



7 of 16 DOCUMENTS

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RULE PROPOSALS

**AGRICULTURE
DIVISION OF MARKETING AND DEVELOPMENT**

41 N.J.R. 1549(a)

Proposed Readoption: N.J.A.C. 2:33

[Click here to view Interested Persons Statement](#)

Agricultural Fairs

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

Authority: N.J.S.A. 5:8-121 et seq.

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

Proposal Number: PRN 2009-122.

Submit comments by June 19, 2009 to:
Alfred Murray, Assistant Secretary of Agriculture
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 November 20, 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 May 9, 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.

Historically, a fair certified as an "Official Agricultural Fair" has been eligible for State funds, when available, to offset fair expenses and eligible for a license to conduct amusement games at a reduced annual fee.

The rules proposed for readoption without change, provide a method of distribution of monies should they become available.

Specifically, N.J.A.C. 2:33-1.1(a) requires each "Official Agricultural Fair" to hold, at one site, an agricultural exhibit for the promotion and development of agriculture or agribusiness in and of that county. N.J.A.C. 2:33-1.1(b) requires that the fairs conduct at least two additional activities related to manufacturing, community development, product promotion, public service, county interest, culture or recreation. N.J.A.C. 2:33-1.1(c) requires each "Official Agricultural Fair" to obtain certification from the Department of Agriculture as a condition of operation.

Additionally, N.J.A.C. 2:33-1.2(a) requires each certified "Official Agricultural Fair" to furnish a detailed fair status report to the Department of Agriculture and to comply with all governmental health, fire and police regulations and requires each certified fair to furnish on request a copy of the fair audit report in the event State funds are made available to the fair. N.J.A.C. 2:33-1.2(b) authorizes access to the fair premises by the Department of Agriculture to determine compliance with this chapter.

In addition, N.J.A.C. 2:33-1.3(a) requires applicants for "Official Agricultural Fair" certification to file their proposal to the Department by September 1 of the year preceding the year in which the fair is to be held. It also requires a copy be submitted to the county board of agriculture for comment. N.J.A.C. 2:33-1.3(b) requires the county board of agriculture to submit comments to the Department on such proposal by November 1 of the preceding year. N.J.A.C. 2:33-1.3(c) requires the State Board of Agriculture to approve or deny certification after consideration of the proposal and comments from the county board of agriculture. N.J.A.C. 2:33-1.3(d) requires new applicants to produce the event for one year in compliance with this chapter. After a positive evaluation, the fair will be eligible for certification the following year.

Finally, N.J.A.C. 2:33-1.4(a) creates a method for distribution of funds in the event funding is available for the "Official Agricultural Fairs."

As the Department has provided a 60-day comment period on 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 rules proposed for readoption without change will have a positive social impact by continuing streamlined procedures and a method for distribution of funds when they are available. Both lead to better fairs to showcase New Jersey agriculture and thereby transmit information about agriculture to the general public. In addition, "Official Agricultural Fairs" provide not only education experiences for the participants, but also a form of wholesome family entertainment for all who attend.

Economic Impact

The rules proposed for readoption without change will have a positive economic impact on those "Official Agricultural Fairs" by distributing a portion of available funds to all fairs equally and distributing a portion of available funds based on the amount of square footage devoted to agriculture. In addition, when funds are available, there is a positive economic impact to fair attendees, since the State aid can offset the price of admission.

Federal Standards Statement

A Federal standards analysis is not required because the rules proposed for readoption are not subject to any Federal Standards.

Jobs Impact

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

Agriculture Industry Impact

The rules proposed for readoption will have a positive impact on the agricultural industry, by allocating available funding to "Official Agricultural Fairs," which serve the dual purpose of supporting agricultural education to youths and also promote and provide [page=1550] information on agricultural activities to the general public. "Official Agricultural Fairs" often increase consumer demand for New Jersey-grown or produced products.

Regulatory Flexibility Analysis

Some carnival operators and fair promoters are small businesses, as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules proposed for readoption may have an economic impact on such businesses, dependent upon whether or not Department of Agriculture certification is obtained for their fair. There are minimal costs associated with the process. Applicants will incur the administrative and documentary costs of the application process. Those granted certification must annually provide a fair status report and a copy of their annual audit report. Therefore, the rules proposed for readoption impose minimal reporting requirements upon applicants for and organizations designated as "Official Agricultural Fairs."

The rules proposed for readoption are simple and comply with legislative mandates of N.J.S.A. 5:8-121 et seq. The Amusement Games Licensing law allows agricultural fairs approved by the Department of Agriculture to be licensed to conduct games of amusement at a greatly reduced fee. The rules proposed for readoption do not differentiate between small and large businesses, but rather make a distinction between Official Agricultural Fairs and other commercial fair or carnival enterprises.

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

Smart Growth Statement

The rules proposed for readoption are consistent with the economic development strategies as outlined within the Department's Smart Growth Plan. These rules are also consistent with the State's smart growth goals as they encourage the continued viability of the State's agricultural industry. Therefore, the Department anticipates that there will be a positive impact on the achievement of smart growth and the implementation of the State's Development and Redevelopment Plan.

Housing Affordability Impact

The rules proposed for readoption without change will have an insignificant impact on affordable housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the rules provide the requirements that must be met for a fair to qualify as an "Official Agricultural Fair."

Smart Growth Development Impact

The rules proposed for readoption without amendment 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 rules provide the requirements that must be met for a fair to qualify as an "Official Agricultural Fair."

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 2:33.