

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 and 66, and 5:5-30

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

Proposal Number: PRN 2009-178

Submit written comments by August 14, 2009 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 an amendment at N.J.A.C. 13:70-6.53, Eligibility; registration required. This rule amendment is a result of a rulemaking petition filed with the Racing Commission by Michael Campbell, Executive Director of the Thoroughbred Breeders' Association of New Jersey. See 40 N.J.R. 6236(a). On October 1, 2008, the Racing Commission determined to advertise the proposed new rule for public comment. See 40 N.J.R. 6659(a).

The New Jersey thoroughbred breeding industry is experiencing increased competition from other states in the Mid-Atlantic region. The proposed amendment to the rule changes the requirement that to be considered a resident New Jersey mare, the mare must reside in New Jersey continuously from September 1 of the year prior to the foaling. The proposed amendment would change the September 1 deadline to November 1. The proposed November 1 deadline that a non-resident New Jersey mare can be registered as a New Jersey-bred will be one month more than the Pennsylvania deadline of October 1 and will encourage mare owners to participate in the New Jersey program because of the less restrictive time period. In addition, it is anticipated that the November 1 date will eliminate problems associated with mares that are located outside New Jersey and cannot ship back into New Jersey by the current September 1 deadline because of illness or the safety concerns associated with the transportation of pregnant mares during the hot summer months.

The proposed rule amendment also seeks to change the date that a mare purchased at a public auction is considered a New Jersey resident by increasing the current August 17 date of the year prior to foaling to October 17.

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

There are no negative social impacts anticipated with the proposed amendment to N.J.A.C. 13:70-6.53 as the amendment will broaden the time period for thoroughbred mare owners to be eligible to participate in the State's breeding program. It is anticipated that by broadening the time period for enrollment, there will be an increased membership in the thoroughbred breeders' program. The proposed amendment will also allow more time for thoroughbred mares located in another state to return safely to New Jersey by the proposed new deadline of November 1.

Economic Impact

It is expected that the proposed amendment will have a positive economic impact on the racing industry because it will allow for more horses to be considered as a New Jersey-bred and thereby qualify for New Jersey breeder awards. This increase in thoroughbred competition will result in increased revenues for breeders and for thoroughbred purses. In addition, the racing community as a whole will likely benefit from higher revenues derived from a probable upswing in wagering activity associated with more competitive horse racing.

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 amendment is not subject to any Federal standards or requirements.

Jobs Impact

The proposed amendment will encourage an increase in breeding activity at

New Jersey thoroughbred breeding farms and possibly spur the development of more breeding establishments. These events may result in the creation of more employment opportunities in the industry.

Agriculture Industry Impact

The proposed amendment 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 Statement

A regulatory flexibility analysis is not required because the proposed amendment imposes no reporting, recordkeeping or compliance requirements on small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendment to N.J.A.C. 13:70-6.53 changes the reference date in the definitions of resident and non-resident mares.

Smart Growth Impact

The proposed amendment to N.J.A.C. 13:70-6.53 will have a positive effect on the smart growth policies associated with the implementation of the State Development and Redevelopment Plan as defined under Executive Order No. 4(2002). Retention and/or increase in open space are major components of the Plan. Thoroughbred breeding farms and training facilities occupy substantial amounts of open space in New Jersey at present. Providing impetus for increased economic growth in this industry will likely result in the retention these current open spaces or possibly an increase if new facilities are developed.

Housing Affordability Impact

The proposed amendment will have an insignificant impact on affordable housing in New Jersey, and there is an extreme unlikelihood that the amendment would evoke change in the average costs associated with housing because the proposed amendment will broaden the time period for thoroughbred mare owners to be eligible to participate in the State's breeding program.

Smart Growth Development Impact

The proposed amendment will have an insignificant impact on smart growth and there is an extreme unlikelihood that the amendment 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 proposed amendment will broaden the time period for thoroughbred mare owners to be eligible to participate in the State's breeding program.

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

13:70-6.53 Eligibility; registration required

(a) (No change.)

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 [September] November 1 of the year prior to the foaling through the date of foaling. A mare purchased at public auction subsequent to [August] 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.

2. A non-resident New Jersey mare is a mare that has not been returned to New Jersey by [September] November 1 of the year prior to foaling. The resulting foal may still be registered as a New Jersey-bred provided the mare is bred to a registered New Jersey stallion the season of the birth of said foal and remain in New Jersey for a continuous period of 90 days after foaling.

3. (No change.)

(c) - (h) (No change.)