

TITLE 2

DEPARTMENT OF AGRICULTURE

CHAPTER 1

SUBCHAPTER 1. (RESERVED)

ADMINISTRATION

Authority

N.J.S.A. 52:14B-3(1) and (2); 52:14B-4(b).

Source and Effective Date

R.1990 d.579, effective November 19, 1990.
See: 22 N.J.R. 2865(a), 22 N.J.R. 3478(b).

Executive Order No. 66(1978) Expiration Date

Chapter 1, Administration, will expire on November 19, 1995.

Chapter Historical Note

Chapter 1, Administration, was originally filed and became effective prior to September 1, 1969. Subchapter 2, Organization, was readopted pursuant to Executive Order No. 66(1978) by R.1983 d.528, effective November 1, 1983. See: 15 N.J.R. 1538(a), 15 N.J.R. 1939(d). Pursuant to Executive Order No. 6(1978), Chapter 1, Administration, expired on September 3, 1990. The chapter was subsequently adopted as new rules, with subchapter 1 being reserved, by R.1990 d.579, effective November 19, 1990. See: Source and Effective Date.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. (RESERVED)

SUBCHAPTER 2. ORGANIZATION

- 2:1-2.1 Department responsibilities
- 2:1-2.2 Tables of organization
- 2:1-2.3 Functions of departmental units

SUBCHAPTER 3. RULES OF PRACTICE

- 2:1-3.1 Purpose of rules of practice
- 2:1-3.2 Development of rules
- 2:1-3.3 Procedure to petition for a rule
- 2:1-3.4 Hearings
- 2:1-3.5 Instructions for Departmental forms on file
- 2:1-3.6 Information available to public
- 2:1-3.7 Public records; copies; fees

SUBCHAPTER 4. DISABILITY DISCRIMINATION
GRIEVANCE PROCEDURE

- 2:1-4.1 Definitions
- 2:1-4.2 Purpose
- 2:1-4.3 Required ADA notice
- 2:1-4.4 Designated ADA coordinator
- 2:1-4.5 Complaint procedure
- 2:1-4.6 Complaint contents
- 2:1-4.7 Complaint form
- 2:1-4.8 Investigation

SUBCHAPTER 2. ORGANIZATION

2:1-2.1 Department responsibilities

The State Department of Agriculture is responsible for development, regulatory, service, promotion and information programs in support of agriculture and agribusiness and those natural and renewable resources associated with agriculture and open lands for the benefits of all citizens as prescribed in Titles 4, 5, 13, 24, 54 and other applicable titles in the New Jersey Statutes Annotated.

2:1-2.2 Tables of organization

Tables showing the organization of the Department and the major sections within each Division are appended to the end of this chapter.

2:1-2.3 Functions of departmental units

(a) Functions of the various units within the State Department of Agriculture are as follows:

1. The State Board of Agriculture is the head of the Department and consists of eight farmers of the State engaged in the production of farm crops or livestock. The State Board of Agriculture, with the approval of the Governor, appoints the Secretary of Agriculture who serves as the principal executive officer of the Department and secretary to the Board. The Board has the authority to establish rules and regulations for its own proceedings and for the government, control and program performance of the Department.

2. The Office of the Secretary includes the Secretary of Agriculture, an Assistant Secretary and an Associate Secretary. It is responsible for the executive management policy development, legislative liaison, public information programs and rules for the Department and the State Board of Agriculture.

3. The Division of Administration provides personnel, budget, accounting, training and administrative support services to the Divisions.

4. The Division of Animal Health is responsible for programs for the prevention, control and eradication of livestock and poultry diseases affecting such livestock, livestock products, and human health.

5. The Division of Dairy Industry is responsible for fostering a stable and competitive dairy industry, including the regulation and enforcement of the production and distribution of fluid dairy products.

6. The Division of Markets provides market development services, market news, support for agricultural cooperatives, equine programs, product promotion, and distributes Federal donated food to schools, institutions and qualified individuals.

7. The Division of Plant Industry is responsible for programs to prevent, control and eradicate pests and diseases of plants and trees; conducts beneficial insect development and production, and provides seed certification and control.

8. The Division of Regulatory Services is responsible for the quality assurance of animal feeds, fertilizers, agricultural liming materials, agricultural product grading and inspection, and the regulation of credit buyers of perishable agricultural products.

9. The Division of Rural Resources provides programs and services to support farming, agricultural and rural development, soil and water conservation, agricultural statistics, farmland retention, and conducts studies on rural issues through the Rural Advisory Council.

10. Functions of units assigned to the State Department of Agriculture are as follows:

i. The State Agriculture Development Committee is independent of, but allocated within the Department of Agriculture. It administers the Farmland Preservation Program which consists primarily of cooperative easement purchase programs with local government and a soil and water conservation cost-share program with landowners.

SUBCHAPTER 3. RULES OF PRACTICE

2:1-3.1 Purpose of rules of practice

The State Board of Agriculture and the New Jersey Department of Agriculture, in order to more fully represent and carry out their duties and functions, adopts this subchapter as its rules of practice.

2:1-3.2 Development of rules

(a) Rules shall be clear and concise to encourage the maximum amount of voluntary compliance by those who are regulated.

(b) Rules may be established by the Board for its own proceedings, for the governing and control of the Department,

its programs, and the officers and employees of the Department.

(c) The Department shall provide the maximum amount of public participation in the review of existing or establishment of proposed rules.

2:1-3.3 Procedure to petition for a rule

(a) An interested person may petition for the promulgation, amendment or repeal of any rule of the Department of Agriculture. A petition shall be in writing, shall be legible and intelligible and shall be signed by the petitioner. Each petition shall contain the following information:

1. The full name and address of the petitioner;
2. The substance or nature of the rulemaking which is requested;
3. The reasons for the request; and
4. The statutory authority under which the Department of Agriculture may take the requested action.

(b) The Department of Agriculture shall immediately date stamp and log each document submitted as a petition. Upon filing, the Department of Agriculture shall forthwith publish the notice of petition for a rule in the New Jersey Register pursuant to the requirements of N.J.A.C. 1:30-3.6(a).

(c) No later than 30 days after receiving a petition, the Department of Agriculture shall mail to the petitioner and file for publication in the New Jersey Register, a notice of action on the petition which shall contain the information prescribed by N.J.A.C. 1:30-3.6(b). The notice of action shall include either:

1. A statement denying the petition;
2. A notice of proposed rule or a notice of pre-proposal for a rule for publication in the Register; or
3. A statement that the matter is being referred for further deliberations, the nature of which shall be specified and which shall conclude upon a date certain. The results of these further deliberations shall be mailed to the petitioner and shall be submitted for publication in the Register.

2:1-3.4 Hearings

(a) Any person who feels aggrieved by any action or inaction of the Department may request an informal meeting with the Department to settle any dispute, or seek clarification of the Department's rules and regulations. The Department shall respond, in writing, to any such request stating the reasons for its determination.

(b) If any dispute is required by law or regulation to be heard formally, or if the Department determines the matter a contested one, the matter shall be treated in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

2:1-3.5 Instructions for Departmental forms on file

A description and instructions for use of the forms used in carrying out the Department's responsibilities may be obtained from the Office of the Secretary, Department of Agriculture, Trenton, N.J. 08625.

2:1-3.6 Information available to public

(a) The public may obtain complete information or make submissions or requests concerning any Departmental programs by contacting the Office of the Secretary, Department of Agriculture, Trenton, N.J. 08625.

(b) An annual report of all Department activities is made to the Governor and Legislature. Copies are available from the Public Information Office, N.J. Department of Agriculture, Trenton, N.J. 08625.

2:1-3.7 Public records; copies; fees

(a) All records which are required by law to be made, maintained, or kept on file shall be considered public records.

This includes records of all public meetings of the New Jersey State Board of Agriculture and all other Boards, Committees or Councils of the Department. Such records are available for reasonable inspection, under supervision, during regular working hours at the main offices of the New Jersey Department of Agriculture, John Fitch Plaza, Trenton, New Jersey.

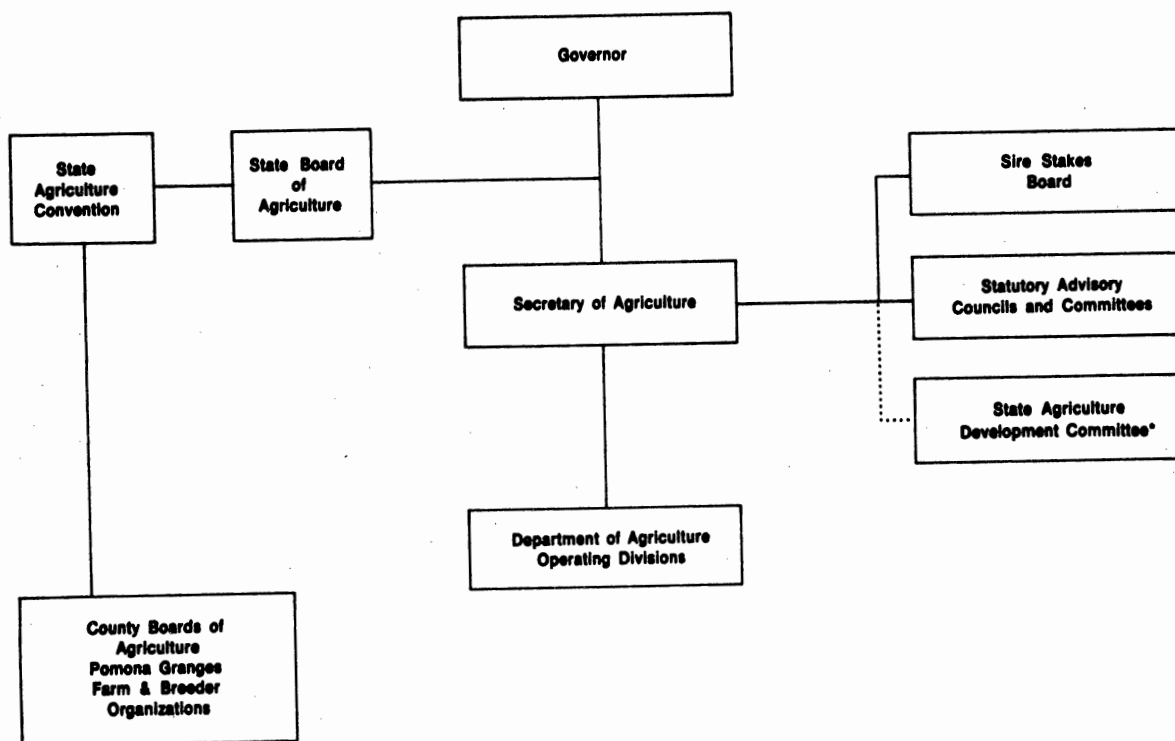
(b) Any person may obtain copies of public records by written request upon payment of a fee as follows:

1. First page to tenth page: \$0.50 per page;
2. Eleventh page to 20th page: \$0.25 per page;
3. All pages over 20: \$0.10 per page.

(c) The Department may charge the costs of any delivery service over and above ordinary Postal Service rates for any requested overnight, express or other special delivery service.

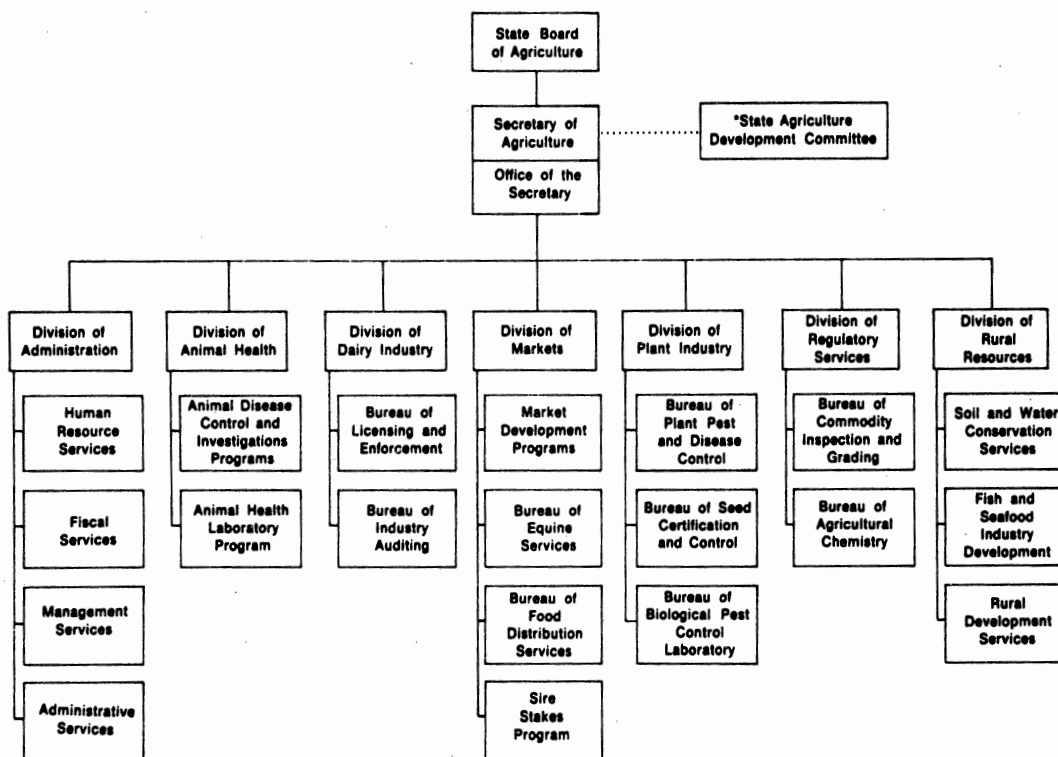
(d) Records may be requested for transmittal by a telefacsimile machine upon payment, for cost reimbursement, at the rate of \$5.00 per page.

(e) Payment shall be made by check payable to the New Jersey Department of Agriculture.



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NEW JERSEY DEPARTMENT OF AGRICULTURE



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SUBCHAPTER 4. DISABILITY DISCRIMINATION GRIEVANCE PROCEDURE

Authority

N.J.S.A. 4:1-11, 42 U.S.C. 12101 et seq. and 28 C.F.R. 35.107.

Source and Effective Date

R.1993 d.274, effective June 7, 1993.
See: 25 N.J.R. 1314(a), 25 N.J.R. 1338(a), 25
N.J.R. 2247(a), 25 N.J.R. July 6, 1993.

2:1-4.1 Definitions

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

"ADA" means the Americans with Disabilities Act, 42 U.S.C.A. § 12101 et seq.

"Agency" means the New Jersey Department of Agriculture.

"Designated decision maker" means the Secretary of Agriculture or his or her designee.

2:1-4.2 Purpose

(a) These rules are adopted by the agency in satisfaction of the requirements of the ADA and regulations promulgated pursuant thereto, 28 C.F.R. 35.107.

(b) The purpose of these rules is to establish a designated coordinator whose duties shall include assuring that the agency complies with and carries out its responsibilities under the ADA. Those duties shall also include the investigation of any complaint filed with the agency pursuant to N.J.A.C. 2:1-4.5 through 4.8.

2:1-4.3 Required ADA notice

In addition to any other advice, assistance or accommodation provided, a copy of the following notice shall be given to anyone who inquires regarding the agency's compliance with the ADA or the availability of accommodation which would allow a qualified individual with a disability to receive services or participate in a program or activity provided by the agency.

AGENCY NOTICE OF ADA PROCEDURE

The agency has adopted an internal grievance procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by the U.S. Department of Justice regulations implementing Title II of the Americans with Disabilities Act. Title II states, in part, that "no otherwise qualified disabled individual shall, solely by reason

of such disability, be excluded from participation in, be denied the benefits of or be subjected to discrimination" in programs or activities sponsored by a public entity.

Rules describing and governing the internal grievance procedure can be found in the New Jersey Administrative Code, N.J.A.C. 2:1-4. As those rules indicate, complaints should be addressed to the agency's designated ADA coordinator, who has been designated to coordinate ADA compliance efforts, at the following address:

ADA Coordinator

New Jersey Department of Agriculture
CN 330

Trenton, New Jersey 08625

1. A complaint may be filed in writing or orally, but should contain the name and address of the person filing it, and briefly describe the alleged violation. A form for this purpose is available from the designated ADA coordinator. In cases of employment related complaints, the procedures established by the Department of Personnel, N.J.A.C. 4A:7-1.1 et seq. will be followed where applicable.

2. A complaint should be filed promptly within 20 days after the complainant becomes aware of the alleged violation. (Processing of allegations of discrimination which occurred before this grievance procedure was in place will be considered on a case-by-case basis).

3. An investigation, as may be appropriate, will follow the filing of a complaint. The investigation will be conducted by the agency's designated ADA Coordinator. The rules contemplate informal but thorough investigations, affording all interested persons and their representatives, if any, an opportunity to submit evidence relevant to a complaint.

4. In most cases a written determination as to the validity of the complaint and a description of the resolution, if any, will be issued by the designated decision maker and a copy forwarded to the complainant no later than 45 days after its filing.

5. The ADA coordinator will maintain the files and records of the agency relating to the complaints filed.

6. The right of a person to a prompt and equitable resolution of the complaint filed hereunder will not be impaired by the person's pursuit of other remedies such as the filing of an ADA complaint with the responsible Federal department or agency or the New Jersey Division on Civil Rights. Use of this grievance procedure is not a prerequisite to the pursuit of other remedies.

7. The rules will be construed to protect the substantive rights of interested persons, to meet appropriate due process standards and to assure that the agency complies with the ADA and implementing Federal rules.

2:1-4.4 Designated ADA coordinator

(a) The designated coordinator of ADA compliance and complaint investigation for the agency is:

ADA Coordinator
New Jersey Department of Agriculture
CN 330
Trenton, New Jersey 08625

(b) All inquiries regarding the agency's compliance with the ADA and the availability of accommodation which would allow a qualified individual with a disability to receive services or participate in a program or activity provided by the agency should be directed to the designated coordinator identified in (a) above.

(c) All complaints alleging that the agency has failed to comply with or has acted in a way that is prohibited by the ADA should be directed to the designated ADA coordinator identified in this section, in accordance with the procedures set forth in N.J.A.C. 2:1-4.5 through 4.8.

2:1-4.5 Complaint procedure

A complaint alleging that the agency has failed to comply with the ADA or has acted in a way that is prohibited by the ADA shall be submitted either in writing or orally to the designated ADA coordinator identified in N.J.A.C. 2:1-4.4. A complaint alleging employment discrimination will be processed pursuant to the rules of the Department of Personnel, N.J.A.C. 4A:7-1.1 through 3.4, if those rules are applicable.

2:1-4.6 Complaint contents

(a) A complaint submitted pursuant to this subchapter may be submitted in or on the form set forth at N.J.A.C. 2:1-4.7.

(b) A complaint submitted pursuant to this subchapter shall include the following information:

1. The name of the complainant, and/or any alternate contact person designated by the complainant to receive communication or provide information for the complainant;

2. The address and telephone number of the complainant or alternate contact person; and

3. A description of manner in which the ADA has not been complied with or has been violated, including times and locations of events and names of witnesses if appropriate.

2:1-4.7 Complaint form

The following form may be utilized for the submission of a complaint pursuant to this subchapter:

Americans with Disabilities Act Grievance Form

Date: _____

Name of grievant: _____

Address of grievant: _____

Telephone number of grievant: _____

Disability of grievant: _____

Name, address and telephone number

of alternate contact person: _____

Agency alleged to have denied access:

Department: _____

Division: _____

Bureau or office: _____

Location: _____

Incident or barrier:

Please describe the particular way in which you believe you have been denied the benefits of any service, program or activity or have otherwise been subject to discrimination. Please specify dates, times and places of incidents, and names and/or positions of agency employees involved, if any, as well as names, addresses and telephone numbers of any witnesses to any such incident. Attach additional pages if necessary.

Proposed access or accommodation:

If you wish, describe the way in which you feel access may be had to the benefits described above, or that accommodation could be provided to allow access.

A copy of the above form may be obtained by contacting the designated ADA coordinator identified at N.J.A.C. 2:1-4.4.

2:1-4.8 Investigation

(a) Upon receipt of a complaint submitted pursuant to this subchapter, the designated ADA coordinator will notify the complainant of the receipt of the complaint and the initiation of an investigation into the matter. The designated ADA coordinator will also indicate a date by which it is expected that the investigation will be completed, which date shall not be later than 45 days from the date of receipt of the complaint, unless a later date is agreed to by the complainant.

(b) Upon completion of the investigation, the designated ADA coordinator shall prepare a report for review by the designated decision maker for the agency. The designated decision maker shall render a written decision within 45 days of receipt of the complaint, unless a later date is agreed to by the complainant, which decision shall be transmitted to the complainant and/or the alternate contact person if so designated by the complainant.