

**CHAPTER 9**

**AVIAN INFLUENZA**

**Authority**

N.J.S.A. 4:5-1 and 4:5-10.

**Source and Effective Date**

R.2001 d.284, effective July 20, 2001.  
See: 33 N.J.R. 1887(a), 33 N.J.R. 2806(b).

**Chapter Expiration Date**

Chapter 9, Avian Influenza, expires on July 20, 2006.

**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: Source and Effective Date. See, also, section annotations.

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**SUBCHAPTER 1. INDEMNIFICATION**

**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.

**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.

**2:9-1.3 Movement into live poultry markets**

(a) No live poultry more than seven days old may be moved into a New Jersey live poultry market unless accompanied by a Poultry Inspection Certificate which states that either:

1. The poultry identified thereon are moving directly from a source flock which is certified by the state or country of origin as an avian influenza monitored source; or

2. The poultry identified thereon are moving directly from a source flock in which a random sample of 10 birds were blood tested negative for avian influenza within 10 days prior to the date of movement, using a test approved by the United States Department of Agriculture.

(b) No live poultry more than seven days old which have been held on premises where there has been a positive avian influenza serology or culture in the previous 12 months shall be moved into a poultry market unless the state animal health official of the state or country of origin certifies that:

1. All birds held on the premises at or after the time of the positive serology or culture and prior to the cleaning and disinfection of the premises were removed to slaughter or slaughtered and the premises were thereafter cleaned and disinfected under official supervision; or

2. Tracheal and cloacal swabs were obtained for virus isolation from 150 randomly selected birds in a flock held on such premises, or from all of the birds in a flock containing less than 150 birds, and such tests demonstrated that avian influenza was not present, and no bird in the flock from which the poultry is to be moved exhibited clinical signs of avian influenza in the 45 days preceding the date of sampling. Such samples may be pooled in groups of up to five samples per culture.

(c) Live poultry that qualify for movement shall be kept separate and apart from all other poultry of infected, exposed, or unknown health status.

(d) Live poultry shall not be moved from one live poultry market to another.

(e) A broker, dealer or agent may move poultry into a live poultry market only in accordance with the following requirements:

1. The poultry are accompanied by an invoice setting forth:

i. The name and address of the origin of the poultry;

ii. The type and quantity of poultry being moved;

iii. Proof of negative status of avian influenza status consistent with N.J.A.C. 2:9-1.3(a)1 and 2;

iv. The name and address of the market; and

v. The date of the movement of such poultry into the market.

2. All brokers, dealers or agents shall follow the following biosecurity protocols:

i. All footwear shall be disinfected before entering and after leaving any premises containing live poultry;

ii. Cabs, tires and bodies of all vehicles shall be cleaned and disinfected prior to and between each entry of a premises containing live poultry, other than live bird markets, using an all season truck and wash facility that is not located at the market, auction or source flock; and

iii. Coops, crates, flats, cages or other conveyances and other equipment shall be cleaned and disinfected prior to reuse when moving live poultry to a live bird market or auction using a working mechanical crate washer that is not located at the market, auction or source flock.

3. All brokers, dealers and agents shall certify that they have complied with the above biosecurity protocols on a form designated by the Department and signed by a person authorized to act on behalf of the broker, dealer or agent, which shall contain the following:

i. The date, time and location that each act of cleaning and disinfecting as required by (e)2 above was performed; and

ii. The following statement, "I certify under penalty of law that the information provided in this document is true, accurate and complete. I am aware that there are significant civil penalties for submitting false, inaccurate or incomplete information and significant criminal penalties, including fines and/or imprisonment for submitting false, inaccurate or incomplete information or information which I do not believe to be true."

4. The form in (e)3 above must be maintained for a period of six months and must be presented upon demand by the State Veterinarian or other employee or agent of the New Jersey Department of Agriculture, Division of Animal Health.

(f) Incidents involving false swearing or false reporting in the documents required by this section may be referred by the Department for prosecution including, but not limited to, those authorized pursuant to N.J.S.A. 2C:28-3.

(g) No person shall permit live poultry to leave the live bird market.

New Rule, R.2001 d.284, effective August 20, 2001.

See: 33 N.J.R. 1887(a), 33 N.J.R. 2806(b).

Emergency amendment, R.2004 d.119, effective February 23, 2004 (to expire April 23, 2004).

See: 36 N.J.R. 1608(a).

Rewrote (e); added (f) and (g).

Administrative correction.

See: 36 N.J.R. 1751(a).

Adopted concurrent amendment, R.2004 d.197, effective April 23, 2004.

See: 36 N.J.R. 1608(a), 36 N.J.R. 1751(a), 36 N.J.R. 2488(b).

Provisions of R.2004 d.119 and the administrative correction at 36 N.J.R. 1751(a) adopted without change.

#### 2:9-1.4 Definitions

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

"Agent" means any person buying, receiving, soliciting or negotiating the sale of live poultry from poultry raisers on behalf of any dealer or broker.

"Broker" means any person engaged in the business of soliciting or negotiating the sale or exchange of live poultry on behalf of poultry raisers.

"Dealer" means any person engaged in the business of buying or receiving any live poultry from poultry raisers for the purpose of sale, resale or manufacture.

"Live poultry market" means a facility or operation, which offers live poultry for sale and slaughter.

Emergency New Rule, R.2004 d.119, effective February 23, 2004 (to expire April 23, 2004).

See: 36 N.J.R. 1608(a).

Adopted concurrent new rule, R.2004 d.197, effective April 23, 2004.

See: 36 N.J.R. 1608(a), 36 N.J.R. 1751(a), 36 N.J.R. 2488(b).

Provisions of R.2004 d.119 adopted without change.