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RULE PROPOSALS

AGRICULTURE

DIVISION OF MARKETING AND DEVELOPMENT

42 N.J.R. 5(a)

Proposed Readoption with Amendments: N.J.A.C. 2:34

Click here to view Interested Persons Statement

Equine Advisory Board Rules

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

Authority: N.J.S.A. 5:5-88.

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

Proposal Number: PRN 2010-006.

Submit written comments by March 5, 2010 to:

Alfred Murray, Director

Division of Marketing and Development

Department of Agriculture

P.O. Box 300

Trenton, New Jersey 08625-0330

The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:14B-5.1, the rules in this chapter are scheduled to expire December 17, 2009. In

accordance with N.J.S.A. 52:14B-5.1c, the submission of this notice of proposal to the Office of Administrative Law extends that expiration date 180 days to June 15, 2010. The Department of Agriculture has reviewed these rules, and found them to be necessary, reasonable and proper for the purposes for which they were promulgated.

The Equine Advisory Board rules now proposed for readoption with amendments are a compilation of the procedures used to regulate the non-racing breeder award program and the New Jersey Bred All Breed Horse Show. The rules proposed for readoption provide definitions of eligibility, classes, fees and procedures for the determination of awards from equine promotion monies collected pursuant to N.J.S.A. 5:5-88. Amendments are provided for clarity, to remove some requirements to allow and encourage more participants and provide for the inclusion of the designated individual breed shows in determining breed shares of the year-end money, as discussed more fully below.

N.J.A.C. 2:34-1 is reserved.

N.J.A.C. 2:34-2.1 sets forth the qualifications for year-end non-racing breeder awards, including the number of show entries required for eligibility. Subsection (a) is amended to clarify that a horse must be shown in New Jersey and that all of the shows that are counted toward year-end awards must be New Jersey Events. Subsection (a) is further amended to reflect the changes in the show judging practices described below.

In a show, horses are judged according to different criteria such as breed, discipline, conformation, color and the like. For each criterion, there can be more than one judge. Under the previous rule, there was one judge per show. In the past five years, national rules have changed to allow more than one judge in a show with each judging independently. With this change in the national rules, it is no longer necessary to require three shows to incorporate three judges because there can be three (or more) judges in one show.

Paragraphs (a)1 and 2 are deleted because points are only awarded by the individual breed organizations, not the Board and because the horse show requirements have been changed to reflect the changes in the rules governing the show designations noted above.

Subsection (b) sets forth the characteristics that determine a New Jersey bred horse. Paragraph (b)3 is amended to clarify that the year that a horse is foaled is the year that the stallion must reside in New Jersey. Subsection (c) provides breeder award requirements and is amended to remove an advisory provision concerning closure of nominations. Subsection (d) provides for certification of eligible horses and is amended to change the date for submission, so that awards can be processed and distributed before the holidays. Subsection (f) determines shares of year-end money. Paragraph (f)1 is amended to accommodate the addition of one breed designated show. This change allows breeds to use one of their own shows to establish their New Jersey Bred eligible list and allows more people to participate in the program without requiring attendance at an additional show. Paragraph (f)3 is deleted because the Association is no longer in existence. Subsection (g) is amended to correct a grammatical reference.

N.J.A.C. 2:34-2.2 sets forth provisions for conduct of the New Jersey Bred All Breed Horse Show, including payment of registration fees, Coggins test reporting, compliance with National Association rules and requirements for receiving prize money and the conduct of appeals.

N.J.A.C. 2:34-2.2 provides the requirements for the New Jersey Bred All Breed Horse Show. Amendments to this section add the designated breed show throughout. N.J.A.C. 2:34-2.2(a)4 clarifies Coggins test requirements by providing more detail. In-State horses require a negative Coggins test within the past 24 months and out-of-State horse require a negative Coggins test dated within the past 12 months, as well as a Certificate of Veterinary Inspection. Previously this rule stated only the requirement for a negative Coggins, without the additional specific details.

N.J.A.C. 2:34-2.2(a)5 is amended to provide that the Eligibility Declaration Form need be attached to the entry form, only if the current form is not already on file with the New Jersey Department of Agriculture.

N.J.A.C. 2:34-2.2(a)9 is amended to allow refunds if a veterinarian certificate that is dated the day of the event is

submitted.

[page=6] N.J.A.C. 2:34-2.2(a)10 is amended to increase the fees to more accurately reflect increased costs of business, increased costs of checks returned and to discourage last minute withdrawals.

N.J.A.C. 2:34-2.2(a)12 is deleted because the increased efficiencies and electronic formats used in processing entries allow late entries without the need for additional resources previously required to accommodate late entries.

Recodified N.J.A.C. 2:34-2.2(a)12 is amended to allow additional classes (including costume and style) that have become popular and that do not rely solely on conformation and performance of the animal.

N.J.A.C. 2:34-2.2(a)15 is deleted because various practices related to the combination and split of entries in classes had resulted in changes and rearrangement of contestants causing disruption to the order of the show. Prices and classes have to be set in advance and these practices were hindering the smooth operation of the show.

Recodified N.J.A.C. 2:34-2.2(a)14 is amended to accommodate industry changes with respect to combination of classes and to recognize that each breed group is now allowed to use its own designated show. Reference to points is deleted because points are handled by the breed groups. Recodified subparagraph (a)14i is amended to provide that, with the inclusion of the designated breed shows, prize money is only paid in the New Jersey Bred All Breed Horse Show. For simplicity, breed groups using their own designated shows have the prize money added to their year end amounts.

Recodified N.J.A.C. 2:34-2.2(a)19 is amended to recognize alternative forms of communication.

Recodified N.J.A.C. 2:34-2.2(a)20 is amended to delete the Social Security number requirement to maintain confidentiality.

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

Social Impact

The provision of funds and subsequent awarding of prize monies to owners and breeders of non-racing breeds is designed to have a positive social impact on the development of the horse industry in New Jersey. The rules proposed for readoption with amendments make the responsibilities of the owners and breeders of these horses very clear and enhance the interest and type of competition generated as part of the New Jersey Bred program. The Department of Agriculture sees a positive result from the readoption of these rules as they have evolved over the past 26 years.

Economic Impact

The great majority of competitors for the year-end non-racing breeder awards are private horse owners. It is the intent of the New Jersey Equine Advisory Board to provide positive economic incentive to those owners and breeders through the awarding of prize money in a sponsored competition. The increase in the office fee reflects the increase in the actual production of the show. It will only affect those who scratch their horse or have a payment check returned for nonpayment.

With the continued development of the non-racing breeder award program and the New Jersey Bred All Breed Horse Show, horsemen participating in this program realize a broader economic impact.

Federal Standards Statement

A Federal standards analysis is not required because the rules proposed for readoption with amendments are not

subject to any Federal Standards.

Jobs Impact

The rules proposed for readoption with amendments will not result in the generation or loss of any jobs in the State.

Agricultural Industry Impact

The rules proposed for readoption with amendments will have a positive impact on the agricultural industry, by allocating available funding to awards for non-racing breeds of horses. These awards not only increase youth-participation in equine related activities, but they help keep horses in New Jersey.

Regulatory Flexibility Analysis

The vast majority of competitors affected by the rules proposed for readoption with amendments are individual owners and breeders, however in some instances these may be considered a small business as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules proposed for readoption with amendments pertain to the way certain awards are determined and granted by the Department of Agriculture as a result of voluntary participation in sponsored events. If a horse owner or breeder does not participate in any programs eligible for these awards, there are absolutely no compliance requirements established for those persons. The rules proposed for readoption with amendments impose minimal reporting requirements for participants seeking award funding, in the form of applications, health information (Coggins test) and breed information. This reporting is required to ensure the integrity of the programs and therefore, no varying standards based on business size are offered.

Since these rules only affect a voluntary program, the Department of Agriculture has determined, in accordance with the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., that the rules proposed for readoption with amendments do not impose unduly burdensome recording, recordkeeping or compliance requirements on either the individual horse owner or those considered small businesses.

There will be no adverse economic impact on small businesses as a result of the rules proposed for readoption with amendments. There will be no expenditures for professional services or capital outlays as a result of the rules proposed for readoption with amendments.

Smart Growth Impact

The rules proposed for readoption with amendments are consistent with the economic development strategies as outlined within the Department's Smart Growth Plan. The Department does not believe that the rules proposed for readoption with amendments will have any impact on the achievement of smart growth or upon the implementation of the State Development and Redevelopment Plan.

Housing Affordability Impact

The rules proposed for readoption with amendments will have an insignificant impact on affordable housing in New Jersey and there is an extreme unlikelihood that the regulation would evoke a change in the average costs associated with housing because the rules regulate the non-racing breeder award program and the New Jersey Bred All Breed Horse Show and procedures for the determination of awards.

Smart Growth Development Impact

The rules proposed for readoption with amendments will have an insignificant impact on smart growth and there is an extreme unlikelihood that the regulation 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 rules regulate the non-racing breeder award program and the New Jersey Bred All Breed Horse Show and procedures for the determination of awards.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 2:34.

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

SUBCHAPTER 2. EQUINE ADVISORY BOARD RULES

2:34-2.1 Qualifications for year-end non-racing breeder awards

(a) With the exception of non-parimutuel racing, in order to qualify for year-end non-racing breeder awards, a horse must [enter at least three different New Jersey horse shows] **be shown in New Jersey** under three different judges. [Futures must be held with a minimum of three judges.] Furthermore, there must be at least two horses entered, shown and judged in each class.

[1. If a horse is entered in a New Jersey horse show with only one horse in its class, it will not receive any points towards breeder awards, but the show will count as one of its three required New Jersey horse shows.

2. If a designated breeding class at a pointed horse show does not fill, the Grand or Reserve Champion class may be counted for New Jersey bred points at the discretion of the breed organization, if the organization has made this decision at the beginning of the year.]

(b) A New Jersey bred horse is:

[page=7] 1.-2. (No change.)

3. The get of any stallion standing only in New Jersey during the breeding season of the year in which the foal was conceived. Stallions standing in New Jersey must breed only in New Jersey for [any yearly] **that year's** breeding season; or

4. (No change.)

(c) In order to qualify for New Jersey non-racing breeder awards, at least one owner shall be a member in good standing of the New Jersey breed association, represented on the New Jersey Equine Advisory Board, which represents the particular breed group in which the breeder is competing. In the case of a leased horse, the lessee shall hold such membership. [Nominations for Jersey Breds should not close before one month prior to the New Jersey All Breed Horse Show.]

(d) Individual breed groups are responsible for the certification of eligible horses and the tabulation of breeder award points, and must submit them to the New Jersey Department of Agriculture no later than November [30] **15** of the year in which they are earned.

(e) (No change.)

(f) Each breed's share of the year-end money is determined by:

1. The number of animals shown at the New Jersey All Breed Horse Show[; **or the number of animals that**

participate in the New Jersey breed designated show in the calendar year. The one breed designated show must be submitted to the New Jersey Department of Agriculture by March 1 of the calendar year; and

2. The number of horses entered in specific breed futurities. For a futurity run by a New Jersey breed group at a separate location, each New Jersey Bred horse's owner must sign an owner's eligibility certification form, which, along with a photocopy of the entry blank, must be sent by the breed group to the New Jersey Department of Agriculture within two weeks of the show[; and].

[3. The number of animals who race at the Trotting Bred Pony Association races. All owners must sign an eligibility certification form which, along with a photocopy of the entry blank, must be sent by the Trotting Bred Association to the Department of Agriculture within two weeks of the race.]

(g) For the purpose of obtaining a year-end total of competitors for each breed group, no animal is to be counted more than once by one breed group and horses [who] **that** are registered with more than one breed group may be entered in any division for which they are qualified.

(h)-(i) (No change.)

2:34-2.2 Conduct of the New Jersey Bred All Breed Horse Show **and designated breed shows**

(a) The New Jersey Bred All Breed Horse Show, or any other show conducted by the New Jersey Department of Agriculture, shall be governed as follows:

1. It is the policy of the New Jersey Department of Agriculture to accept the decisions of the individual breed groups regarding which horses are qualified to enter and show at the New Jersey Bred All Breed Horse Show **or any other designated breed horse show that will be used to determine year-end awards**, and to receive non-racing breeder awards, as well as the tabulation of breeder award points. Such decisions and tabulations must not be in opposition to the intent of this chapter. Any disagreement with the decision of the groups must be presented to the officers and/or directors of the particular breed group pursuant to (b) below.

2.-3. (No change.)

4. No entry will be accepted without a photocopy of a negative Coggins test of the date accepted by the New Jersey Department of Agriculture. **In-State horses need a negative Coggins test dated within the past 24 months and out-of-State horses need a negative Coggins test dated within the last 12 months, as well as a Certificate of Veterinary Inspection.** Foals six months and under are allowed to use the Coggins test of their dam.

5. Copies of the Coggins test report and the horse's registration papers shall be attached to all entry forms along with the owner's Eligibility Declaration Form, **if a current form is not already on file at the New Jersey Department of Agriculture.**

6. (No change.)

7. [No] **For the New Jersey Bred All Breed Horse Show, no entries or stall reservations will be accepted unless payment by check or money order is received by the show secretary.**

8. [All] **For the New Jersey Bred All Breed Horse Show, all** entries must be postmarked (meter marks shall not be accepted) no later than the closing date of entries in order for entry to appear in the program. A check or money order (no cash) for the entry and stall fees must accompany the entry blank. No horse will be allowed to compete until all fees are paid.

[i. Post entries will be accepted at two times the regular fee. Any entry received postmarked after closing date will be considered a post entry and will be accepted at two times the regular entry fee provided it meets all other New Jersey bred requirements. Entry fees must be paid by money order or check. No cash will be accepted. Post entries not completely in order when received will not be accepted.]

[ii.] i. (No change in text.)

9. [There] **For the New Jersey Bred All Breed Horse Show**, there shall be no refunds once a horse has performed in a class, or if entered and not exhibited, after the start of the show, **unless a veterinarian certificate is submitted, dated the day of the event.**

10. [All] **For the New Jersey Bred All Breed Horse Show**, all entry and stall fees will be refunded upon request before the closing date of entries minus a [\$ 10.00] **\$ 25.00** office charge per horse. After this date, entry fees only will be refunded upon receipt of a veterinarian's certificate; however, there will be a charge of [\$ 10.00] **\$ 25.00** on each horse entered. The actual refund will not be made until after completion of the show. There is a penalty of [\$ 30.00] **\$ 50.00** if a check is refused.

11. [Exhibitor] **For the New Jersey Bred All Breed Horse Show**, **exhibitor** numbers will be provided for each entry in this show at the Secretary's booth. It is the exhibitor's responsibility to make certain the proper horse is entered in the proper class with the proper number. Horses entered in the wrong class will be disqualified.

[12. Post entries will be accepted at two times the regular fee after the closing date of entries.]

[13.] 12. Each breed will be judged according to the rules and regulations of its national breed association. All classes must conform to the specifications of the National Association list of classes. [All classes offered shall be judged solely on the conformation or performance of the animal.] Those breeds [which] **that** do not have a national affiliation will be judged by their New Jersey State organization rules.

[14.] 13. [No] **For the New Jersey Bred All Breed Horse Show**, no horse shall be shown in any class at this show if it has been administered, in any manner, any foreign substance. A foreign substance is any medication. There will be spot testing by urinalysis and/or blood testing. Any entry found positive will be disqualified and will forfeit all awards for the New Jersey Bred All Breed Horse Show and New Jersey Bred year-end awards in the current year. Refusal to allow testing will automatically subject the horse to disqualification.

[15. Classes designated as combined may be split if entries warrant; full prize money will be paid in both categories, providing the breed organization has not exceeded the designated prize money; otherwise, prize money will be split.]

[16.] 14. [Two horses are required to fill a class at the All Breed Horse Show. If] **For the New Jersey Bred All Breed Horse Show**, if Classes with A and B sections do not have two entries each, A and B sections [will] **may** be combined. [Other classes will be combined only as specified in the prize list. Two horses are required to be shown and judged in order to receive both prize money and points.]

i. Prize money **for the New Jersey Bred All Breed Horse Show**, will be paid as follows:

Four horses or more in class

50 percent; 25 percent;

15 percent; 10 percent.

Three horses in class 50 percent; 25 percent

15 percent.

Two horses in class 50 percent; 25 percent.

One horse in class 50 percent[; no points].

[page=8] For individual designated breed shows, the amount of prize money allotted to the particular breed will be added to their year-end award total.

ii. If only one horse reports for judging, show money will be paid. [but no points will be given. However, that] **That** horse shown and judged will receive credit for the All Breed Horse **New Jersey Bred** Show, one of the horse's required three New Jersey shows.

Recodify existing 17.-20. as **15.-18.** (No change in text.)

[21.] **19.** A veterinarian certificate excusing a horse from competition must be dated on or before the start of its competition [and be postmarked within five days of the competition]. This must be supplied on the veterinarian's letterhead and have the signature of the veterinarian.

[22.] **20.** Prize money will be mailed to winners at a later date. [No money can be paid without the winner's Social Security number.]

(b) (No change.)