

AGRICULTURE

DIVISION OF MARKETING AND DEVELOPMENT

Standardbred Development Fund Program of Sire Stakes Program

Proposed Readoption of Special Adoption with Amendments: N.J.A.C. 2:32A

Authorized by: New Jersey Sire Stakes Board of Trustees, Christopher Castens, Executive Director, and Douglas H. Fisher, Secretary, Department of Agriculture

Authority: N.J.S.A. 5:5-91; N.J.S.A. 5:5-91.1

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

Proposal Number:

Submit written comments by close of business on December 5, 2014 to:

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or

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Sire Stakes Program

New Jersey Department of Agriculture

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The agency proposal follows:

Summary

This proposal to readopt N.J.A.C. 2:32A with amendments was authorized by the legislature to follow the Special Adoption of these regulations on September 4, 2013. The regulations codified and implemented new statutory requirements concerning Standardbred horse breeding and racing. The New Jersey Sire Stakes Board of Trustees had adopted the regulations on May 6, 2011, after a new law was signed to expand the Sire Stakes Program through the newly-established Standardbred Development Fund Program (Development Fund Program) and to allocate funds for this purpose from Sire Stakes Program.

The Standardbred Development Fund Program which, provided that the mare stands at a New Jersey breeding farm for at least 150 consecutive calendar days, including the date of foaling, and includes foals who are the product of a non-New Jersey-based or domiciled sire and a mare that are registered with the United States Trotting Association, as well as all horses eligible to race under the Sire Stakes Program. It provides purses for owners that will become eligible to participate in the program. The rules require registration no later than January 31 of the year the foal is to be born to participate in the program. By law, the Standardbred Development Fund Program shall be allocated funds from those monies that accrue to the Sire Stakes Program.

The Development Fund Program will include all horses eligible to race under the Sire Stakes Program, as well as foals who are the product of a stallion and a mare that are registered with the United States Trotting Association, provided that the mare stands at a New Jersey breeding farm for at least 150 consecutive calendar days, inclusive of the date of foaling

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All monies that are statutorily dedicated to the Sire Stakes Program as purse supplements may be used to supplement purses under the Development Fund Program. The Sire Stakes Program board of trustees will administer the program, will issue rules and regulations as necessary to establish the program, and is authorized to subsequently amend, adopt, or readopt those rules and regulations and do all that is necessary for the proper administration of the program.

The readoption of rules establishing conditions for participation is necessary for the continued operation of the Development Fund Program. The Program conditions are widely distributed among the participants and are reproduced in several industry publications. The conditions relate to the rules of residency for mares, nomination of mares to the Standardbred Development Program, nomination of yearlings, sustaining payments and the racing of New Jersey-sired and New Jersey-bred horses at New Jersey tracks. They have provided definitive guidelines for the operation of the Sire Stakes Program for the past three decades and have operated well during that period.

Subchapter 1, General Provisions, covers the general provisions of the Development Fund Program. It makes clear that the United States Trotting Association's Guide for Stakes and Futurities has been adopted and incorporated by reference by the Board. This document establishes the rules for eligibility and participation for stakes races for standardbred horses in North America.

Subchapter 2 establishes the conditions for the operation of and participation in the Standardbred Development Fund Program.

The proposed amendment to N.J.A.C. 2:32A-2.1 seeks to permit horses to be eligible to the Standardbred Development Program if the dam of said horse resided in the state of New Jersey for a minimum of 150 consecutive days, including the foaling date of said eligible horse.

Expanding Program eligibility to horses whose dams were in the state for the prescribed time period is necessary for the Sire Stakes Program and the Standardbred Development Program to remain competitive with the programs existing in other locales. The Program also believes that this will provide a stimulus to encourage mare owners to breed and board their mares in New Jersey.

N.J.A.C. 2:32A-2.2 has been further proposed to be amended to specify the conditions of eligibility to the program as well as extending the deadline for registering mares from September 15 of the year preceding foaling to January 31 of the year of foaling. The extension of the deadline should allow for greater participation of horses in the Standardbred Development Program.

As the Department has provided a 60-day comment period for 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 impact of the rules proposed for readoption with amendments governing the Standardbred Development Fund Program is primarily limited to the participants in the Sire Stakes Program. Currently, there are approximately 2,000 participants. While the social effects of the Sire Stakes rules have had a limited impact on the general public during their existence, the social impact of the rules proposed for readoption with amendments will be beneficial to the public insofar as they aid in the Program's ability to assist in preserving New Jersey's open spaces and farmland.

Encouraging horses to participate in the Standardbred Development Fund and Sire Stakes Programs, regardless of whether they are based at a racetrack or training center in the State, means that more farms are required to board horses when they come to New Jersey, which means an increase in open space for the State. The Program does not anticipate that the rules proposed for readoption with amendments will have an adverse effect on any of the Program's participants or the general public.

Economic Impact

The Program anticipates that the rules proposed for readoption with amendments will have a positive economic impact on the program's participants and the many small businesses that comprise the equine industry. The Standardbred Development Fund will be funded through New Jersey Sire Stakes Program, which is currently worth approximately \$4 million. The New Jersey Sire Stakes Program primarily is funded by .51 percent of the Pari-mutuel handle (wagering) at the two commercial harness tracks (the Meadowlands and Freehold Raceway) and by payments made by Standardbred owners. Creation of the New Jersey Standardbred Development Fund Program to permit horses resulting from the mating of a stallion residing outside of New Jersey with a mare that is domiciled for at least 150 consecutive days, including the date of foaling, should result in an increase in the number of horses participating in the two programs, thus allowing New Jersey to retain its competitive edge with the programs from other jurisdictions. An increase in the number of horses that are eligible for the Program will also result in a greater dollar amount to be distributed to the Program's participants.

Federal Standards Statement

Executive Order No. 27 (1994) and P.L 1995, c. 65 require State agencies that adopt, readopt or amend State regulations that exceed any Federal standards or requirements to include in the rulemaking document a comparison with Federal law. A Federal standards analysis is not required because the regulation of the Sire Stakes Program is dictated by the Sire Stakes Program Establishment Act, *N.J.S.A. 5:5-91* et seq., and is not subject to any Federal requirements or standards.

Jobs Impact

The Program does not anticipate that the rules proposed for readoption or the proposed amendments will result in the generation of loss of jobs in the State.

Agriculture Industry Impact

The Sire Stakes Program, through its conditions, has had a positive impact on the agriculture community in New Jersey and it is anticipated the Standardbred Development Fund Program will have a similar impact. The largest breed of horses in New Jersey is the standardbred, numbering over 8,000. The Program greatly contributes to open space and farmland preservation as it has attracted to the State a large Standardbred population, which is highly dependent on the Sire Stakes Program. It is anticipated that the rules proposed for readoption with amendments will have positive impact on the agriculture industry in New Jersey for the reasons set forth in the Summary, Social, and Economic Impacts above.

Regulatory Flexibility Analysis

Many of the participants in the New Jersey Standardbred Development Fund and the Sire Stakes Programs are small businesses as defined in the Regulatory Flexibility Act, *N.J.S.A. 52:14B-16* et seq. Therefore, a regulatory flexibility analysis is appropriate. The purpose of the Standardbred Development Fund and the Sire Stakes Programs is to provide competition for New Jersey-sired and New Jersey-bred Standardbred horses that is sufficiently challenging to improve the breed, sufficiently open to encourage maximum participation, and provide economic incentives of sufficient magnitude to make participation worthwhile. The number of small businesses that participate in the Program, has been declining for each of the last five years. The Sire Stakes Board of Trustees believes that the Programs are beneficial to such businesses. The requirements imposed under the rules proposed for readoption with amendments are described in the Summary above. The proposed amendments include language that assures that all participants in the Standardbred Development Fund and the Sire Stakes Programs are fairly and equitably treated regardless of the size of their business. Costs that may result from the amendments are discussed in the Economic Impact, above. Therefore, the rules are not considered such a burden to the participating small businesses as to require a separate standard based on business size. Further, in the interest of competitive fairness and to maintain the integrity of the Program, no differing standards based on business size are offered. The proposed amendments do not require any additional reporting or recordkeeping, nor do they require participating businesses to incur any additional expenses for any professional services or capital expenditures in order to comply.

Housing Affordability Impact Analysis

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 rules would evoke a change in the average costs associated with housing because the rules proposed for readoption with amendments provide for the protection of the New Jersey poultry industry from avian influenza.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments 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 proposed for readoption with amendments provide for the protection of the New Jersey poultry industry from avian influenza.

Full text of the rules proposed for readoption with amendments follow;

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