

LAW AND PUBLIC SAFETY

NEW JERSEY RACING COMMISSION

Horse Racing

Eligibility; Registration Required

Proposed Amendment: N.J.A.C. 13:70-6.53

Authorized By: New Jersey Racing Commission, Frank Zanzuccki, Executive
Director

Authority: N.J.S.A. 5:5-49, 5:5-66, 5:5-30 and 5:5-93

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

Proposal Number: PRN 2010-099

Submit written comments by August 20, 2010 to:

Frank Zanzuccki, Executive Director

New Jersey Racing Commission

P.O. Box 088, 140 E. Front Street

Trenton, New Jersey 08625

The agency proposal follows:

Summary

The New Jersey Racing Commission is proposing amendments at N.J.A.C. 13:70-6.53, Eligibility: registration required. These rule amendments are the result of a rulemaking petition filed with the Racing Commission by Michael Campbell, Executive Director of the Thoroughbred Breeders' Association of New

Jersey (TBA) by letter dated April 30, 2009. On June 17, 2009, the Racing Commission determined to advertise the proposed rule for public comment. The notice of action on the petition was published in the New Jersey Register on July 20, 2009 at 41 N.J.R. 2806(a).

The proposed amendments to N.J.A.C. 13:70-6.53(c)2 will eliminate the non-accredited program for New Jersey-bred foals after the foal crop of 2010 and will also add new language to this rule that addresses “extraordinary medical situations” involving broodmares and stallions. The TBA Board of Trustees has voted to eliminate the non-accredited New Jersey-bred foal program for two reasons. The first reason is that the non-accredited program has not had the intended impact that the TBA hoped for when the rule was initiated in 2004. The TBA hoped that the program would encourage stallion owners to bring top quality stallions to stand in New Jersey and therefore attract more quality mares to New Jersey as well. This has not happened. The second reason is the TBA has received negative feedback from trainers and owners of New Jersey-bred horses who feel it is unfair that non-accredited horses are able to run in restricted races.

According to these trainers and owners, horses foaled in other states should not be allowed to run in restricted races against horses who were born in New Jersey.

The TBA notes that the New Jersey Sports and Exposition Authority and the New Jersey Thoroughbred Horsemen’s Association are in agreement to eliminate the program. Specifically, the amendments state that all non-accredited foals born between 2005 and 2010 will still be considered registered New Jersey-bred foals and will remain eligible for races and incentives under the program.

The amendments also specify requirements, at N.J.A.C. 13:70-6.53(b)1 and 3, that a broodmare or stallion must meet in situations where the horse must leave New Jersey for a medical procedure to be performed to protect the health of the horse. To qualify, the medical procedure must involve an extraordinary medical situation and the breeder of a mare or unborn foal or the owner of a stallion desires that an expert located outside of New Jersey conduct the procedure. Other requirements include documenting that the medical procedure must be performed out-of-State; the filing and approval of an application to “Move a Mare [or Stallion] Outside of New Jersey” is completed and approved by the TBA within 14 days after the mare or stallion leaves New Jersey; the mare or stallion remains in the care of a veterinarian during the entire time the horse is out-of-State; the mare is not absent from New Jersey for more than 60 days; the foal, if born outside of New Jersey, is not registered with a non-New Jersey state-bred organization; and the stallion does not impregnate any mares outside of New Jersey from the time he leaves New Jersey until the end of the residency period of July 1.

The Racing Commission provides for a 60-day comment period on this notice of proposal. Therefore, this proposal is exempt from the rulemaking calendar requirement in accordance with N.J.A.C. 1:30-3.3(a)5.

Social Impact

No negative social impacts are anticipated with the proposed amendments to N.J.A.C. 13:70-6.53 as the amendments eliminate a seldom used non - accredited program that was expected to increase the number of eligible New Jersey-bred horses and also allows for horses to leave the State when in need of extraordinary medical procedures and maintain its eligibility as a resident New Jersey mare or stallion. A positive social impact could result if the horse receives the needed treatments and recovers from the medical problem.

Economic Impact

It is expected that the amendments will have a negative economic impact on owners and breeders in the racing industry that wanted to participate in the non-accredited program since they will not be eligible for New Jersey-bred awards and some New Jersey based veterinarians could lose business to out-of-State veterinarians who provide the necessary specialized medical treatment. Owners and breeders would incur the administrative costs of providing the documentation by the amendments.

Federal Standards Statement

A Federal standards analysis is not required because the rules of racing are authorized by State statute, N.J.S.A. 5:5-22 et seq., and the proposed amendments are not subject to any Federal standards or requirements.

Jobs Impact

The proposed amendments eliminate a seldom-used non-accredited foaling provision after 2010 and as such no impact on jobs is anticipated except that the extraordinary medical procedures amendments could have a negative impact on New Jersey jobs if New Jersey based veterinarians may lose business to out-of-State veterinarians.

Agriculture Industry Statement

The proposed amendments will have no impact on the agriculture industry in the State. Racehorses are not considered livestock for the purpose of determining any impact on the agriculture industry.

Regulatory Flexibility Analysis

The proposed amendments would impose compliance requirements on owners and breeders, many of whom are small businesses as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The requirements are described in the Summary above and the costs of compliance are discussed in the Economic Impact above. Owners and breeders would utilize the services of a veterinarian to perform the extraordinary medical procedure, the costs of which services would vary widely. The Racing Commission believes that the proposed requirements are the minimum necessary to ensure the continued propriety of the resident New Jersey mare and New Jersey stallion designations.

Smart Growth Impact

The proposed amendments will not affect the smart growth policies associated with the implementation of the State Development and Redevelopment Plan as defined under Executive Order No. 4 (2002) since the program being eliminated and the new extraordinary medical procedure provisions are not growth related matters.

Housing Affordability Impact

The proposed amendments will not impact affordable housing in New Jersey. The proposed amendments merely eliminate a little-used racehorse classification program and address extraordinary medical procedures needed for certain horses.

Smart Growth Development Impact

The proposed amendments do not affect Smart Growth Development in the State because they have no relevance to housing or other types of development recommended for Planning Areas 1 or 2 or designated centers under the State Development and Redevelopment Plan.

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

13:70-6.53 Eligibility; registration required

(a) In order to be eligible to enter and start in races exclusively for New Jersey bred foals, each New Jersey bred “accredited” and/or “non-

accredited" foal must be registered with the Thoroughbred Breeders' Association of New Jersey.

(b) To qualify for such registration, the said horse must have been foaled in the State of New Jersey by a resident New Jersey mare or a non-resident New Jersey mare or conceived by a resident "New Jersey stallion."

1. A resident New Jersey mare is a mare that resides in New Jersey continuously from November 1 of the year prior to the foaling through the date of foaling. A mare purchased at public auction subsequent to October 17th of the year prior to foaling, is considered a resident New Jersey mare provided that she commences residence in New Jersey within two weeks of her purchase and continuously resides in New Jersey through the date of foaling. For the purpose of this paragraph, public auction is defined as an auction generally regarded as a public auction in the thoroughbred horse industry and recognized as same by the Thoroughbred Breeders' Association of New Jersey. **In order for the mare to be a resident New Jersey mare, it must meet the requirements set forth above in this rule unless the following medical exception is met:**

i. A medical procedure is required to be performed to protect the health of the mare or unborn foal that involves an extraordinary medical situation and the breeder desires to have an expert located outside of New Jersey to conduct the procedure. The need for an extraordinary medical procedure shall be determined on a case by case basis but basically involves

a special medical procedure not available in New Jersey or the need for an out-of-State specialist to diagnose the problem;

ii. The owner or the lessee of the mare, at the time the mare leaves New Jersey, files an "Application to Move a Mare outside of New Jersey" and provides information relating to the procedure as requested by the Thoroughbred Breeders' Association of New Jersey within 14 days after the mare leaves New Jersey;

iii. The Executive Director of the Thoroughbred Breeders' Association of New Jersey in conjunction with the Board of Trustees of the Thoroughbred Breeders' Association of New Jersey approves the departure of the mare from New Jersey. If the departure of the mare from New Jersey is denied, the owner of the mare can file an appeal in writing to the Thoroughbred Breeders' Association of New Jersey to be reviewed by the Thoroughbred Breeders' Association of New Jersey's appeals panel;

iv. The mare remains under the care of a veterinarian during the entire period of time she is not residing in New Jersey other than the time she is traveling to and from New Jersey;

v. The mare is not absent from New Jersey for more than 60 days during the required residency period in (b) 1 above; and

vi. The foal, if born outside of New Jersey, is not registered with a non-New Jersey state-bred organization in order to create dual state-bred registrations.

2. (No change.)

3. "New Jersey stallion" is a stallion resident and standing in the State of New Jersey the full breeding season, commonly understood to be the period from February 1 through July 1 of the subject year. If a stallion is brought into New Jersey subsequent to the start of the breeding season, he may be approved as a "New Jersey stallion" by the New Jersey Racing Commission upon recommendation of the Board of Trustees of the Thoroughbred Breeders' Association of New Jersey provided that he stands and is resident in New Jersey for the remainder of the breeding season. For those stallions brought into New Jersey subsequent to the commencement of the breeding season, approval by the Thoroughbred Breeders' Association of New Jersey as a "New Jersey stallion" is only for the period from the date of approval through the end of the breeding season. All "New Jersey stallions" must be registered with the Thoroughbred Breeders' Association of New Jersey and all appropriate annual fees paid prior to February 1 of the breeding season or, in the case of a stallion entering the State subsequent to the start of the breeding season, prior to serving the first mare. Failure to meet the above criteria solely by reason of the death of the stallion does not disqualify said stallion as a "New Jersey stallion." **In order for a stallion to be to be a "New Jersey stallion," it must meet the requirements set forth above in this rule unless the following medical or training exception is met:**

i. A medical procedure is required to be performed to protect the health of the stallion that involves an extraordinary medical situation and the stallion owner desires to have an expert located outside of New Jersey conduct the procedure. The need for an extraordinary medical procedure shall be determined on a case by case basis but basically involves a special medical procedure not available in New Jersey or the need for an out-of-State specialist to diagnose the problem;

ii. The owner or the lessee of the stallion, at the time the stallion leaves New Jersey, files an "Application to Move a Stallion outside of New Jersey" and provides information relating to the procedure as requested by the Thoroughbred Breeders' Association of New Jersey within 14 days after the stallion leaves New Jersey;

iii. The Executive Director of the Thoroughbred Breeders' Association of New Jersey, in conjunction with the Board of Trustees of the Thoroughbred Breeders' Association of New Jersey, approves the departure of the stallion from New Jersey. If the departure of the stallion from New Jersey is denied, the owner of the stallion can file an appeal in writing to the Thoroughbred Breeders' Association of New Jersey to be reviewed by the Thoroughbred Breeders' Association of New Jersey's appeals panel;

iv. The stallion remains under the care of a veterinarian during the entire period of time he is not residing in New Jersey other than the time he is traveling to and from New Jersey; and

v. The stallion does not impregnate any mares outside of New Jersey from the time he leaves New Jersey until the end of the required residency period in (b) 3 above.

(c) Only New Jersey bred foals as defined below are eligible to enter and start in races exclusively for New Jersey bred foals. New Jersey bred foals are placed in two categories which are defined as follows:

1. (No change.)

2. A “non-accredited” New Jersey bred foal is a horse that is **born between 2005 and 2010 and is:**

i. Registered with the Jockey Club; ii.

Foaled in New Jersey during a period in which the mare is considered a non-resident “New Jersey mare” as defined in (b)2 above;

iii. Conceived in New Jersey by a “New Jersey stallion” as defined in (b)3 above but not foaled in New Jersey; and

iv. Registered with the Thoroughbred Breeders’ Association of New Jersey with all applicable fees paid.

(d)-(h) (No change.)