Feline May include histopathology, up to two cultures, and fecal exam at the discretion of the laboratory	$350.00
Necropsy—Equine, based on animal weight May include histopathology, up to two cultures, and fecal exam at the discretion of the laboratory	
Less than 200 lbs	$200.00
200-500 lbs	$250.00
501-800 lbs	$350.00
More than 800 lbs	$450.00
Necropsy for other non-livestock animals (0 to 50 lbs) May include histopathology, up to two cultures, and fecal exam at discretion of the laboratory	$200.00
Necropsy for other non-livestock animals (51 to 100 lbs) May include histopathology, up to two cultures, and fecal exam at discretion of the laboratory	$250.00
Necropsy for other non-livestock animals (101 to 300 lbs) May include histopathology, up to two cultures, and fecal exam at discretion of the laboratory	$300.00
Necropsy for other non-livestock animals (301 to 500 lbs) May include histopathology, up to two cultures, and fecal exam at discretion of the laboratory	$350.00
Necropsy for other non-livestock animals (greater than 500 lbs) May include histopathology, up to two cultures, and fecal exam at discretion of the laboratory	$500.00
Necropsy fish (per fish) Gross exam	$50.00
Spinal cord, or section thereof, removal (<100 lbs)	$100.00
Spinal cord, or section thereof, removal (>100 lbs)	$175.00
Case consultation fee (external fee)	$75.00/hour
Cosmetic necropsy (pets up to 100 lbs)	$500.00
Disposal fees (except poultry), based on animal weight:	
Up to 50 lbs	$25.00
50 to 100 lbs	$50.00
101 to 200 lbs	$75.00
201 to 300 lbs	$125.00
301 to 500 lbs	$175.00
501 to 900 lbs	$250.00
Over 900 lbs	$350.00
Disposal of regulated medical waste	Actual charge
Carcass handling and preparation for off-site cremation	$25.00
Other pathology fees:	
Orthopedic examination	$150.00
Cytology	$60.00
. . .	
Slide made, H and E stained	$15.00

(f) Fees for test batteries or syndrome panels are as follows:

Contagious equine metritis quarantine procedures	
Quarantine supervision and laboratory testing: stallion	$1,650
Quarantine supervision and laboratory testing: mare	$675.00

Fees for all other test batteries or syndrome panels will be charged at a discount of 20 percent below the cost that otherwise would be charged on each in-house component test that is part of the battery/panel. The battery/panel shall be composed by laboratory diagnosticians to facilitate the most economical and accurate diagnosis of clinical conditions by grouping tests. Laboratory diagnosticians may compose such panels/batteries, as needed, in response to prevalent disease conditions and/or client requests. Any costs of tests done by an outside laboratory as part of the battery/panel will be passed on to the client/requester pursuant to (h) below.

(g) Fees for molecular diagnostic services are as follows:

PCR (Uniplex: one probe)	$42.00
PCR (Duplex: two probes)	$60.00
PCR (Multiplex: greater than two probes)	$15.00 per additional probe

(h) Services listed at (b) through (g) above are subject to availability of materials and demand for services. When a service is unavailable, the service may be referred to an external laboratory with notice to the submitter and documented consent. Costs will be calculated as the actual laboratory test fee(s) and any shipping and handling.

(i) Fees for other animal disease diagnostic and testing services and other animal health tests deemed necessary by the State Board of Agriculture:

EIA/Coggins processing fee *[for Coggins not performed at AHDL]*..... $1.00

Certificate of Veterinary Inspection..... $2.00

The fee for a Certificate of Veterinary Inspection (CVI) that is provided to a New Jersey veterinarian in paper format is due and payable at the time that the Department issues the blank Certificate of Veterinary Inspection to the veterinarian. Paper format CVIs are issued to veterinarians in booklets of 25. An additional charge for postage will be included in the total amount due when providing CVIs in paper format. The fee for a Certificate of Veterinary Inspection in electronic format is due and payable to the authorized vendor at the time such forms are accessed and submitted through the vendor's website, and authorized vendors shall remit those fees to NJDA pursuant to the terms of their agreement with NJDA.

SUBCHAPTER 2. TERMS OF LABORATORY SERVICES

2:10-2.3 Records designated confidential

In addition to records designated as confidential pursuant to the provisions of the Open Public Records Act (OPRA), N.J.S.A. 47:1A-1 et seq., and any other law, rule, Executive Order of the Governor, resolution of both houses of the Legislature, Rule of Court, or any Federal law or regulation, complete (final) and intermediate (interim) reports, including necropsy reports, shall not be considered government records subject to public access pursuant to OPRA.

2:10-2.4 Collections

Unpaid balances will be sent to collection per applicable New Jersey Department of the Treasury rules or circular. First-time clients may be required to pay a deposit equal to the expected cost of the testing.

COMMUNITY AFFAIRS

(a)

DIVISION OF FIRE SAFETY

Standard for the Certification of Fire Protection Equipment Contractors

Readoption: N.J.A.C. 5:74

Proposed: August 5, 2024, at 56 N.J.R. 1279(a).
Adopted: December 12, 2024, by Jacquelyn A. Suárez, Commissioner, Department of Community Affairs.
Filed: December 12, 2024, as R.2025 d.012, **without change, but with the proposed amendments at N.J.A.C. 5:74-1.4, 2.1, 2.2, 2.3, 2.4, 2.10, proposed repeal at N.J.A.C. 5:74-2.9, and proposed new rules at N.J.A.C. 5:74-1.6 and 1.7 not adopted, but still pending**.

Authority: N.J.S.A. 52:27D-25gg.

Effective Date: December 12, 2024.
Expiration Date: December 12, 2031.

Please take notice that this notice of adoption serves to readopt the existing rules at N.J.A.C. 5:74. The chapter was set to expire in its entirety on January 2, 2025, pursuant to N.J.S.A. 52:14B-5.1.c(2). The Department of Community Affairs (Department) initially proposed to readopt the chapter in its entirety with amendments, a repeal, and proposed new rules. Those changes are not part of this readoption.

The Department is not adopting the changes at this point in time, as, upon evaluating the public comments on the notice of proposal, it has determined that it must propose substantial changes based on the public comments received, and such revisions require an additional notice to be published to put the changes out for public comment for 60 days pursuant to N.J.A.C. 1:30-6.3. Therefore, due to the impending expiration of the chapter on January 2, 2025, the Department has elected to readopt the chapter in its entirety and is filing with this notice of adoption, a notice of proposed substantial changes, which is also published in this issue of the New Jersey Register.

Summary of Public Comment and Agency Response:

No comments were received regarding the readoption of existing N.J.A.C. 5:74.

Federal Standards Statement

A Federal standards analysis is not required because these rules are not readopted in order to implement, comply with, or participate in any program established pursuant to Federal law or pursuant to a State law that incorporates or refers to Federal law, standards, or requirements.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 5:74.

ENVIRONMENTAL PROTECTION

(b)

DIVISION OF FISH AND WILDLIFE

Notice of Readoption
Oysters
Readoption: N.J.A.C. 7:25A

Authority: N.J.S.A. 13:1D-9, 23:2B-14, 50:1-1 et seq., 50:2-7 through 50:2-12, and 50:3-1 et seq.

Authorized By: Shawn M. LaTourette, Commissioner, Department of Environmental Protection.

Effective Date: December 12, 2024.
New Expiration Date: December 12, 2031.

Take notice that pursuant to N.J.S.A. 52:14B-5.1, the rules for Oysters at N.J.A.C. 7:25A are readopted and shall continue in effect for a seven-year period. The rules were scheduled to expire on February 28, 2025. The Department of Environmental Protection (Department) has reviewed these rules and has determined that the rules should be readopted because they are necessary, reasonable, and proper for the purpose for which they were originally promulgated. In accordance with N.J.S.A. 52:14B-5.1.c(1), timely filing of this notice extended the expiration date of the chapter seven years from the date of filing.

The Oysters rules, N.J.A.C. 7:25A, govern the management and harvest of oysters from the Delaware River, Delaware Bay, and their tributaries. The rules govern the issuance, renewal, and transfer of oyster dredge vessel licenses, the leasing of oyster ground in Section E in the Delaware Bay (located west of Egg Island Point), the reporting of oysters harvested, and fees for an oyster cultch and resource enhancement program. The rules also govern the harvest of oysters from the State's natural seed beds in the Delaware Bay and the transplant of oysters from the seed beds directly to leased grounds in the Delaware Bay.

(c)

OFFICE OF THE COMMISSIONER

Notice of Administrative Correction
Environmental Justice
N.J.A.C. 7:1C-7.1

Effective Date: December 18, 2024.

Take notice that the Department of Environmental Protection (Department) has found a cross-reference error at N.J.A.C. 7:1C-7.1(c). At N.J.A.C. 7:1C-7.1(c), there is a reference to "each contaminant identified at N.J.A.C. 7:27-7.1(b)." The identified contaminants are codified at N.J.A.C. 7:1C-7.1(a). The cross-reference to N.J.A.C. 7:27-7.1(b) is corrected to "(a) above."

Take notice that the Department discovered an obvious error at N.J.A.C. 7:1C-7.1(a)2. Specifically, there is an incorrect reference to