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RULE PROPOSALS

**AGRICULTURE
DIVISION OF ANIMAL HEALTH**

42 N.J.R. 3(a)

Proposed Readoption: N.J.A.C. 2:3

Livestock and Poultry Importation

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

Authorized By: The State Board of Agriculture and Douglas H. Fisher, Secretary, Department of Agriculture. Authority: N.J.S.A. 4:5-54 through 75.

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

Proposal Number: PRN 2010-005.

Submit written comments by March 5, 2010 to:

Dr. Nancy E. Halpern
NJDA/Division of Animal Health
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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 proposed readoption 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 readoption of N.J.A.C. 2:3 is necessary to ensure the continued health of New Jersey livestock and poultry by protecting that population from diseases imported into the State. These rules address current national animal disease issues, recognize United States Department of Agriculture (USDA) regulation of interstate movement of livestock and address heightened security concerns,

Subchapter 1 contains general requirements.

N.J.A.C. 2:3-1.1 provides definitions of terms that are used throughout the chapter.

N.J.A.C. 2:3-1.2 provides the requirements for interstate health certificates for livestock and poultry moving into the State.

N.J.A.C. 2:3-1.3 describes importation requirements for animals entering the State for slaughter purposes.

N.J.A.C. 2:3-1.4 provides the contents of the Certificate of Veterinary Inspection and allows more technologically advanced forms of identification, such as microchip and electronic identification.

N.J.A.C. 2:3-1.5 defines the time limit for the receipt of a Certificate of Veterinary Inspection by the Department.

N.J.A.C. 2:3-1.6 provides the expiration date of Certificates of Veterinary Inspection.

N.J.A.C. 2:3-1.7 provides a description of official actions that may follow the imposition of quarantine of livestock and poultry entering the State.

N.J.A.C. 2:3-1.8 addresses the import of diseased livestock and poultry.

N.J.A.C. 2:3-1.9 addresses prior import permits.

N.J.A.C. 2:3-1.10 provides the procedure on failure to meet importation requirements.

N.J.A.C. 2:3-1.11 explains how someone can request an exception to this chapter. Exceptions will only be granted after epidemiological evaluation and risk determination.

Subchapter 2 concerns cattle and bison importations.

N.J.A.C. 2:3-2.1 clarifies that the general requirements for importation are set forth at N.J.A.C. 2:3-1.1 through 1.6.

N.J.A.C. 2:3-2.2 provides definitions of terms used in this subchapter.

N.J.A.C. 2:3-2.3 addresses tuberculosis testing of cattle.

N.J.A.C. 2:3-2.4 allows the Department to require imported cattle to be tested for tuberculosis.

N.J.A.C. 2:3-2.5 addresses Brucellosis testing exemption for cattle imported from Class Free States or areas

N.J.A.C. 2:3-2.6 addresses Brucellosis testing for cattle imported from Class A states.

N.J.A.C. 2:3-2.7 addresses Brucellosis testing for cattle imported from Class B and C states.

N.J.A.C. 2:3-2.8 allows the Department to require imported cattle to be tested for Brucellosis.

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N.J.A.C. 2:3-2.9 addresses importation of cattle with Anaplasmosis or Bluetongue.

Subchapter 3 concerns swine importation.

N.J.A.C. 2:3-3.1 requires compliance with general requirements and the specific requirements of the subchapter for importation of swine.

N.J.A.C. 2:3-3.2 provides definitions of terms that are used throughout the subchapter.

N.J.A.C. 2:3-3.3 addresses brucellosis testing of imported swine.

N.J.A.C. 2:3-3.4 addresses Pseudorabies testing of imported swine.

N.J.A.C. 2:3-3.5 is reserved.

Subchapter 4 pertains to sheep importation.

N.J.A.C. 2:3-4.1 addresses compliance and importation requirements.

N.J.A.C. 2:3-4.2 requires bluetongue testing of sheep entering the State.

Subchapter 5 pertains to goat importation.

N.J.A.C. 2:3-5.1 addresses compliance and importation requirements.

N.J.A.C. 2:3-5.2 provides definitions used in this subchapter.

N.J.A.C. 2:3-5.3 describes tuberculosis testing requirements for goats.

N.J.A.C. 2:3-5.4 allows the Department to require imported goats to be tested for Tuberculosis.

N.J.A.C. 2:3-5.5 describes brucellosis testing requirements for goats.

Subchapter 6 concerns equine importation.

[page=4] N.J.A.C. 2:3-6.1 requires compliance with general requirements and the specific requirements of the subchapter.

N.J.A.C. 2:3-6.2 provides for the official test for Equine Infectious Anemia (EIA).

Subchapter 7 pertains to poultry and hatching egg importation.

N.J.A.C. 2:3-7.1(a) provides for compliance with the general requirements for importation and the requirements of the subchapter.

N.J.A.C. 2:3-7.1(b) provides additional definitions for the subchapter.

N.J.A.C. 2:3-7.2 addresses Pullorum testing in imported poultry.

N.J.A.C. 2:3-7.3 addresses Salmonella enteritidis in imported poultry.

N.J.A.C. 2:3-7.4 addresses Avian Influenza import restrictions.

N.J.A.C. 2:3-7.5 addresses permissible routes through New Jersey for shipment of live poultry and poultry products.

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Subchapter 8 concerns captive cervid importation.

N.J.A.C. 2:3-8.1 provides for compliance with the general requirements for importation and the requirements of the subchapter.

N.J.A.C. 2:3-8.2 provides definitions of terms that are used in this subchapter.

N.J.A.C. 2:3-8.3 addresses tuberculosis testing of captive cervids to be imported.

N.J.A.C. 2:3-8.4 addresses brucellosis testing for captive cervids.

N.J.A.C. 2:3-8.5 requires Bluetongue testing of captive cervids entering the State.

N.J.A.C. 2:3-8.6 requires that all captive cervids entering the State are active participants in the United States Department of Agriculture Chronic Wasting Disease Herd Certification Program.

Subchapter 9 pertains to llama and alpaca importation

N.J.A.C. 2:3-9.1 provides for compliance with the general requirements for importation and the requirements of the subchapter.

N.J.A.C. 2:3-9.2 provides definitions of terms used in this subchapter

N.J.A.C. 2:3-9.3 requires tuberculosis testing of llamas and alpacas entering the State.

N.J.A.C. 2:3-9.4 requires brucellosis testing of llamas and alpacas entering the State.

Subchapter 10 concerns nutria importation.

N.J.A.C. 2:3-10.1 provides for compliance with the general requirements for importation and the requirements of the subchapter.

Subchapter 11 concerns the importation of livestock and poultry for exhibition.

N.J.A.C. 2:3-11.1 provides the general requirements via a cross-reference.

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 prevention and control of disease by the regulation of programs necessary to prevent the importation of diseased and/or disease carrying animals that may infect New Jersey's livestock population is a key element to the viability of animal agriculture. The rules proposed for readoption set forth requirements for the socially beneficial programs that prevent the introduction of diseases that may be harmful to the health of the animal husbandry industry and to humans. Additionally, these rules provide a measure of protection against introduction and spread of possible bioterrorist agents.

Rules designed to protect New Jersey's livestock from infectious and contagious diseases not only protect New Jersey livestock owners and producers, but also prevent the spread of these diseases to humans and thereby enhance national security.

These rules are proposed for readoption to continue to protect the health of livestock in New Jersey during a time of heightened disease awareness and risk. Therefore, these rules will have a positive social impact by impacting the

individuals and stakeholders involved in this sector.

Economic Impact

The burden of these rules falls upon the farmer, consumer and the intermediaries between the two. Compliance imposes minimal costs to farmers and dealers as a result of processing paperwork and treating any diseases found. However, these costs are outweighed by the safety of the products produced, the protection of human health and safety and a higher economic return from the product as a result of compliance with the rules. The market is supplied with a larger and healthier supply of animals; those animals command a higher price for the producer; and the consumer benefits by receiving a safe and nutritious food product. Therefore, the rules proposed for re-adoption have a positive economic impact by ensuring the safety of New Jersey livestock, although there may be an increased economic impact to certain stakeholders as a result of increased testing requirements as set forth in the Summary above. However, when comparing those costs to the benefits obtained through the enhanced protection these requirements afford, the rules are justified.

Federal Standards Analysis

Executive Order No. 27 (1994) and P.L. 1995, c. 65 require State agencies which adopt, re-adopt or amend State rules that exceed any Federal standards or requirements to include in the rulemaking document a comparison with Federal law.

Subchapters 3, Swine Importation, and 8, Captive Cervid Importation, comply with Title 9, Parts 78 and 85 of the Code of Federal Regulations, respectively. These subchapters meet, but do not exceed, the Federal disease control programs for livestock. Subchapter 2, Cattle and Bison Importation, exceeds the Federal disease control programs in Title 9, Part 77 of the Code of Federal Regulations, with respect to tuberculosis testing requirements for steers and spayed heifers. These increased standards are necessary to protect the State's livestock, which are currently free from this zoonotic disease. Although almost eradicated from the United States, tuberculosis remains a disease that infects cattle in other states. Steer and spayed heifers, previously excluded from testing, are susceptible to infection and are capable of transmitting the disease to other livestock. Therefore, this additional testing requirement has been imposed to protect livestock, wildlife and human health in New Jersey. While exact dollar figures are not available for an outbreak of tuberculosis, past experience with other outbreaks has shown that the cost of an outbreak involving these sectors far exceed the cost of additional testing requirements.

These enhancements to the Federal regulations were implemented to protect the public health, safety and welfare, as well as to protect cattle health and the surrounding environment. The rules proposed for re-adoption impose requirements that are realistic and achievable without any additional farm equipment or expertise.

Jobs Impact

The rules proposed for re-adoption will not result in the generation or loss of jobs in New Jersey.

Agriculture Industry Impact

The rules proposed re-adoption will result in a positive impact on New Jersey's agricultural industry by preventing the introduction and spread of livestock and poultry diseases, thereby protecting the economic viability of New Jersey farms.

Regulatory Flexibility Analysis

While most farmers are small businesses as that term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., the rules proposed for re-adoption do not impose any new or increased recordkeeping and/or other

compliance requirements beyond those already mandated by the authorizing statutes and existing rules.

The rules require interstate health certificates (CVI) or Poultry Inspection certificates, to accompany animals entering the State with the exception of animals going to slaughter, which must be accompanied by a waybill, which must be maintained for a period of six months. There are specific requirements for the CVI, including the content of that report and standards for submitting the report. Standards and protocols are delineated for permits, when required. A certificate of origin and a certification of transportation are additional requirements for the movement of poultry into the State. Compliance costs are discussed in the Economic Impact.

Without the promulgation of these rules, New Jersey livestock farmers would not be permitted to participate in interstate and international commerce. In addition, these rules are established to control the spread of disease, protect the public health, welfare and safety and ensure national security. Without the safeguards of these rules, both large and small farm operations pose a risk of spreading disease. Therefore, no differing [page=5] standards based on business size are appropriate. The New Jersey Department of Agriculture has carefully attempted to balance the need for disease control with the impact on the citizen.

The rules proposed for re-adoption may impose compliance requirements. Professional services are likely to be needed to comply with the rules proposed for re-adoption in order to ensure that vaccinations or other veterinary medical procedures are properly performed and recorded. In addition, should control measures have to be implemented, then the burden of undertaking remedial measures may be imposed upon the individual businesses affected. In the absence of disease there will be no capital expenditures as a result of the rules proposed for re-adoption.

The Department has provided no lesser or differing requirements based upon business size. The Department has determined that the rules proposed for re-adoption represent the minimum standards necessary to protect against the potential endangerment to the Agricultural industry of the State that might result from the spread of an animal disease entering the State through livestock or poultry importation.

Smart Growth Impact

The rules proposed for re-adoption will help retain livestock farms in New Jersey through the protection of the State's livestock and maintenance of the livestock industry's reputation for high quality animals and animal products. The rules proposed for re-adoption 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 re-adoption 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 re-adoption 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 provide requirements for importation of livestock and poultry.

Smart Growth Development Impact

The rules proposed for re-adoption 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 provide requirements for importation of livestock and poultry.

Full text of the rules proposed for re-adoption may be found in the New Jersey Administrative Code at N.J.A.C. 2:3.