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RULE PROPOSALS

AGRICULTURE

DIVISION OF MARKETING AND DEVELOPMENT

40 N.J.R. 6260(a)

Proposed Readoption with Amendments: N.J.A.C. 2:68

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

Commercial Feeding Stuffs

Authorized By: State Board of Agriculture and Charles M. Kuperus, Secretary, Department of Agriculture.

Authority: N.J.S.A. 4:4-20.10.

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

Proposal Number: PRN 2008-366.

Submit comments by January 2, 2009 to:

Alfred Murray, Director
Division of Marketing and Development
New Jersey Department of Agriculture
PO Box 330
Trenton, New Jersey 08625-0330
Telephone: (609) 292-5575

The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:14B-5.1c, N.J.A.C. 2:68, Commercial Feeding Stuffs, which was scheduled to expire on October 7, 2008, is now scheduled to expire on April 5, 2009. The Department of Agriculture proposes to readopt these rules as they have been found to be necessary, reasonable and proper for the purpose for which they were promulgated. Readoption is necessary because N.J.A.C. 2:68 was originally promulgated to protect farmers and consumers by determining the manufacturer's compliance with the guaranteed content of animal feed and to reduce the amount of misbranded and deficient products offered for sale thereby insuring the quality of feed and protecting animal growth.

Currently, the Department of Agriculture utilizes the standards set forth in the 2008 edition of the Official Publication of the Association of American Feed Control Officials, Inc. (AAFCO). The AAFCO standards are recognized by the industry as the most comprehensive and current available. They are accepted throughout most of the United States.

In addition to the regulations of feed terms previously referenced, the Department of Agriculture adopts the official pet food regulations, the statement of uniform interpretation and policy and lists of new animal drugs, certifiable antibiotics and warning statements associated therewith, the permitted analytical variations and the pet food protocols and affidavits as contained in the current edition of the Official Publication of the Association of American Feed Control Officials (referred to above).

A copy is on file in the Director's office, Division of Marketing and Development, New Jersey Department of Agriculture, Health and Agriculture Building, John Fitch Plaza, Trenton, New Jersey 08625-0330. Copies may be procured by writing to Sharon Krebs, AAFCO, P.O. Box 478, Oxford, IN 47971 or by ordering on line at www.aafco.org. The rule text is updated to include this current correct contact information.

The Department is currently utilizing the official methods of analysis for feed and pet foods as published in the 2007 edition of the Association of Official Analytical Chemists as amended and supplemented. Copies may be obtained by writing to AOAC, Fulfillment Coordinator, 2200 Wilson Boulevard, Arlington, Virginia 22201-3301 or online at www.aoac.org. The rule is updated to include the website.

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

Social Impact

Readoption of N.J.A.C. 2:68 will continue to provide a basis for fair competition in the feed and pet food industries, as well as to protect farmers and consumers who purchase commodities covered in this chapter.

Both consumers and manufacturers are affected by the testing of commercial feeds. The purpose is to assure adequate and accurate labeling information. The labeling allows the purchase of product with a known quality and the easy comparison of the product with other similar [page=6261] products on the market. N.J.A.C. 2:68-1.1 through 1.7 will continue to protect purchasers of feed commodities and pet foods by reducing the amount of misbranding and adding harmful ingredients to animal feeds.

Economic Impact

Consumers will realize economic savings through accurate labeling. Manufacturers will be able to compete on an equal basis through the use of the same standards in formulating their labels. Economy of scale will be realized by the opening up of all markets in the United States to any commercial feed manufacturer through one uniform labeling system. The savings from these economies of scale will then be able to be passed on to the consumer. There is no increased cost to the Department of Agriculture by the continuation of these standards. In the 2006-2007 period, 384 samples were analyzed in the laboratory and 4.95 percent were found to be deficient in protein and 2.08 percent had unsatisfactory fat contents.

Federal Standards Statement

A Federal standards analysis is not required because the rulemaking requirements of the Director of the Division of Marketing and Development, New Jersey Department of Agriculture are dictated by the New Jersey Commercial Feed Law, N.J.S.A. 4:4-20.1 et seq., and are not subject to any Federal requirements or standards.

Jobs Impact

There will be no impact on the number of jobs generated or lost in the State of New Jersey.

Agriculture Industry Impact

The Social and Economic Impacts above describe the impact of the rules proposed for readoption with amendments on the agriculture industry.

Regulatory Flexibility Analysis

Some commercial feed manufacturers and distributors are small businesses, as defined by the Regulatory Flexibility Act. N.J.S.A. 52:14B-16 et seq. The rules proposed for readoption with amendments will have an economic impact on such businesses, however, the Department knows of no less restrictive a system than expressed in the standards, which are universally accepted and provide a level playing field for all manufacturers, enabling fair competition based on product quality.

Further, there is no way to protect the consumers of these products without a method of guaranteeing compliance with label claims so there is no way to exempt small businesses from these rules. It is important that consumers be able to rely upon labeling, which provides comparable information. These standards are the most universally recognized and have been used by the Department for over 35 years. They provide the least costly and best protection available.

No recordkeeping or reporting requirements are imposed under these rules. There are no professional services required to comply nor will any initial capital outlays be required of any business as a result of the rules proposed for readoption with amendments.

Smart Growth Impact

The Department does not anticipate that the rules proposed for readoption with amendments will have any impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

Housing Affordability Impact

The Department has found that there is an extreme unlikelihood that the scope of the rules proposed for readoption with amendments would change the average costs associated with housing. The rules determine the manufacturer's compliance with the guaranteed content of animal feed in order to reduce the amount of misbranded and deficient products offered for sale. Cost of housing is not affected.

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 determine the manufacturer's compliance with the guaranteed content of animal feed in order to reduce the amount of misbranded and deficient products offered for sale.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 2:68.

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

SUBCHAPTER 1. ASSOCIATION STANDARDS

2:68-1.8 Obtaining copies of rules incorporated by reference

(a) A copy of the current edition of the official publication of the American Feed Control Officials is on file in the Directors Office, Division of Marketing and Development, New Jersey Department of Agriculture, Health & Agriculture Building, John Fitch Plaza, Trenton, New Jersey 08625. Copies may be procured by writing to [Charles P. Rank, Georgia Department of Agriculture, Capital Square, Atlanta, Georgia 30334] **Sharon Krebs, AAFCO, P.O. Box 478, Oxford, IN 47971, or by ordering on line at** www.aafco.org.

(b) A copy of the current edition of the official methods of the Association of Official Analytical Chemists (AOAC) is on file in the Director's Office, Division of Marketing and Development, New Jersey Department of Agriculture, Health & Agriculture Building, John Fitch Plaza, Trenton, New Jersey 08625. Copies may be procured by writing to AOAC, Fulfillment Coordinator, 2200 Wilson Boulevard, Arlington, Virginia 22201-3301, **or by ordering online at** www.aoac.org.