

# RULE PROPOSALS

## INTERESTED PERSONS

Interested persons may submit comments, information or arguments concerning any of the rule proposals in this issue until the date indicated in the proposal. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal.

The required minimum period for comment concerning a proposal is 30 days. A proposing agency may extend the 30-day comment period to accommodate public hearings or to elicit greater public response to a proposed new rule or amendment. Most notices of proposal include a 60-day comment period, in order to qualify the notice for an exception to the rulemaking calendar requirements of N.J.S.A. 52:14B-3. An extended comment deadline will be noted in the heading of a proposal or appear in subsequent notice in the Register.

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-6.3. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

## ADMINISTRATIVE LAW

### (a)

#### OFFICE OF ADMINISTRATIVE LAW

#### Special Hearing Rules

#### Department of Children and Families Hearings

#### Proposed Readoption: N.J.A.C. 1:10A

Authorized By: Laura Sanders, Acting Director, Office of Administrative Law.

Authority: N.J.S.A. 52:14F-5(e), (f), and (g).

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

Proposal Number: PRN 2015-069.

Submit comments by August 14, 2015, to:

Sandra DeSarno Hlatky, Assistant Director  
Office of Administrative Law  
Quakerbridge Plaza, Bldg. 9  
P.O. Box 049  
Quakerbridge Road  
Trenton, New Jersey 08625  
E-mail address: [Sandra.Hlatky@oal.state.nj.us](mailto:Sandra.Hlatky@oal.state.nj.us)

The agency proposal follows:

#### Summary

Pursuant to N.J.S.A. 52:14B-5.1.c, the special rules for matters transmitted to the Office of Administrative Law (OAL) by the Department of Children and Families (DCF) will expire on May 9, 2015. In accordance with N.J.S.A. 52:14B-5.1.c(2), submission of this proposal to the Office of Administrative Law extends that expiration date 180 days to November 5, 2015. The last amendments to the rules were effective in 2008. The Office of Administrative Law (OAL) has reviewed these rules and has found them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated. Therefore, the Office of Administrative Law proposes to readopt these rules.

The summary of the subchapters proposed for readoption follows:

Subchapter 1 provides for applicability of the rules to cases involving issues of abuse and neglect transmitted by the Department of Children and Families.

Subchapter 2 defines agency head for Department of Children and Families cases.

Subchapters 3 through 11 are reserved.

Subchapter 12 sets forth the process to move for access to the hearing, the record of the hearing, the initial decision, or other material protected by an order to seal.

Subchapter 13 is reserved.

Subchapter 14 sets forth the process to seal the record and close the hearing in DCF matters and the process to seal the record and close the

hearing to the extent necessary to protect DCF records and reports where the DCF matter is consolidated with a matter transmitted from another State agency.

Subchapters 15 and 16 are reserved.

Subchapter 17 describes the procedure when a DCF case involving allegation of abuse and neglect is consolidated with a case transmitted by another State agency.

As the Office of Administrative Law has provided a 60-day comment period in this notice of proposal, this notice is exempted from the rulemaking calendar requirements, pursuant to N.J.A.C. 1:30-3.3(a)5.

#### Social Impact

The rules proposed for readoption permit the fair and efficient hearing process for resolution of issues arising at the Department of Children and Families. The rules proposed for readoption balance the statutorily mandated confidentiality of records concerning child abuse and neglect, N.J.S.A. 9:6-8.10, with the public's right to know in accord with the court's decision in *Division of Youth and Family Services v. M.S.*, 340 N.J. Super. 126, 773 A.2d 1191 (App. Div. 2001). Additionally, the rules set forth a clear and expeditious process to be followed by any person or entity who wishes to seek access to information in a DCF case involving allegations of child abuse or neglect or in a case from another State agency which has been consolidated with such a case.

#### Economic Impact

The rules proposed for readoption governing contesting case hearings have no adverse economic impact. By setting forth a clear and expeditious process for resolution of issues regarding access to records in cases concerning child abuse and neglect, the rules proposed for readoption minimize the costs associated with a process to seek access to protected material.

The rules proposed for readoption also reduce the costs associated with these hearings by setting forth a clear and expedition process for resolution of issues concerning consolidation and predominant interest.

#### Federal Standards Statement

A Federal standards analysis is not required because the contested case hearing procedures, of which the rules proposed for readoption are a part, are promulgated in implementation of the New Jersey Administrative Procedure Act, N.J.S.A. 52:14B-1 and 52:14F-1 et seq., and are not subject to any Federal standards or requirements.

#### Jobs Impact

The rules proposed for readoption will not generate or cause the loss of any jobs.

#### Agriculture Industry Impact

The rules proposed for readoption will not impact on the agriculture industry.

**Regulatory Flexibility Analysis**

The rules proposed for readoption require that, prior to the issuance of the initial decision, any person or entity not a party to the contested case that seeks access to the sealed record must do so by motion to the administrative law judge. If such access is sought after the issuance of the initial decision, a motion must be filed with the DCF.

An entity filing such motion or review may be a small business, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. There are no costs in filing such a motion or seeking such review beyond those administrative in nature involved in its preparation and submission. No professional services are necessary to file such a motion. As these requirements impose only a de minimis burden on small businesses, and are necessary for the protection of the confidentiality of sealed hearing records and the expeditious processing of these cases, no lesser requirements or exceptions are provided for small businesses.

**Housing Affordability Impact Analysis**

The rules proposed for readoption will have no impact on housing affordability, as the rules concern contested case hearings arising before the Department of Children and Families.

**Smart Growth Development Impact Analysis**

The rules proposed for readoption will have no impact on housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan, as the rules concern contested case hearings arising before the Department of Children and Families.

**Full text** of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 1:10A.

**AGRICULTURE****(a)****DIVISION OF MARKETING AND DEVELOPMENT****New Jersey Sire Stakes Program****Proposed Readoption with Amendments: N.J.A.C. 2:32**

Authorized By: New Jersey Sire Stakes Board of Trustees,

Christopher Castens, Executive Director.

Authority: N.J.S.A. 5:5-91 et seq.

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

Proposal Number: PRN 2015-032.

Submit written comments by August 14, 2015, to:

christopher.castens@ag.state.nj.us

or

Christopher C. Castens, New Jersey Sire Stakes Program  
Department of Agriculture, Division of Markets  
PO Box 330  
Trenton, NJ 08625-0330  
(609) 984-2228

The agency proposal follows:

**Summary**

Pursuant to N.J.S.A. 52:14B-5.1, N.J.A.C. 2:32, New Jersey Sire Stake Program rules, were scheduled to expire on February 27, 2015. The New Jersey Sire Stakes Board of Trustees (Board) has reviewed the rules and has determined them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated. Since this notice of rules proposed for readoption with amendments has been filed with the Office of Administrative Law prior to February 27, 2015, the expiration date of this chapter is extended 180 days to August 26, 2015, pursuant to N.J.S.A. 52:14B-5.1.c(2).

Pursuant to N.J.S.A. 5:5-91 et seq., N.J.A.C. 2:32 establishes the conditions for the operation of and participation in the New Jersey Sire Stakes Program (Program). The Program was established by law in 1971

to encourage the breeding of Standardbred horses, the trotters and pacers familiar to harness-racing fans. Because the program offers substantial purses for winning Standardbreds sired by registered New Jersey stallions, it has provided stallion owners an incentive to locate their stallions and horse farms in New Jersey. As a result, the Program has been instrumental in maintaining more than 100,000 acres of scenic open space around the State. Standardbreds remain the largest segment of New Jersey's horse population. The Program is currently worth in excess of \$2 million. The program is funded by a small percentage of the Premier handle (wagering) at the two commercial harness tracks (the Meadowlands and Freehold Raceway) and by payments made by Standardbred owners. The Program provides at least seven races a year for each division.

The New Jersey Sire Stakes Board of Trustees solicits suggestions for proposed changes from various groups of horsemen who participate in the Program. The Board considers the various suggestions, including concerns of their own and suggestions by staff, and adopts changes when necessary. The readoption of rules establishing conditions for participation is necessary for the continued operation of the Sire Stakes Program. The Program conditions are widely distributed among the participants and are reproduced in several industry publications. The conditions relate to standing of stallions, nomination of yearlings, sustaining payments, and the racing of New Jersey-sired horses at New Jersey tracks. They have provided definitive guidelines for the operation of the Sire Stakes Program for the past four decades and have operated well during that period.

Subchapter 1, General Provisions, covers the general provisions of the Sire Stakes Program with amendments summarized below.

Subchapter 2, New Jersey Sire Stakes Conditions, establishes the conditions for the operation of and participation in the New Jersey Sire Stakes Program.

N.J.A.C. 2:32-2.1, Adoption of by-laws, provides the by-laws for the Sire Stakes Program Board of Trustees, which establish eligibility, administration, funds, disbursements, and eligible tracks.

N.J.A.C. 2:32-2.2, Qualifying standards, provides specific eligibility standards for foals.

N.J.A.C. 2:32-2.3, Requirements for Sire Stakes stallions, provides registration, ownership, and eligibility requirements.

N.J.A.C. 2:32-2.4, Stallion standing full season, provides eligibility and limits with proposed amendments summarized below.

N.J.A.C. 2:32-2.5, List of mares bred, provides reporting requirements.

N.J.A.C. 2:32-2.6, Fund policy, provides for purse allocation, amount, and fees, with proposed amendments summarized below.

N.J.A.C. 2:32-2.7, Transfer of race, provides authority for race changes as and if necessary.

N.J.A.C. 2:32-2.9, Yearling nominations, provides for yearling registration and fees with proposed amendments summarized below.

N.J.A.C. 2:32-2.10, Sustaining fees, provides fee amounts and schedule with proposed amendments summarized below.

N.J.A.C. 2:32-2.11, Payment dates, provides the sustaining payments schedule.

N.J.A.C. 2:32-2.12, Eligibility, provides three-year-old eligibility requirements with proposed amendments summarized below.

N.J.A.C. 2:32-2.13, Dishonored checks, provides for payment and eligibility consequences.

N.J.A.C. 2:32-2.14, No cash or partial payments, provides allowable payments for nominating, sustaining, and entry fees.

N.J.A.C. 2:32-2.15, Refunds, provides requirements for refund requests.

N.J.A.C. 2:32-2.16, Time of declaration, disallows late entries and sets required time.

N.J.A.C. 2:32-2.18, Name change notification, requires notice of name and/or gait change and time of notice.

N.J.A.C. 2:32-2.19, Entry fee deadlines, provides time of payment and limits refund.

N.J.A.C. 2:32-2.20, Entry fees, provides entry fee amounts.

N.J.A.C. 2:32-2.21, Purse distribution, provides distribution method with proposed amendments summarized below.