

RULE ADOPTIONS

AGRICULTURE

(a)

DIVISION OF MARKETING AND DEVELOPMENT

Notice of Readoption

Dairy Licensing Fees and Penalties

Readoption: N.J.A.C. 2:56

Authority: N.J.S.A. 4:1-11.1 and 4:12A-1 et seq.

Authorized By: Joseph Atchison III, Director, Division of Marketing and Development, the State Board of Agriculture and Douglas H. Fisher, Secretary, Department of Agriculture.

Effective Date: June 30, 2022.

New Expiration Date: June 30, 2029.

Take notice that pursuant to N.J.S.A. 52:14B-5.1.c, the rules at N.J.A.C. 2:56 were scheduled to expire on October 28, 2022. The rules set the annual licensing fees and penalties for milk dealers, processors, and stores, thereby ensuring funding for the administration of the Dairy Program to ensure that the dairy industry and consumers continue to receive the benefit of an effective milk control regulation and ensure a stable, competitive milk marketing system. As such, the rules primarily affect New Jersey dairy farmers, milk dealers, processors, retail stores, schools, and consumers.

The rules set forth the annual license fees for milk dealers, processors, and stores. Annual license fees are set for those milk dealers who buy milk or cream from New Jersey producers for shipment, sale, resale, or manufacture; for other milk dealers who sell, distribute, or purchase milk from producers or other milk dealers and sell or distribute that milk to consumers; and for stores, depending upon the volume sold by each store per week. Yearly licensing fees assessed pursuant to this program were amended in January 2019 by a minimum of \$5.00 and a maximum of \$20.00, based upon sales volume. Sales fees were also increased from \$.02 per hundredweight to \$.025 per hundredweight.

The rules also set forth the penalties for violations that can be assessed against milk processors, milk dealers, and retail stores. Penalties are set forth for dealers who are unlicensed and who buy milk or cream from New Jersey producers for shipment, sale, resale, or manufacture and for any violation of the provisions at N.J.S.A. 4:12A-1 et seq., or the orders, rules, and regulation of the Director.

For the first violation of the Milk Control Act, a penalty of up to \$100.00 may be assessed. Each subsequent violation may result in a penalty not to exceed \$400.00. However, violations accompanied by deception of or interference with the Department shall result in a fine of \$1,000.

Pursuant to the Milk Case Recovery Act, penalties are issued based upon the quantity of crates illegally possessed. Illegal possession of nine milk crates may be fined up to \$200.00. Illegal possession of more than nine milk crates shall be fined between \$200.00 and \$1,000.

The Department of Agriculture has reviewed the rules and has determined that the rules should be readopted without change. The rules are necessary, reasonable, and proper for the purpose for which they were originally promulgated. Therefore, pursuant to N.J.S.A. 52:14B-5.1.c(1), these rules are readopted and shall continue in effect for a seven-year period.

BANKING

(b)

DEPARTMENT OF BANKING AND INSURANCE

DIVISION OF BANKING

Depository Institutions

Readoption with Amendments: N.J.A.C. 3:4

Proposed: March 7, 2022, at 54 N.J.R 399(a).

Adopted: July 1, 2022, by Marlene Caride, Commissioner, Department of Banking and Insurance.

Filed: July 1, 2022, as R.2022 d.096, **without change**.

Authority: N.J.S.A. 17:1-8.1, 17:1-15.e, 17:9A-8.10, 17:9A-27.50, 17:9A-106, 17:9A-266 et seq., 17:12B-72, and 17:12B-177 et seq.

Effective Dates: July 1, 2022, Readoption;
August 1, 2022, Amendments.

Expiration Date: July 1, 2029.

Summary of Public Comment and Agency Response:

The Department of Banking and Insurance received no comments.

Federal Standards Statement

The rules readopted with amendments do not contain standards or requirements that exceed standards or requirements imposed by Federal law. The rules readopted with amendments continue to apply to State-chartered depositories and utilize certain Federal standards as set forth at 12 CFR Part 324 and 12 U.S.C. § 324. Therefore, a Federal standards analysis is not required.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 3:4.

Full text of the adopted amendments follows:

SUBCHAPTER 1. CAPITAL REQUIREMENTS

3:4-1.2 Definitions

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

“Qualifying capital” means qualifying capital as defined at 12 CFR Part 324.

“Risk weighted assets” for a bank and savings bank means risk weighted assets as defined at 12 CFR Part 324, and for a savings and loan association, means risk weighted assets as defined at 12 CFR 324.

“Tier 1 capital” means Tier 1 capital as defined at 12 CFR Part 324.

“Total assets” means total assets as defined at 12 CFR Part 324.

SUBCHAPTER 3. REPORTING REQUIREMENTS

3:4-3.3 Call reports and official email address

(a) Pursuant to N.J.S.A. 17:9A-256, every bank and out-of-State bank with a branch office in this State shall file a semi-annual report with the Department that sets forth the bank’s assets and liabilities as of June 30 and December 31 of each year, on a form to be provided by the Commissioner. The reports shall be in the general form of report adopted by the Federal Financial Institutions Examination Council for purposes of filing by banks with the Federal Deposit Insurance Corporation pursuant to 12 CFR Part 324 or with the Board of Governors of the Federal Reserve System pursuant to 12 U.S.C. § 324. Such reports shall be filed with the Department within 30 days after the end of the relevant six-month period. Upon request, the Commissioner may extend the due date for not more than 10 days.

(b) The requirements at (a) above shall not apply to a bank or out-of-State bank that files reports of financial condition with the Federal Deposit Insurance Corporation pursuant to 12 CFR Part 324 or with the Board of Governors of the Federal Reserve System pursuant to 12 U.S.C. § 324.

(c) In addition to the reports required to be filed pursuant to (a) above, the Commissioner may require such additional reports from a particular bank, as the Commissioner deems necessary, to obtain a full and complete knowledge of such bank's condition. Reports filed pursuant to this subsection shall be considered confidential and shall not be subject to public inspection or copying pursuant to the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

(d) Notwithstanding the provisions at (b) above, each bank shall provide the Department, in writing, on letterhead signed by an officer, with its official email address. Within 10 days following any change in the official email address previously provided to the Department, the bank shall notify the Department of the change in the same manner and include the full name of the entity, its old email address, its new email address, and the effective date of the change. The notice shall be sent to: New Jersey Department of Banking and Insurance, Division of Banking, Attention: Depositories, 20 West State Street, PO Box 040, Trenton, New Jersey 08625-0040.

COMMUNITY AFFAIRS

(a)

DIVISION OF LOCAL GOVERNMENT SERVICES

Licensure of Certain Local Government Officers

Adopted Amendments: N.J.A.C. 5:32-1.1, 2.5, 2.6, 4.2, 4.4, and 5.3

Adopted New Rule: N.J.A.C. 5:32-1.2

Proposed: February 22, 2022, at 54 N.J.R. 324(a).

Adopted: July 1, 2022, by Jacquelyn A. Suárez, Director, Division of Local Government Services.

Filed: July 1, 2022, as R.2022 d.098, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 40A:9-28.7, 40A:9-133.11, 40A:9-140.16, 40A:9-145.3.c, 40A:11-9.i, and 52:27D-18.5.

Effective Date: August 1, 2022.

Expiration Date: December 4, 2024.

Take notice that on February 22, 2022, the Director (Director) of the Division of Local Government Services (Division) in the New Jersey Department of Community Affairs proposed various amendments at N.J.A.C. 5:32 which, together with new N.J.A.C. 5:32-1.2, pertain to the licensure of certain local government officers by the Division.

The commenters listed below submitted comments, which are summarized and responded to by the Director.

Peggy Gallos, Executive Director, Association of Environmental Authorities

1. COMMENT: Increasing the number of continuing education units (CEU) requirements from 20 to 25 will require qualified purchasing agents (QPAs) to invest more time in continuing education, which, in itself, is beneficial; however, N.J.A.C. 5:32-4.2(a)1 does not need to specify the appropriate distribution of continuing education credits across specific proficiency areas. Ensuring that the continuing education credits earned cover the specified proficiency areas can be accomplished by improving communications about these requirements, such as explaining the requirements and reminding QPAs about them often and/or with greater emphasis and visibility across Department of Community Affairs' communication platforms.

RESPONSE: The Division finds that requiring a minimum number of continuing education credits in specific categories helps ensure that the officials it licenses are keeping up to date on key aspects of their responsibilities. Moreover, the Division's continuing education rules offer

flexibility by allowing licensed officials to seek approval to waive the minimum contact hour requirement for a particular subject area for good cause, so long as a licensed official can demonstrate earning at least one credit hour in that subject area.

2. COMMENT: Imposing a requirement that the auditor be notified when a QPA vacates a position is a reasonable change at N.J.A.C. 5:32-4.4(b). However, we note that, in our experience, this notification is already occurring. Local units need to notify auditors conducting the annual audit about the departure of a QPA. Auditors routinely ask the authority to confirm whether it has an auditor and ask us to identify that person.

RESPONSE: Upon adoption, the Division agrees to modify the amendment at N.J.A.C. 5:32-4.4(b) to waive the affirmative notification requirement if the auditor inquires on an annual basis whether the contracting unit has a QPA-certified individual designated as its purchasing agent or, in lieu of a QPA, has designated a temporary purchasing agent pursuant to N.J.A.C. 5:32-4.4.

3. COMMENT: The commenter respectfully requests that the Division address two issues of long-standing concern to QPAs at authorities. First, we urge the Division to propose a new rule aligning the Fair and Open Limit under the Pay-to-Play Law, currently still \$17,500, with the current level of the bid threshold. When these rules were originally promulgated, the limit amount was the same as the bid threshold. While the latter has been raised, at times, over the years, the limit has not been. Likewise, the Division should change the prevailing wage threshold for authorities, which remains at \$2,000, in future rulemaking.

RESPONSE: The pay-to-play threshold, along with the prevailing wage threshold for authorities and all other local government entities, are statutory and, thus, the Division is unable to increase these thresholds through rulemaking.

Susan Young, Executive Director, New Jersey Association of School Business Officials

4. COMMENT: The proposed amendment at N.J.A.C. 5:32-4.4(b), requiring a contracting unit to notify its auditor upon a Qualified Purchasing Agent (QPA) vacating their purchasing agent position, should not be adopted. It should simply be an expectation of the auditor's review, or part of the year-end audit questionnaire. Practically speaking, who is going to remember to inform the auditor of the QPA's departure?

RESPONSE: Upon adoption, the Division agrees to modify the amendment at N.J.A.C. 5:32-4.4(b) to waive the affirmative notification requirement, if the auditor inquires on an annual basis whether the contracting unit has a QPA-certified individual designated as its purchasing agent or, in lieu of a QPA, has designated a temporary purchasing agent pursuant to N.J.A.C. 5:32-4.4.

Jim Jorgensen, Qualified Purchasing Agent, City of Clifton

5. COMMENT: A public entity should also be permitted to appoint a third-party service provider that is a licensed QPA, to serve as a public entity's purchasing agent.

RESPONSE: N.J.S.A. 40A:11-9.a already permits a contracting unit to appoint an independent contractor possessing a QPA certificate to serve as its purchasing agent.

6. COMMENT: Increasing to 25, the total number of hours for renewal of a QPA certification, makes sense; however, N.J.A.C. 5:32-4.2 should also be amended to increase the minimum number of contact hours for ethics from three hours to five hours. Ethics is an ongoing consideration in all facets of local government including procurement.

RESPONSE: The Division finds the current three-hour minimum for ethics to be proportionate to the minimum number of ethics contact hours for other licenses the Division administers. As such, the minimum number of ethics contact hours that a QPA must obtain for continuing education will remain unchanged.

7. COMMENT: With respect to the appointment of a temporary purchasing agent, N.J.A.C. 5:32-4.4 should be amended to state that a public entity arbitrarily seeking to not appoint or not reappoint an individual with a QPA certificate as purchasing agent does not get to enjoy the higher bid threshold.

RESPONSE: Unlike positions, such as chief municipal finance officer, tax collector, or municipal clerk, an individual with a QPA certificate that