

**CHAPTER 9  
AVIAN INFLUENZA**

**Authority**

N.J.S.A. 4:1-11, 4:1-21.2, 4:1-21.5,  
4:5-1 through 17, and 4:5-94 through 106.

**Source and Effective Date**

R.2007 d.19, effective December 15, 2006.  
See: 38 N.J.R. 3203(a), 39 N.J.R. 185(a).

**Chapter Expiration Date**

Chapter 9, Avian Influenza, expires on December 15, 2011.

**Chapter Historical Note**

Chapter 9, Avian Influenza, was adopted as R.1986 d.250, effective July 7, 1986. See: 18 N.J.R. 870(a), 18 N.J.R. 1370(a). Pursuant to Executive Order No. 66(1978), Chapter 9, Avian Influenza, expired on July 7, 1991.

Chapter 9, Avian Influenza, was readopted as new rules by R.1991 d.430, effective August 19, 1991. See: 23 N.J.R. 1485(a), 23 N.J.R. 2498(a).

Pursuant to Executive Order No. 66(1978), Chapter 9, Avian Influenza, was readopted as R.1996 d.400, effective July 26, 1996. See: 28 N.J.R. 2815(b), 28 N.J.R. 3915(a).

Chapter 9, Avian Influenza, was readopted as R.2001 d.284, effective July 20, 2001. See: 33 N.J.R. 1887(a), 33 N.J.R. 2806(b).

Subchapter 2, General Provisions, Subchapter 3, Live Bird Markets, Subchapter 4, Poultry Distributors, Subchapter 5, Production/Supplier Flocks and Subchapter 6, Penalties, were adopted as new rules by R.2006 d.201, effective June 5, 2006. See: 38 N.J.R. 865(a), 38 N.J.R. 2413(a).

Chapter 9, Avian Influenza, was readopted as R.2007 d.19, effective December 15, 2006. See: Source and Effective Date. See, also, section annotations.

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**SUBCHAPTER 1. INDEMNIFICATION AND DISPOSAL COSTS**

**2:9-1.1 Indemnities**

(a) The handling and disposition of any and all poultry, poultry products or equipment, which is in the opinion of the Department of Agriculture likely to spread or harbor Avian Influenza shall be dealt with in accordance to the directives of the Division of Animal Health of the New Jersey Department of Agriculture.

(b) Indemnity to be paid for any bird destroyed pursuant to an order of the Department shall be the market value of the type and classification of the average bird of such type and kind. No indemnity for any one bird shall exceed \$20.00 per bird.

(c) No indemnity shall be paid for any actions not taken pursuant to a directive of the Department, or in contradiction of a directive of the Department.

(d) Subsections (a) through (c) above shall not apply to premises quarantined pursuant to this chapter for infection with Avian Influenza more than twice within the registration year.

Amended by R.2006 d.201, effective June 5, 2006.  
See: 38 N.J.R. 865(a), 38 N.J.R. 2413(a).  
Added (d).

**2:9-1.2 Disposal costs**

(a) The disposal costs of any birds destroyed pursuant to a directive of or by the Department shall be paid as follows:

1. Should the owner undertake to dispose of the birds pursuant to the directives of the Department, the owner shall submit the disposal bill to the Department. If the Department finds the bill reasonable, the Department shall reimburse the bill, or such costs as the Department deems reasonable.
2. No disposal undertaken without Department supervision, or in contradiction to the directives of the Department, shall be paid.

(b) Subsection (a) above shall not apply to premises quarantined pursuant to this chapter for infection with Avian Influenza more than twice within the registration year.

Amended by R.2006 d.201, effective June 5, 2006.  
See: 38 N.J.R. 865(a), 38 N.J.R. 2413(a).  
Added (b).

**2:9-1.3 (Reserved)**

Repealed by R.2006 d.201, effective June 5, 2006.  
See: 38 N.J.R. 865(a), 38 N.J.R. 2413(a).  
Section was "Movement into live poultry markets".

**2:9-1.4 (Reserved)**

Repealed by R.2006 d.201, effective June 5, 2006.  
See: 38 N.J.R. 865(a), 38 N.J.R. 2413(a).  
Section was "Definitions".

**SUBCHAPTER 2. GENERAL PROVISIONS****2:9-2.1 Definitions**

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

"Accredited veterinarian" means a veterinarian approved by the Administrator of USDA, Animal and Plant Health Inspection Service (APHIS), in accordance with the provisions of 9 CFR Part 161, to perform functions required by state-Federal-industry cooperative programs.

"Animal health official" means a full-time employee of any state animal health department or of APHIS who has authority from the State Veterinarian or the area veterinarian in charge to carry out program activities.

"APHIS-VS" means Animal and Plant Health Inspection Service — Veterinary Services.

"Area veterinarian in charge" means the APHIS veterinarian who is assigned by the Administrator of the Animal and Plant Health Inspection Service to supervise and perform official duties of APHIS in a specified state or states. Information as to the name and address of the Regional Director for the state or states concerned can be obtained by writing to the Animal and Plant Health Inspection Service, Animal Care, 4700 River Road, Unit 84, Riverdale, MD 20737-1234.

"Certificate of Veterinary Inspection" means an official document which includes:

1. The information outlined in N.J.A.C. 2:3-1.4;
2. A statement made by the examining veterinarian that includes the date, a statement of negative avian influenza status and lab accession number(s) of qualifying tests; and
3. A statement verifying that the identified poultry are from a monitored flock or tested flock.

"Certified poultry technician" means an individual who has been specially trained in poultry health monitoring and specimen collection by the state in which they are certified, who is included on an official list of technicians certified by the state in which they reside to perform inspections and specimen collections, and whose state certification program

has been approved by the NJDA. A state's certification program, at a minimum, must contain standards for:

1. Certification that include training in sample collection, sample handling and submission, biosecurity protocol and poultry health monitoring;
2. Recertification that includes an annual training update, review of the technician's testing history and paperwork, and review of reports of non-compliance with poultry certificate requirements and biosecurity protocol; and
3. Termination of certification that include disciplinary action protocols.

"Distribution system" means businesses engaged in the transportation and/or sale of poultry to the live bird markets, including, but not limited to, poultry distributors, wholesalers, poultry dealers, haulers/truckers, and qualified poultry auctions.

"Established flock" means poultry of the same species held together on one premises for at least 21 consecutive days; or at the discretion of the State Veterinarian, any group of poultry on one premises that has been segregated from another group for at least 21 consecutive days.

"Hauler/trucker" means a business entity or individual that transports poultry from producer/supplier premises to another producer/supplier, a poultry distributor, a live bird market, or qualified poultry auction.

"Live bird market" or "live bird marketing" means any facility that gathers live poultry to be slaughtered and sold onsite. End-stage poultry markets that are not "slaughter-only" markets, will require development and approval of special biosecurity safeguards pursuant to N.J.A.C. 2:9-2.2(b)7 and inspections to ensure that they meet the requirements of this chapter and are successful in the prevention and control of low pathogenicity avian influenza.

"Live bird marketing system" means live bird markets and their production/supplier flocks and distribution systems.

"Monitored flock" means an established flock that meets the following criteria:

1. A sample size of at least 30 birds is tested monthly for signs of avian influenza. If the flock contains less than 30 birds, all birds within the flock must be tested monthly;
2. The birds tested have tested negative for avian influenza for three consecutive months;
3. The flock is registered with the New Jersey Department of Agriculture pursuant to N.J.A.C. 2:9-2.2;
4. No birds of lesser status have been added to the flock. When birds of lesser status are added to the flock, the flock loses its monitored status. After waiting 21