

RULE PROPOSALS

INTERESTED PERSONS

Interested persons may submit comments, information or arguments concerning any of the rule proposals in this issue until the date indicated in the proposal. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal.

The required minimum period for comment concerning a proposal is 30 days. A proposing agency may extend the 30-day comment period to accommodate public hearings or to elicit greater public response to a proposed new rule or amendment. Most notices of proposal include a 60-day comment period, in order to qualify the notice for an exception to the rulemaking calendar requirements of N.J.S.A. 52:14B-3. An extended comment deadline will be noted in the heading of a proposal or appear in subsequent notice in the Register.

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-6.3. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

AGRICULTURE

(a)

DIVISION OF ANIMAL HEALTH

Laboratory Services

Proposed Amendments: N.J.A.C. 2:10-1.1 and 1.2

Proposed New Rules: N.J.A.C. 2:10-2

Authorized By: State Board of Agriculture and Douglas H. Fisher,
Chairman and Secretary, Department of Agriculture.

Authority: N.J.S.A. 4:5-2.1.

Calendar Reference: See Summary below for explanation of
exception to calendar requirement.

Proposal Number: PRN 2018-075.

Submit written comments by November 3, 2018, to:

Dr. Manoel Tamassia
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The agency proposal follows:

Summary

The Department of Agriculture (Department) proposes amendments to the definitions and the fee schedule for veterinary diagnostic services at N.J.A.C. 2:10-1.1 and 1.2, pursuant to N.J.S.A. 4:5-2.1. The statute permits the Department to adopt rules and regulations to charge reasonable fees to defray the cost of animal disease diagnostic testing services and necessary animal health tests. The proposed amendments and new rules are necessary to enable the Department to continue to provide the New Jersey agriculture community and other members of the public with animal disease diagnostics and defray the costs incurred by the Department in providing these services.

The Department moved into a state-of-the-art laboratory facility in April 2012, which it shares with the Department of Health, and in which services are also provided for the Department of Environmental Protection. This facility, known as the Public Health and Environmental and Agricultural Laboratory (PHEAL), makes it possible for the Department to continue to provide the animal diagnostic services necessary to keep the animal agriculture in New Jersey safe from disease. Due to the new state-of-the-art capabilities, the Department now has the ability to offer many additional animal diagnostic services, and to perform more complicated tests on animals. The proximity of the laboratory within New Jersey benefits livestock producers and animal owners in the region.

The collection of reasonable fees for animal disease diagnostic and testing services by the Department allows the Department to recover the costs incurred for materials, equipment, test kits, reagents, and associated personnel expenses for these testing services. The current fees have not been amended since 2010, prior to the move to the PHEAL location. In the interim, these services have been offered to the public, as new services pursuant to N.J.A.C. 2:10-1.2(a), and have been calculated using the hourly rate user fee, labor, and administrative materials and costs required to provide the services.

The proposed amendments are necessary to allow for the provision of many new services, as well as revise user fees for veterinary diagnostic services to reflect changes in operating costs and changes in the method used to calculate departmental costs. Additional proposed user fees have also been added to cover the costs of additional veterinary diagnostic services and to allow the Department to incorporate advanced techniques employing different reagents to improve the accuracy of existing tests. In some cases, no increase in fees is proposed, despite cost increases, to encourage the agriculture community and other members of the public to make use of the available services offered by the Department. In certain additional circumstances, user fees calculated for tests performed in groups have been proposed to offer diagnostic and economic benefits by providing a lower cost option when certain diagnostic tests are reorganized in a group related to the type of service.

The proposed amendments will not change the ability to allow for the testing and test cost reimbursement of new diseases and new testing formats as they emerge and are developed. In accordance with N.J.S.A. 4:5-2.2, the fees collected are held separate and apart from all other funds of the State in a non-lapsing revolving fund for annual appropriation to assure the provision of continuous support for the needed laboratory services.

The Department proposes to amend N.J.A.C. 2:10-1.1 to add 12 new definitions to address new tests that are offered and to change one definition. The definition of histology was changed to the definition of histopathology to specify the pathologic purpose of the microscopic examination of cells and the minute structure of tissues and organs conducted at the AHDL.

Three new tests are proposed in N.J.A.C. 2:10-1.2(b) pertaining to bacterial isolation and identification. Additionally, increased fees for aerobic identification, anaerobic isolation, and sensitivities (and additional sensitivities) are proposed to support technique changes requiring sophisticated equipment for increased accuracy. Other increased fees are proposed due to increases in cost of supplies. Further, some techniques are renamed or additional explanatory language is added.

Two new tests are proposed in N.J.A.C. 2:10-1.2(c), and fee increases are proposed due to increased cost of supplies. For clarity, the Johne's ELISA test is proposed to be relocated from N.J.A.C. 2:10-1.2(c) (virology) to N.J.A.C. 2:10-1.2(d) (serology) with no change in the fee

amount. The test fee remains low because it is part of a program to encourage producers to participate in this program.

The Department proposes to increase fees in N.J.A.C. 2:10-1.2(d) due to increase in the cost of supplies (for example, "Coggins" test), as well as loss of Federal funding (for example, agglutination). Ova and parasites tests are proposed to be relocated to N.J.A.C. 2:10-1.2(e) as a correction because the tests are not related to serology, but, rather, are pathology-related.

Under N.J.A.C. 2:10-1.2(e), 18 new tests are proposed to serve animal owners, including animals that are not domestic livestock. Such animals include household pets, zoo animals, exotic animals, and wildlife. These are expanded services due to the capabilities of the new laboratory, and specialty services (such as consultation requests from other facilities) are being provided to the regional community. The non-livestock necropsies are separated from domestic livestock necropsies due to utilization of Federal funding, through United States Department of Agriculture, to partially subsidize domestic livestock necropsies. Necropsy services are differentiated according to weight of animals. The resources (time and material) needed to perform necropsies are proportional to weight of animals with larger and heavier animals requiring more resources. Brain removal is proposed to be removed from any necropsy procedure because brain removal is standard procedure included in the price of necropsy when the whole body is submitted for necropsy. Additional tissue sample fees (four to 10 tissues) are proposed for histology (necropsy in a bottle) to encourage tissue submission as more efficient and cost effective than transfer of the entire animal for necropsy. Increases in these fees are proposed due to increases in the cost of supplies, the cost of disposal services, and the costs related to field transport and higher cost replacement of required disposable field gear.

Seven new test batteries/plans are proposed to be added to N.J.A.C. 2:10-1.2(f) to facilitate the most economic and accurate diagnosis of clinical conditions by grouping tests. If done individually, the total cost to perform these tests would be more. Amendments are proposed in equine neurologic tests due to changes in the disease (West Nile, which is now endemic), increased knowledge of epidemiology (Western equine encephalitis), and unavailability of certain reagents for HI and IgG tests. Proposed increases in charges for battery testing based on clinical expression of diseases for certain species are due to increases in the cost of supplies. Increases in the quarantine supervision and testing are also the result of additional tests required by United States Department of Agriculture.

The Department proposes new N.J.A.C. 2:10-1.2(g) for molecular diagnostic services, a distinct service discipline. Molecular services are expanded services in the new laboratory to benefit all of the owners of animals, including non-livestock.

Proposed new N.J.A.C. 2:10-1.2(h) would allow for referring services to other laboratories when the services are temporarily unavailable through the Department. This would be allowable upon written request or when otherwise required, and fees would be charged at the actual cost for the test and the shipping and any handling.

The Department proposes new N.J.A.C. 2:10-2 to reflect the long-standing practice of the Department with regards to animal remains for necropsy and/or tissue samples. The Department has a long-standing policy of not returning animal remains of any kinds due to the risks of disease transmission to the general community. Proposed new N.J.A.C. 2:10-2.1 provides definitions of what are considered animal remains, as well as who is considered a submitter. Currently, submitters are informed of this policy and expressly acknowledge this practice upon submitting remains or tissue samples to the laboratory.

Proposed new N.J.A.C. 2:10-2.2 would make clear the Department's concern with mitigating risk of disease transmission to community in general. According to Centers for Disease Control, zoonotic diseases are very common, both in the United States and around the world. Scientists estimate that more than six out of every 10 known infectious diseases in people are spread from animals, and three out of every four new or emerging infectious diseases in people are spread from animals. Every year, tens of thousands of Americans will get sick from harmful germs spread between animals and people. It is out of the scope of the necropsy

procedure to test carcasses for hundreds of infectious agents that could be transmitted from animals to humans.

Proposed new N.J.A.C. 2:10-2.2 encompasses a practice the Department has followed historically and would give further notice to submitters of animal remains for necropsy that remains cannot be returned other than to a licensed crematorium. The new section would allow for submitters or animal owners to direct remains be disposed of to a licensed crematorium upon written request prior to the start of a necropsy. A provision would make clear that in the event that remains are regulated medical waste pursuant to N.J.A.C. 7:26-3A.6(a)5, remains must be disposed of pursuant to applicable laws and rules. This proposed new rule would also allow for the provision of samples to other laboratories upon written request or as required by law.

Proposed new N.J.A.C. 2:10-2.3 will exempt certain laboratory tests and reports as non-public records subject to disclosure under the Open Public Records Act (OPRA). While the policy of OPRA dictates that there should be a presumption in favor of disclosing records, individual laboratory reports are generally applicable only to the submitter and deal with details of a private nature, including the cause of death of animals. The Department has weighed several important reasons to maintain privacy of laboratory results. These results can be deeply personal to animal owners, and when submitted by law enforcement in humane investigations, are of a highly delicate nature that may result in criminal prosecution. Further, laboratory tests are performed at the request of livestock owners, veterinarians, and members of community as paid services offered by the Department's Animal Health Diagnostic Laboratory (AHDL). The fees proposed for these services are paid directly by the submitter, which reflects the private nature of the funds, and not the use of public funds.

Clients of veterinarians hold a privileged relationship with veterinarians, and as such, reasonably expect privacy regarding the results these services. Veterinarians are generally required to keep records confidential pursuant to N.J.A.C. 13:44-4.9. Releasing of this veterinary medical record may allow tracing to individuals leading to an objectively reasonable invasion of his or her privacy. Private laboratories, university laboratories, and some State-run laboratories are already offering this kind of privacy protection.

Additionally, pets and livestock use uniquely identifiable tags, tattoos, or microchips that allows tracing them to the State, farm, and owner. The release of such information to the public could allow for identification of farming practices that should be protected from disclosure, unless absolutely necessary. Failure to protect the information could discourage individuals from using AHDL's services, which could negatively impact these individuals because they have to travel or pay more for services as AHDL is the only laboratory in New Jersey providing full animal diagnostic services.

Finally, when tests are run in other laboratories, these laboratories will have critical information about the incidence of disease in New Jersey's livestock before New Jersey authorities have a chance to evaluate the situation. It is important that the State Veterinarian be aware of any agroterrorism or bioterrorism in order to protect the citizens of this State. If other state laboratories hold these results, they could impose trade and animal movement restrictions on New Jersey animals before the Department has had an opportunity to address these situations. If privacy of results is not maintained, the State risks losing users resulting in stoppage of animal disease epidemiology data collection by the Department laboratory. This is the very reason why states have animal diagnostic laboratories.

As the Department has provided a 60-day comment period for this notice of proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The prevention and control of disease by State regulatory programs is necessary to prevent and/or eliminate disease from the New Jersey livestock population, protecting the economic viability of the animal health industry, as well as the health of the livestock, and other animals potentially susceptible to these diseases, including humans. Lack of Federal and State funds has resulted in user fees for services by the United States Department of Agriculture, National Veterinary Services

Laboratory (NVSL), and other state laboratories across the U.S. Whereas the Department is now charged for tests and materials previously supplied free of charge by NVSL, the Department must recover these incurred expenses in order to maintain operation. Due to the lack of State appropriations and increasing expenses (for example, NVSL), the Department has found it necessary to collect user fees for Department laboratory expenses incurred for livestock disease diagnostic and testing services. With continued implementation of these user fees, the agriculture community and veterinarians who elect to use the Department laboratory services for routine diagnostic tests or voluntary control programs will be affected. In some areas, fees are being reduced by grouping procedures together. Without implementation of these fees for service, the Department will no longer be able to provide either routine or elective diagnostic testing and services for the livestock. Users of these services will have to find alternative laboratory services, all of which will include fees for service charges.

Livestock owners and veterinarians that use diagnostic laboratory services other than the Department, currently pay user fees. The amendments involving user fees by the Department are not expected to cause a negative reaction by current laboratory users. Livestock owners and veterinarians are aware that fees for service charges are a standard in the animal health industry.

The proposed amendments allow for collection of reasonable user fees to offset Department expenses and allows the Department to continue to offer animal diagnostic testing services. Therefore, the proposed amendments will have a positive social impact on the citizens of the State of New Jersey.

The proposed new rules regarding animal remains, as discussed above, will protect the public from possible transmission of zoonotic diseases that may be contained in animal remains. The practice of not releasing animal remains has been a long-standing practice by the Department, and, thus, is not anticipated to have any negative social impact.

The proposed confidentiality of laboratory reports will protect members of the public in their privacy rights when submitting livestock or pets for necropsies and other tests. The Department has carefully balanced the interests of disclosure with an individual's reasonable expectation of privacy and finds that the nondisclosure of these reports outweighs the benefit of disclosure, for the reasons discussed more fully in the Summary above.

Economic Impact

New Jersey livestock owners who use the services of the Department's AHDL will be impacted by the proposed fee increases. However, these services are optional, and have been carefully considered to keep the costs as minimal as possible through creative means. For example, in some cases the costs are proposed for reduction by grouping and the agriculture community continues to have the option to utilize the services of private laboratories. In addition, the amendments provide a lower cost option when certain diagnostic tests are reorganized in a group related to the type of service.

The proposed fees reflect changes in the cost of supplies, as well as the cost of the professional performing the service. While majority testing fees have increased as a result of increased costs, some of the fees for equine neurologic battery tests have been reduced. As a result of concerns about emerging diseases and bioterrorism, the lab fees include costs of field pathology investigations, as well as small animal (pets) pathology services. Some of this testing will be subsidized by Federal agencies. Regulatory tests mandated by the Department for diagnosing or controlling reportable diseases in New Jersey livestock will be supported through the State appropriation system when available. The Department anticipates increased utilization of laboratory services by the veterinary community and law enforcement community for humane investigations, and, therefore, services and fees not previously included in the fee schedule have been added.

Federal Standard Statement

A Federal standards analysis is not required, since there are no applicable Federal standards that govern the operation of animal health fee for service diagnostic laboratories.

Jobs Impact

It is anticipated that the proposed amendments and new rules will not result in the generation or loss of jobs in the State.

Agricultural Industry Impact

The proposed amendments and new rules will have a positive impact on New Jersey livestock owners by allowing the continued operation of the AHDL for the purposes of elective and voluntary disease control program diagnostics. Without continued implementation of this fee for service regulatory scheme, the Department would not have the needed funding to continue to provide these services to livestock owners and veterinarians in the State. Even with the fee increases proposed by the Department, the livestock industry is assured of continued diagnostic services at or below the fees charged by comparable diagnostic laboratories.

Regulatory Flexibility Analysis

To the extent livestock owners are small businesses within the meaning of the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., the proposed amendments and new rules impose compliance costs upon those livestock owners who choose to avail themselves of the services of the AHDL. Livestock owners are required to pay fees for the services in accordance with the proposed fee schedule. Livestock owners continue to have the option to utilize the services of private laboratories.

The proposed fees are necessary for the Department to recover its expenses and to continue to operate its animal health diagnostic laboratories within the confines of its existing budget. The Department has made no provision for small businesses in setting these fees because it has no funding with which to underwrite the cost of providing these laboratory services to small businesses at reduced or no charge.

No other reporting, recordkeeping, or compliance requirements are imposed on small businesses under the proposed amendments and new rules. To the extent small businesses choose to use laboratory service(s) providers other than the AHDL, those livestock owners will incur the professional service fees of those laboratories. No other professionals are required to be retained to comply with the proposed amendments and new rules. No capital expenditures are required for compliance.

Housing Affordability Impact Analysis

The Department has found that there is an extreme unlikelihood that the proposed amendments and new rules would change the average costs associated with housing or have any impact on housing affordability. The proposed amendments and new rules pertain to animal diagnostic laboratory fees.

Smart Growth Development Impact Analysis

The proposed amendments and new rules will have an insignificant impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the proposed amendments and new rules pertain to animal diagnostic laboratory fees.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Department has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. FEE SCHEDULE

2:10-1.1 Definitions

The following words and terms, as used in this chapter, shall have the following meanings. Words of art undefined in the following paragraphs shall have the meaning attributed to them by trade usage or general usage as reflected by definition in a standard dictionary, such as Webster's.

...

“Case consultation” means the act of providing an opinion, or second opinion, on a veterinary diagnostic case at the request of an external organization or individual based on diagnostic information made available by such organization or individual.

“Cosmetic necropsy” means minimally invasive necropsy to examine internal organs and obtain necessary samples, so that the animal body retains a presentable condition for viewing.

“Decalcification” means softening of bones caused by removal of calcium ions to make bones amenable for histopathology examination.

“Domestic livestock” means cattle, horses, donkeys, swine, sheep, goats, rabbits, poultry, fowl, and any other domesticated animals as defined by N.J.S.A. 4:22-16.1.c and N.J.A.C. 2:8-1.2.

“EHV” means equine herpes virus.

“Forensic necropsy” means a necropsy procedure that attempts to establish the manner of death, any contributory causes, and if possible, the time of death. This type of necropsy is reserved for investigation of animal-related crimes or other situations that have legal implications and goes beyond standard necropsy in its objectives and relevance.

“H and E” means hematoxylin and eosin staining technique.

“[Histology] **Histopathology**” means the microscopic examination of cells and the minute structure of tissues and organs to study changes caused by disease.

“MIC” means minimum inhibitory concentration.

“PCR” means polymerase chain reaction.

“Regulated medical waste” means animal waste as defined in N.J.A.C. 7:26-3A.6(a)5.

“SHI” means synergistic hemolysin inhibition.

“Special stains” means any staining technique other than H and E staining technique.

2:10-1.2 Fees

(a) (No change.)

(b) Fees for bacteriology isolation and identification tests are as follows:

<u>Technique</u>	<u>Charge</u>
Aerobic culture and identification.....	[\$17.00] \$20.00
Anaerobic [isolation] culture and identification	[\$25.00] \$30.00
.....	
[Mycologic and yeast].....	\$18.00]
Fungal culture	\$20.00
.....	
Mycoplasma culture	[\$6.00] \$18.00
Sensitivities (Kirby Bauer)	[\$12.00] \$15.00
Sensitivities (MICs)	\$20.00
.....	
Caseous lymphadenitis SHI	\$10.00
Bacterial isolate identification	\$12.00

(c) Fees for virology identification tests are as follows:

<u>Technique</u>	<u>Charge</u>
HI serum titer	[\$25.00] \$30.00
HI serum screen	[\$15.00] \$20.00
.....	
Western blot	[\$30.00] \$35.00
Virus isolation	[\$30.00] \$50.00

<u>Technique</u>	<u>Charge</u>
[Johne’s ELISA	\$6.00]
Fish virus isolation per cell line	\$20.00
Fish tissue collection for health inspection per fish	\$2.00

(d) Fees for serology are as follows:

<u>Technique</u>	<u>Charge</u>
Johne’s ELISA	\$6.00
AGID EIA (Coggins)	[\$4.00] \$6.00
.....	
Agglutination tests (card, plate, tube, rivanol, microtiter)	[\$2.00] \$4.00
[Ova and parasites	\$10.00]

(e) Fees for pathology are as follows:

<u>Technique</u>	<u>Charge</u>
[Necropsy small animal (up to 100 lbs), includes histology, aerobic culture, and fecal].....	\$70.00
Necropsy large animal (up to 300 lbs), includes histology, aerobic culture, and fecal.....	\$120.00
Necropsy poultry (up to five birds) includes histology, aerobic culture, and fecal.....	\$61.00]
Ova and parasites, qualitative	\$10.00
Ova and parasites, quantitative	\$15.00

Necropsies for domestic livestock:

Necropsy small livestock animal (up to 100 lbs) May include histopathology, aerobic culture, and fecal exam at discretion of the laboratory	\$70.00
Necropsy large livestock animal (101 to 300 lbs) May include histopathology, aerobic culture, and fecal exam at discretion of the laboratory	\$120.00
Necropsy large livestock animal (greater than 300 lbs) May include histopathology, aerobic culture, and fecal exam at discretion of the laboratory	\$150.00
Necropsy poultry (up to five birds) May include histopathology, aerobic culture, and fecal exam at discretion of the laboratory, and includes disposal	\$61.00
Brain removal head only	[\$32.00] \$35.00
[Brain removal added to any necropsy procedure]	\$10.00]
Histology (biopsies or “necropsy in bottle”) up to three tissues	\$45.00

PROPOSALS

AGRICULTURE

<u>Technique</u>	<u>Charge</u>
Four to 10 tissues.....	\$95.00
Field necropsy with sample collection.....	[\$40.00] \$55.00/ hour
.....	
Disposal fees ([added to all necropsy procedures], except poultry):.....	[\$25.00]
Small animal (up to 100 lbs).....	\$25.00
Large animal (up to 300 lbs).....	\$75.00
Large animal (301 to 500 lbs).....	\$100.00
Large animal (501 to 1,000 lbs).....	\$250.00
Large animal (over 1000 lbs).....	\$350.00
Disposal of regulated medical waste.....	Actual charge
Disposal only (if necropsy not performed) fee [(up to 150 lbs)].....	[\$100.00] \$200.00
<u>Necropsies for animals that are not domestic livestock</u>	
Necropsy non-livestock animals (0 to 50 lbs) May include histopathology, aerobic culture, and fecal exam at discretion of the laboratory.....	\$150.00
Necropsy non-livestock animals (51 to 100 lbs) May include histopathology, aerobic culture, and fecal exam at discretion of the laboratory.....	\$175.00
Necropsy non-livestock animals (101 to 300 lbs) May include histopathology, aerobic culture, and fecal exam at discretion of the laboratory.....	\$200.00
Necropsy non-livestock animals (greater than 300 lbs) May include histopathology, aerobic culture, and fecal exam at discretion of the laboratory.....	\$250.00
Necropsy fish (one to three fish) Includes histopathology.....	\$50.00
Necropsy racing and show pigeons gross exam only.....	\$50.00
Spinal cord, or section thereof, removal.....	\$75.00
Case consultation fee (external fee).....	\$55.00/hour
Cosmetic necropsy (pets up to 100 lbs).....	\$400.00
Cytology.....	\$35.00

<u>Technique</u>	<u>Charge</u>
Additional fee for forensic necropsy.....	\$350.00
Decalcification.....	\$20.00
Special stains.....	\$10.00
Slide made, unstained.....	\$10.00
H and E staining.....	\$10.00
(f) Fees for test batteries or syndrome panels are as follows:	
Respiratory, equine (serum).....	[\$40.00] \$55.00
Equine herpes-1 SN	
Equine influenza HI titer	
Equine viral arteritis SN	
Abortion, equine (serum).....	\$40.00
Equine herpes-1 SN	
Equine viral arteritis SN	
Leptospira microagglutination titer MAT	
Abortion, equine (tissue).....	\$80.00
EHV-1 PCR	
Aerobic culture	
Histopathology exam	
Equine diarrhea (feces).....	\$100.00
Aerobic culture	
Anaerobic culture	
Salmonella	
Potomac Horse Fever	
Fecal parasite exam	
Equine respiratory (swab PCR).....	\$80.00
EHV-1	
Influenza A	
Strangles	
Equine neurologic (blood/brain/CSF PCR).....	\$80.00
EHV-1	
Eastern equine encephalomyelitis	
West Nile	
Equine neurologic (serum).....	[\$60.00] \$50.00
Eastern equine encephalitis [HI] IgM ELISA	
[Western equine encephalitis HI	
West Nile virus disease HI	
West Nile virus disease IgG]	
West Nile virus disease IgM ELISA	
Equine herpes-1 SN	
Respiratory, ruminant (serum).....	\$40.00
Infectious bovine rhinotracheitis SN	
Parainfluenza-3 HI	
Bovine viral diarrhea SN	

Abortion, ruminant (serum)	\$40.00
Bovine viral diarrhea SN	
Infectious bovine rhinotracheitis SN	
Leptospira MAT	
Brucellosis (various official tests needed)	No charge
Equine Fever of unknown origin with lameness and swelling (serum)	\$60.00
Equine viral arteritis [HI] SN	
[Lyme disease ELISA]	
Lyme disease ELISA and western blot	
Ovine and caprine diarrhea (feces)	\$60.00
Johnes PCR	
Salmonella culture	
Fecal parasite examination	
Ovine and caprine herd health (serum)	\$25.00
Brucellosis	
Caprine arthritis encephalitis	
Johnes	
Caseous lymphadenitis screen	
Dermatology diagnostic (skin, fresh and fixed)	\$90.00
Aerobic culture and antibiotic sensitivity	
Histopathology	
Fungal culture	
Contagious equine metritis quarantine procedures	
Quarantine supervision and laboratory testing: stallion	[\$1,200.00] \$1,600
Quarantine supervision and laboratory testing: mare	[\$500.00] \$650.00
(g) Fees for molecular diagnostic services are as follows:	
PCR (Uniplex: one probe)	\$37.00
PCR (Duplex: two probes)	\$50.00
PCR (Multiplex: greater than two probes)	\$10.00 per additional probe

(h) Services listed in (b) through (g) above are subject to availability of materials and demand for services. When a service is temporarily unavailable, the service may be referred to an external laboratory with notice to the submitter and written consent. Costs will be calculated as the actual laboratory test fee(s) and any shipping and handling.

SUBCHAPTER 2. TERMS OF LABORATORY SERVICES

2:10-2.1 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings. Words of art undefined in this section shall have the meaning attributed to them by trade usage or general usage as reflected by definition in a standard dictionary, such as Webster's.

“Animal remains” means the animal carcass, any portion of an animal carcass, tissue samples, and associated items that may include, but are not limited to, bedding and other personal effects that are delivered with the animal carcass.

“Laboratory” or “AHDL” means the New Jersey Department of Agriculture, Animal Health Diagnostic Laboratory.

“Submitter” means any individual who engages the services of the laboratory. Such individuals may include animal owners, veterinarians, members of law enforcement, or agents of business entities including non-profit organizations and corporations.

2:10-2.2 Animal remains

(a) Due to risk of disease transmission, animal remains and specimens shall not be returned after submission to the AHDL and will be disposed of at the discretion of AHDL, subject to the exemptions of this subsection.

(b) Upon written request of the submitter or animal owner prior to start of a necropsy procedure, animal remains shall be released to licensed private crematorium for private services at no cost to the laboratory.

(c) Notwithstanding (b) above, animal remains that are regulated medical waste, as defined by N.J.A.C. 7:26-3A.6(a)5, shall be disposed of pursuant to all applicable State and Federal laws, rules, and regulations.

(d) Upon written request by the animal owner or submitter, specimens may be released directly from AHDL to another laboratory for confirmatory testing or to seek professional opinion, or as required by Federal or State law.

2:10-2.3 Records designated confidential

In addition to records designated as confidential pursuant to the provisions of the Open Public Records Act (OPRA), N.J.S.A. 47:1A-1 et seq., any other law, rule, Executive Order, or complete (final) and intermediate (interim) reports, including necropsy reports, shall not be considered government records subject to public access pursuant to OPRA.

HIGHER EDUCATION

(a)

EDUCATIONAL OPPORTUNITY FUND

Grant Amounts

Proposed Amendments: N.J.A.C. 9A:11-2.6 and 3.4

Authorized By: Educational Opportunity Fund Board of Directors, Dr. Hasani Carter, Acting EOF Executive Director.

Authority: N.J.S.A. 18A:71-28 et seq., and 18A:71-33 through 36.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2018-076.

Submit written comments by November 3, 2018, to:

Dr. Hasani Carter
Acting EOF Executive Director
Office of the Secretary of Higher Education
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The agency proposal follows:

Summary

The Educational Opportunity Fund (EOF) program provides students from educationally and economically disadvantaged backgrounds with financial aid and other support services while attending participating New Jersey colleges and universities. The program is a collaborative effort. Under the general supervision of the Secretary of Higher Education, the EOF Board of Directors (EOF Board) administers the program and the participating institutions directly serve students.

Working with participating institutions, the EOF Board maintains a Statewide system to identify and recruit potential college students from backgrounds of historical poverty, develop eligibility criteria for EOF financial assistance based on students' income and their potential for success in college, establish procedures to determine the amount of the

academic year grants according to the total financial need of each student, and advise on the development, organization, and coordination of a wide range of educational support and enrichment activities.

New N.J.A.C. 9A:11-2.6(a), pertaining to undergraduate grant amounts, and 3.4(a), pertaining to graduate grant amounts, will require the Board to annually base the amount of the maximum semester and academic year Article III undergraduate and graduate grant awards on the fiscal year appropriation, and have the EOF Executive Director inform institutions of the amount of the grants each summer through a public notice published in the New Jersey Register, and on the Office of the Secretary of Higher Education’s website.

Proposed for deletion are N.J.A.C. 9A:11-2.6(d) and 3.4(d). New N.J.A.C. 9A:11-2.6(e) will establish the minimum semester undergraduate grant amount as no less than \$100.00. In N.J.A.C. 9A:11-3.4(e), new language is proposed that will establish the minimum semester graduate grant amount as no less than \$100.00. Additionally, in the second sentence of N.J.A.C. 9A:11-3.4(e), the phrase “in (d) above,” is proposed for deletion.

As the EOF Board has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement at N.J.A.C. 1:30-3.3(a)5.

Social Impact

EOF students come from every county in New Jersey. They have generally lived and attended high school in neighborhoods characterized by depressed economic conditions, substandard educational services, and unequal opportunities. Approximately 60 percent of total EOF enrollment comes from the State’s most distressed municipalities (communities that have been designated “labor surplus areas” by the New Jersey Department of Labor and Workforce Development and the U.S. Bureau of Labor Statistics). The vast majority of EOF students spend their elementary and secondary school years in public school districts that by all objective measures fail to provide the level of educational preparation required for success in the more demanding curricula and challenging majors of the State’s colleges and universities. The proposed amendments to the undergraduate and graduate grant amount rules will make it possible to implement changes to the amount of the EOF students’ grants annually, based on the fiscal year appropriation act. Should the fiscal year appropriation contain sufficient resources to increase the amount of the undergraduate and graduate grants, students will no longer have to wait for the completion of the State’s regulatory process to learn if they will receive additional resources to help them address college affordability.

Economic Impact

The ability to annually establish the maximum amount of the EOF undergraduate and graduate student grant award amounts based on the fiscal year appropriation will align the management of the EOF Article III funds with the annual appropriation process. This will reduce the amount of time required to implement changes in the students’ grant amounts. Notifying the public annually of the maximum EOF grant award amounts after the fiscal year appropriation act is signed by June 30th, via publication in the New Jersey Register, and on the Office of the Secretary of Higher Education’s website, will provide students, as well as college and university financial aid officers, with a consistent timeline for the notification of annual grant award amounts. This process will improve the college and university’s ability to develop a financial aid package for EOF students that helps them reduce their cost of college attendance.

Federal Standards Statement

The proposed amendments do not require a Federal standards analysis under Executive Order No. 27 (1994) and N.J.S.A. 52:14B-22 et seq., because EOF was established by New Jersey legislation, is wholly supported by State appropriations, and is not subject to any Federal requirements or standards.

Jobs Impact

The proposed amendments will not result in the generation or loss of any jobs.

Agriculture Industry Impact

The proposed amendments have no impact on the agriculture industry.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the proposed amendments do not impose requirements on small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments pertain strictly to public and publicly funded independent colleges and universities in New Jersey, none of which qualify as a small business as they employ more than 100 full-time employees.

Housing Affordability Impact Analysis

The proposed amendments are unlikely to evoke a change in the average costs associated with housing and have no effect on the affordability of housing because the proposed amendments govern how the EOF Board will annually inform the public of the amounts of the EOF undergraduate and graduate grant awards.

Smart Growth Development Impact Analysis

The Office of the Secretary of Higher Education staff believes there is an extreme unlikelihood that the proposed amendments to the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan because the rules govern how the EOF Board will annually inform the public of the amounts of the EOF undergraduate and graduate grant awards.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Office of the Secretary of Higher Education/Educational Opportunity Fund has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 2. UNDERGRADUATE EOF ACADEMIC AND FINANCIAL ELIGIBILITY

9A:11-2.6 Grant amounts

(a) Based on the fiscal year EOF Article III appropriation, the Board will annually develop the amount of the maximum semester and academic year Article III undergraduate grants award ranges, for full and part-time student grants, for each sector of higher education. The EOF Executive Director shall inform institutions of the amount of the maximum semester academic year grant each summer through a public notice published in the New Jersey Register and on the Office of the Secretary of Higher Education’s website.

Recodify existing (a)-(c) as **(b)-(d)** (No change in text.)

[(d) The Board shall annually review the State grant amounts for EOF students and make adjustments, if necessary. The minimum and maximum semester and maximum academic year award ranges for full- and part-time Article III undergraduate student grants for each sector of higher education follows.

	Semester Minimum	Semester Maximum	Academic Year Maximum
<u>Undergraduate</u>			
<u>Community Colleges</u>			
Full-time	\$100.00	\$575.00	\$1,150
Part-time:			
6-8 credits	\$100.00	\$288.00	\$576.00
9-11 credits	\$100.00	\$431.00	\$862.00

HIGHER EDUCATION

PROPOSALS

<u>Undergraduate</u>	<u>Semester Minimum</u>	<u>Semester Maximum</u>	<u>Academic Year Maximum</u>
<u>State Colleges and Universities</u>			
<u>Commuter</u>			
Full-time	\$100.00	\$625.00	\$1,250
Part-time:			
6-8 credits	\$100.00	\$313.00	\$626.00
9-11 credits	\$100.00	\$469.00	\$938.00
<u>Residential</u>			
Full-time	\$100.00	\$750.00	\$1,500
Part-time:			
6-8 credits	\$100.00	\$450.00	\$900.00
9-11 credits	\$100.00	\$600.00	\$1,200
<u>Public Research Universities</u>			
<u>Commuter</u>			
Full-time	\$100.00	\$625.00	\$1,250
Part-time:			
6-8 credits	\$100.00	\$313.00	\$626.00
9-11 credits	\$100.00	\$469.00	\$938.00
<u>Residential</u>			
Full-time	\$100.00	\$750.00	\$1,500
Part-time:			
6-8 credits	\$100.00	\$450.00	\$900.00
9-11 credits	\$100.00	\$600.00	\$1,200
<u>Independent Colleges</u>			
Full-time	\$100.00	\$1,300	\$2,600
Part-time:			
6-8 credits	\$100.00	\$650.00	\$1,300
9-11 credits	\$100.00	\$975.00	\$1,950]

<u>Graduate</u>	<u>Semester Minimum</u>	<u>Semester Maximum</u>	<u>Academic Year Maximum</u>
State Colleges and Universities	\$100.00	\$1,200	\$2,400
Independent	100.00	1,475	2,950
Public Research Universities	100.00	1,475	2,950
Biomedical and Health Sciences Schools	100.00	2,225	4,450]

(e) **The minimum semester grant amount shall not be less than \$100.00.** The awarding of all grants within the minimum and maximum semester and academic year ranges [in (d) above] shall be based upon a careful analysis of the student's total financial situation and financial need. The neediest students shall be accorded priority.

INSURANCE

(a)

**DEPARTMENT OF BANKING AND INSURANCE
DIVISION OF INSURANCE**

Dental Services

Proposed Readoption with Amendments: N.J.A.C. 11:10

Authorized By: Marlene Caride, Commissioner, Department of Banking and Insurance.

Authority: N.J.S.A. 17:1-8.1 and 15.e, 17:48C-18.1 et seq., 17:48D-1 et seq., 17B:26-44.4 et seq., and 17B:27-51.10a et seq.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2018-079.

Submit comments by November 3, 2018, to:

Denise Illes, Chief
Office of Regulatory Affairs
New Jersey Department of Banking and Insurance
20 West State Street
PO Box 325
Trenton, NJ 08625-0325
Fax: 609-292-0896
E-mail: legsgregs@dobi.nj.gov.

The agency proposal follows:

Summary

In accordance with N.J.S.A. 52:14B-5.1, the rules of N.J.A.C. 11:10 were scheduled to expire on August 1, 2018. In accordance with N.J.S.A. 52:14B-5.1c(2), the filing of this notice of proposal with the Office of Administrative Law by that date extends the expiration date by 180 days to January 28, 2019. The rules set forth the standards and practices for the regulation of dental plan organizations (DPOs) and the provision of dental services on other than a pure fee-for-service basis by insurers, DPOs, and dental service corporations (DSCs). The Department of Banking and Insurance (Department) proposes the following for readoption with amendments:

N.J.A.C. 11:10-1 implements the Dental Plan Organization Act, N.J.S.A. 17:48D-1 et seq. (Act), which regulates persons and corporations offering plans for the prepayment or postpayment of dental services. The Act provides for the licensing and supervision of DPOs to protect enrollees of the plans and to assure that the services contracted for are delivered. This subchapter contains requirements for a DPO to obtain and maintain a certificate of authority, including criteria for written agreements with dentists and for evidence of coverage and group contract forms; financial reporting; general surplus, expense limitation

(e) **The minimum semester grant amount shall not be less than \$100.00.**

SUBCHAPTER 3. GRADUATE EOF FINANCIAL ELIGIBILITY

9A:11-3.4 Grant amounts

(a) **Based on the fiscal year EOF Article III appropriation, the Board will annually develop the amount of the maximum semester and academic year Article III graduate grants award ranges, for each sector of higher education. The EOF Executive Director shall inform institutions of the amount of the maximum semester academic year grant each summer through a public notice published in the New Jersey Register and on the Office of the Secretary of Higher Education's website.**

Recodify existing (a)-(c) as (b)-(d) (No change in text.)

[(d) The Board shall annually review the State grant amounts for EOF students and make adjustments, if necessary. The minimum and maximum semester and maximum academic year award ranges for Article III graduate grants for each sector of higher education follows: