

TITLE 2

DEPARTMENT OF AGRICULTURE

CHAPTER 1

ADMINISTRATION

Authority

N.J.S.A. 4:1-11, 52:14B-3(1) and (2); 52:14B-4(b);
42 U.S.C. 12101 et seq. and 28 C.F.R. 35.107.

Source and Effective Date

R.2001 d.115, effective April 2, 2001.
See: 33 N.J.R. 149(a), 33 N.J.R. 1081(a).

Executive Order No. 66(1978) Expiration Date

Chapter 1, Administration, expires on April 2, 2006. Subchapter 4, Disability Discrimination Grievance Procedure, is exempt from the operation of Executive Order No. 66(1978).

Chapter Historical Note

Chapter 1, Administration, was adopted prior to September 1, 1969.

Pursuant to Executive Order 66(1978), Subchapter 2, Organization, was readopted 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. 66(1978), Chapter 1, Administration, expired on September 3, 1990.

Chapter 1, Administration, was adopted as new rules by R.1990 d.579, effective November 19, 1990. See: 22 N.J.R. 2865(a), 22 N.J.R. 3478(b).

Subchapter 4, Disability Discrimination Grievance Procedure, was adopted as new rules by 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(b), 25 N.J.R. 2859(a).

Pursuant to Executive Order No. 66(1978), Subchapter 2, Organization, and Subchapter 3, Rules of Practice, were readopted as R.1995 d.566, effective October 4, 1995. See: 27 N.J.R. 2825(a), 27 N.J.R. 4279(b).

Subchapter 1, Designation of Additional Organizations to the Annual State Agricultural Convention, was adopted as R.1998 d.483, effective September 21, 1998. See: 30 N.J.R. 2549(a), 30 N.J.R. 3459(a).

Pursuant to Executive Order No. 66(1978), Subchapter 1, Designation of Additional Organizations to the Annual State Agricultural Convention, Subchapter 2, Organization, and Subchapter 3, Rules of Practice, expired on October 4, 2000.

Subchapter 1, Designation of Additional Organizations to the Annual State Agricultural Convention, Subchapter 2, Organization, and Subchapter 3, Rules of Practice, were adopted as new rules by R.2001 d.115, effective April 2, 2001. See: Source and Effective Date.

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SUBCHAPTER 1. DESIGNATION OF ADDITIONAL ORGANIZATIONS TO THE ANNUAL STATE AGRICULTURAL CONVENTION

2:1-1.1 Purpose and scope

(a) This subchapter sets forth the criteria and approval procedure for additional agricultural organizations to participate in the annual New Jersey Agricultural Convention pursuant to P.L. 1997, c.312.

(b) This subchapter applies to any agricultural organization seeking approval to participate in the annual convention.

2:1-1.2 Criteria for agricultural organizations seeking membership in the New Jersey Agricultural Convention

(a) An organization seeking membership in the New Jersey Agricultural Convention shall have as its primary

purpose the advancement of an agricultural interest, an agricultural sector, or agricultural production and marketing in the State.

(b) The organization shall be incorporated for a minimum of one year prior to membership application, and maintain its headquarters in New Jersey.

(c) The organization shall include a membership that is Statewide or regional in area, or serve Statewide or regional agricultural interests.

(d) The organization shall have a majority of its membership based in New Jersey.

(e) The organization shall have been organized and active in the State of New Jersey for three years.

(f) The organization shall not represent the identical interest, commodity, or membership as is represented by a current member of the State Agricultural Convention.

2:1-1.3 Procedure for making application

(a) An organization shall make application, on forms provided by the Department of Agriculture, by no later than July 1 in any year.

(b) An organization shall provide the following information in its application, as characterized in N.J.A.C. 2:1-1.2:

1. The name, address and telephone number of the organization;
2. The primary purpose of the organization;
3. The date the organization was organized, its date of incorporation and where it is headquartered; and
4. Where the majority of its membership live.

(c) The State Board shall determine and report, within 60 days of a request based on a complete application, its decision to the applicant organization.

(d) Approval of an application shall make the organization eligible for a delegate to all future agricultural conventions provided it continues to meet the criteria set forth in N.J.A.C. 2:1-1.2.

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 is responsible for the executive management, policy development, legislative liaison, public information programs and legal services for the Department and the State Board of Agriculture.

3. The Office of Operations provides personnel, budget, accounting, training, information technology 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 and Commodity Regulation operates programs which foster a stable and competitive dairy industry; conducts quality assurance programs for agricultural inputs; regulates credit buyers of perishable agricultural products; performs agricultural product grading and inspection; and promotes food safety by conducting third party audits on fresh produce.

6. The Division of Markets provides market development services, market news, support for agricultural cooperatives, fairs and shows, equine programs, and product promotions.

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

8. The Division of Rural Resources provides programs and services to support farming, agricultural and rural development, soil and water conservation, agricultural statistics, agricultural economic viability, aquaculture/fish/seafood development, and agricultural education and youth agricultural leadership.

9. 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 State Farmland Preservation Program, which permanently protects farmland by funding easement purchases, largely in cooperation with county and local governments and nonprofit organizations. The Committee also administers a soil and water cost sharing program for owners of preserved farms, staffs the Transfer of Development Rights Bank and operates the Farm Link Program which matches farm sellers with potential buyers; and administers the Right-to-Farm program.

10. The Division of Food and Nutrition distributes Federal donated food to schools, institutions and qualified individuals. State and Federal reimbursements are paid to school districts for part of the cost of school lunches and Federal funds are paid to offset part of the cost of school breakfasts.

Amended by R.1995 d.566, effective November 6, 1995.

See: 27 N.J.R. 2825(a), 27 N.J.R. 4279(b).

Amended by R.2003 d.7, effective December 3, 2002.

35 N.J.R. 217(a).

Rewrote the section.

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. This shall include the use of advisory groups in rule development activities.

Amended by R.1995 d.566, effective November 6, 1995.

See: 27 N.J.R. 2825(a), 27 N.J.R. 4279(b).

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 accord 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. The rule proposal shall be filed with the Office of Administrative Law for publication in the New Jersey Register;

2. The notice of the rule proposal, as filed with the Office of Administrative Law, or a statement of the substance of the proposed rulemaking, shall be posted and made available electronically on the Department's web site;

3. The news media maintaining a press office in the State House Complex shall be provided notice of the rule proposal, as posted and made available electronically on the Department's web site; and

4. The notice of the rule 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. The additional method of publicity shall include information on the time, place and manner in which interested persons may present comments and any of the following:

(1) The full text of the proposed rulemaking;

(2) A statement of the substance of the proposed rulemaking; or

(3) A description of the subject and issues involved.

ii. The additional method of publicity with regard to all rule proposals shall be by either:

(1) Mailing to a distribution list, when known, organized entities exist that are the subject of or significantly related to the proposed rulemaking;

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

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

Repeal and New Rule, R.2002 d.158, effective May 20, 2002.

See: 34 N.J.R. 3(a), 34 N.J.R. 1853(a).

Section was "Procedure to petition for a rule".

2:1-3.4 Public comments regarding existing rules and proposed rulemaking

(a) The Department conducts an ongoing regulatory review and invites public comments regarding all Department rules (N.J.A.C. Title 2). The Department's rulemaking includes all rules adopted after the official public comment period and emergency rules in accord 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, and all rules effective immediately upon filing with the Office of Administrative Law in accord with specific legislative authority.

(b) Public comments are specifically sought regarding existing Department rules which may be perceived as being not necessary, adequate, reasonable, efficient, understandable, or responsive to the purposes for which they were promulgated. Public comments regarding existing rules should be submitted in writing and addressed to either the specific relevant division of the Department or the Department at:

New Jersey Department of Agriculture
Office of the Secretary
PO Box 330
Trenton, New Jersey 08625-0330

(c) The Department invites the public to utilize the opportunity to be heard during the official public comment period following the publication of a notice of pre-proposal or proposal in the New Jersey Register by means of submitting in writing, data, views, or arguments to the name and unit specified in the notice.

New Rule, R.2002 d.158, effective May 20, 2002.

See: 34 N.J.R. 3(a), 34 N.J.R. 1853(a).

Former N.J.A.C. 2:1-3.4, Hearings, recodified to N.J.A.C. 2:1-3.10.

2:1-3.5 Department rulemaking calendar

(a) In compliance 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, the Department shall publish a quarterly rulemaking calendar in the New Jersey Register setting forth a schedule of the Department's anticipated rulemaking proposal activities for the next six months. The calendars shall be published in the first New Jersey Register for the months of January, April, July and October.

(b) The rulemaking calendar shall include:

1. The name of the Department;
2. The name of the Commissioner, as agency head;
3. Specific citation to the rules to be affected;
4. Citation to the legal authority authorizing the rulemaking action;
5. A synopsis of the rulemaking and its objective or purpose; and
6. The month and year in which publication of the notice of proposal in the New Jersey Register is anticipated.

(c) Calendar amendments and exceptions shall be handled by the Department in accord 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.

(d) The Department rulemaking calendar, as filed with the Office of Administrative Law, as with notices of rule proposals in accord with N.J.A.C. 2:1-3.2(a)3, shall be posted and made available electronically on the Department's web site.

(e) The additional method of publicity with regard to availability of the Department's rulemaking calendar shall be by providing notice of the rulemaking calendar, as posted and made available electronically on the Department's web site, to the major news media maintaining a press office in the State House Complex.

New Rule, R.2002 d.158, effective May 20, 2002.

See: 34 N.J.R. 3(a), 34 N.J.R. 1853(a).

Former N.J.A.C. 2:1-3.5, Instructions for departmental forms on file, recodified to N.J.A.C. 2:1-3.11.

2:1-3.6 Extension of the public comment period

(a) The Department, in accord 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, may extend the time for submission of public comments on a proposed rulemaking, at its discretion, without the need for a specific request or the demonstration of sufficient public interest.

(b) The Department, in accord 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, shall extend the time for submission of public comments for an additional 30-day period, if, within 30 days of the publication of a notice of proposal, sufficient public interest is demonstrated in an extension of time to submit comments.

(c) Sufficient public interest is demonstrated in an extension of the comment period when the following occurs:

1. When one or more agricultural organizations have representation by a delegate to the Annual State Agricultural Convention, in accordance with N.J.S.A. 4:1-6, have expressed the need for the extension of the comment period; or
2. When 10 or more persons have expressed the need for the extension of the comment period.

New Rule, R.2002 d.158, effective May 20, 2002.

See: 34 N.J.R. 3(a), 34 N.J.R. 1853(a).

Former N.J.A.C. 2:1-3.6, Information required from the public, recodified to N.J.A.C. 2:1-3.12.