

# RULE ADOPTIONS

## AGRICULTURE

### (a)

#### DIVISION OF ANIMAL HEALTH

#### Disease Control Program

#### Livestock and Poultry Importation

#### Adopted New Rule: N.J.A.C. 2:2-9

#### Adopted Amendment: N.J.A.C. 2:3-1.4

Proposed: July 3, 2023, at 55 N.J.R. 1313(a).

Adopted: September 27, 2023, by the State Board of Agriculture and Joseph Atchison III, Assistant Secretary, Department of Agriculture.

Filed: September 28, 2023, as R.2023 d.126, **without change**.

Authority: N.J.S.A. 4:1-11.1, 4:1-21.5, 4:1-21.6, and 4:5-1 et seq.

Effective Date: November 6, 2023.

Expiration Date: March 22, 2024.

#### Summary of Public Comment and Agency Response:

**No comments were received.**

#### Federal Standards Statement

N.J.S.A. 52:14B-23 requires State agencies which adopt, readopt, or amend any rules to include a statement as to whether the rule or regulation in question has any standards or requirements that exceed the standards or requirements imposed by Federal law. This rulemaking brings State rules into conformity with Federal regulations, specifically 9 CFR Part 79. As such, a Federal standards analysis is not required here because the adopted amendments and new rule are in accordance with, and do not exceed, applicable Federal requirements or standards.

The Department of Agriculture (Department) notes that 9 CFR 79.6(a)(12)(i), (ii), and (iii) do permit a Scrapie Consistent State to include certain exemptions in its regulations governing the identification of sheep and goats in intrastate commerce upon change of ownership. However, it is the Department's view that incorporating those exemptions into the adopted rulemaking could create public uncertainty as to when identification is required for intrastate change of ownership, and it would create an additional administrative burden on the Department, both of which could undermine the protection of animal health and public health. Therefore, the Department has concluded that the exclusion of those exemptions from the rulemaking both conforms to the Federal requirements that permit New Jersey to remain a Scrapie Consistent State and furthers the goal of protecting animal health and public health in New Jersey.

**Full text** of the adoption follows:

#### CHAPTER 2 DISEASE CONTROL PROGRAM

#### SUBCHAPTER 9. IDENTIFICATION OF SHEEP AND GOATS IN NEW JERSEY

##### 2:2-9.1 Official identification of sheep and goats

(a) Definitions. As used in this section, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise.

1. "Any change of ownership" shall mean the disposition or other transfer of ownership, of any kind, of a sheep or goat, whether by sale, exchange, gift, rescue, or otherwise, that involves movement of the sheep or goats within the State of New Jersey.

2. "Owner/hauler statement" shall have the meaning as set forth at 9 CFR 79.1.

3. "Slaughter channels" shall have the meaning as set forth at 9 CFR 79.1.

(b) Prior to any change of ownership, all sheep and goats, of any age, not in slaughter channels shall be officially identified in the manner prescribed at N.J.A.C. 2:3-1.4(b)5iii, such that the animal may be traced to its flock of birth.

(c) Prior to any change of ownership, all sheep in the State of New Jersey in slaughter channels over 18 months of age, as evidenced by eruption of the second incisor, shall be officially identified in the manner prescribed at N.J.A.C. 2:3-1.4(b)5iii, such that the animal may be traced to its flock of birth. Individual identification will not be required if the sheep are moved as a group with an owner/hauler statement as permitted pursuant to 9 CFR 79.

#### CHAPTER 3 LIVESTOCK AND POULTRY IMPORTATION

#### SUBCHAPTER 1. GENERAL REQUIREMENTS

##### 2:3-1.4 Contents of Certificate of Veterinary Inspection

(a) (No change.)

(b) The official Certificate of Veterinary Inspection shall include a legible report of the following:

1.-4. (No change.)

5. Description of the livestock which shall include: species, breed, sex, and age of animals. Where applicable, the description shall include the following:

i.-ii. (No change.)

iii. Sheep and goats shall be identified using the identification method for sheep and goats at Title 9, Code of Federal Regulations, Chapter 1, Subchapter C, Part 79—Scrapie in Sheep and Goats, which is hereby adopted herein by reference.

6.-8. (No change.)

### (b)

#### DIVISION OF MARKETING AND DEVELOPMENT

#### Notice of Readoption

#### Charity Racing Day Fund Distribution

#### Readoption: N.J.A.C. 2:31

Authority: N.J.S.A. 5:5-44.9.

Authorized By: The State Board of Agriculture and Joseph Atchison III, Assistant Secretary, Department of Agriculture.

Effective Date: October 2, 2023.

New Expiration Date: October 2, 2030.

**Take notice** that pursuant to N.J.S.A. 52:14B-5.1.c, the rules at N.J.A.C. 2:31 were scheduled to expire on March 22, 2024.

The purpose of this chapter is to provide the application procedure for the award of Charity Racing Day grants to the Horse Park of New Jersey and to organizations that care for retired race horses. The rules also provide the criteria by which the Department of Agriculture shall evaluate applications and award grants. All monies received by the New Jersey Racing Commission on the designated Charity Racing Day are required to be deposited into the Horse Park of New Jersey and the Care of Retired Horses Fund. Fifty percent of the money is used as a grant to the Horse Park of New Jersey and 50 percent is used as grants to organizations that care for retired race horses.

The rules provide that an organization that cares for retired race horses, which is not incorporated in New Jersey, but which has a New Jersey affiliate and provides significant services in New Jersey is also eligible to apply for a grant. Such application includes a certification that any funds awarded to the organization shall be spent solely for the care of retired race horses in New Jersey. All recipients of funds must complete a detailed fund utilization report, which verifies the use of funds and provides receipts for all expenditures, and every applicant for and

recipient of funds must certify that all information provided is true, accurate, and complete.

The Department of Agriculture has reviewed the rules and has determined that the rules should be readopted without change. These rules are necessary, reasonable, and proper for the purpose for which they were originally promulgated. Therefore, pursuant to N.J.S.A. 52:14B-5.1, these rules are readopted and shall continue in effect for a seven-year period.

**(a)**

**DIVISION OF MARKETING AND DEVELOPMENT**

**Notice of Readoption  
Agricultural Fairs**

**Readoption: N.J.A.C. 2:33**

Authority: N.J.S.A. 5:8-121 et seq.

Authorized By: The State Board of Agriculture and Joseph Atchison III, Assistant Secretary, Department of Agriculture.

Effective Date: October 2, 2023.

New Expiration Date: October 2, 2030.

**Take notice** that pursuant to N.J.S.A. 52:14B-5.1.c, the rules at N.J.A.C. 2:33 were scheduled to expire on April 17, 2024.

In accordance with N.J.S.A. 5:8-121, the State Board of Agriculture may provide for agricultural fairs and exhibitions.

N.J.A.C. 2:33-1.1(a) requires each “Official Agricultural Fair” to hold, at one site, an agricultural exhibit for the promotion and development of agriculture or agribusiness in and of that county. N.J.A.C. 2:33-1.1(b) requires that the fairs conduct at least two additional activities related to manufacturing, commerce, and industry; community development and improvement; promotion of products and services; public service events and projects; county interest projects; cultural works and collections of art; other activities for the benefit of the community; and/or recreational activities. N.J.A.C. 2:33-1.1(c) requires each “Official Agricultural Fair” to obtain certification from the Department of Agriculture (Department) as a condition of operation.

Additionally, N.J.A.C. 2:33-1.2(a) requires each certified “Official Agricultural Fair” to furnish a detailed fair status report to the Department of Agriculture, and to comply with all governmental health, fire, and police regulations, and requires each certified fair to furnish, on request, a copy of the fair audit report in the event State funds are made available to the fair. N.J.A.C. 2:33-1.2(b) authorizes access to the fair premises by the Department of Agriculture to determine compliance with this chapter.

N.J.A.C. 2:33-1.3(a) requires applicants for “Official Agricultural Fair” certification to file their proposal to the Department by September 1 of the year preceding the year in which the fair is to be held. It also requires a copy be submitted to the county board of agriculture for comment. N.J.A.C. 2:33-1.3(b) requires the county board of agriculture to submit comments to the Department on such proposal by November 1 of the preceding year. N.J.A.C. 2:33-1.3(c) requires the State Board of Agriculture to approve or deny certification after consideration of the proposal and comments from the county board of agriculture. N.J.A.C. 2:33-1.3(d) requires new applicants to produce the event for one year in compliance with this chapter, and further provides that the fair will be eligible for certification the following year after receiving a positive evaluation from a person appointed by the Secretary of Agriculture to make such evaluation.

Finally, N.J.A.C. 2:33-1.4(a) creates a method for distribution of funds in the event that State funding is available for the “Official Agricultural Fairs.” However, the last year that any such fairs received State funding was 1990.

The Department of Agriculture has reviewed the rules and has determined that the rules should be readopted without change. These rules are necessary, reasonable, and proper for the purpose for which they were originally promulgated. Therefore, pursuant to N.J.S.A. 52:14B-5.1, these rules are readopted and shall continue in effect for a seven-year period.

**(b)**

**DIVISION OF MARKETING AND DEVELOPMENT**

**Notice of Readoption  
Equine Advisory Board**

**Readoption with a Technical Change: N.J.A.C. 2:34**

Authority: N.J.S.A. 5:5-88.

Authorized By: The State Board of Agriculture and Joseph Atchison III, Assistant Secretary, Department of Agriculture.

Effective Dates: October 2, 2023, Readoption;  
November 6, 2023, Technical Change.

New Expiration Date: October 2, 2030.

**Take notice** that pursuant to N.J.S.A. 52:14B-5.1.c, the rules at N.J.A.C. 2:34 were scheduled to expire on March 22, 2024.

These rules are a compilation of the procedures used to regulate the non-racing breeder award program and the New Jersey Bred All Breed Horse Show. The purpose of these rules is to provide definitions of eligibility, classes, fees, and procedures for the determination of awards from equine promotion monies collected pursuant to N.J.S.A. 5:5-88.

These rules set forth the qualifications for year-end non-racing breeder awards, including the number of show entries required for eligibility. These rules also set forth the provisions for conduct of the New Jersey Bred All Breed Horse Show, including payment of registration fees, Coggins test reporting, compliance with National Association rules, requirements for receiving prize money, and the conduct of appeals.

The Department of Agriculture has reviewed the rules and has determined that the rules should be readopted with one technical change, to delete the name “Alfred Murray” set forth at N.J.A.C. 2:34-2.2(b)1, who is identified as “Director, Division of Marketing and Development,” as he has retired from his employment with the Department of Agriculture. These rules are necessary, reasonable, and proper for the purpose for which they were originally promulgated. Therefore, pursuant to N.J.S.A. 52:14B-5.1, these rules are readopted and shall continue in effect for a seven-year period.

**Full text** of the technical change follows (deletion indicated in brackets [thus]):

SUBCHAPTER 2. EQUINE ADVISORY BOARD RULES

2:34-2.2 Conduct of the New Jersey Bred All Breed Horse Show and designated breed shows

(a) (No change.)

(b) Any person who wishes to appeal any provisions of this section shall do so within 20 days of the horse show date or within 20 days of notification to owners of a decision. Such person shall, upon written request transmitted to the Department, be afforded the opportunity for a hearing thereon in the manner provided for contested cases pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

1. Requests for hearings shall be sent to [Alfred Murray,] Director, Division of Marketing and Development, N.J. Department of Agriculture, PO Box 330, Trenton, New Jersey 08625-0330.

2. (No change.)

**(c)**

**STATE AGRICULTURE DEVELOPMENT  
COMMITTEE**

**Notice of Readoption  
State Agriculture Development Committee Rules**

**Readoption: N.J.A.C. 2:76-1 through 24**

Authority: N.J.S.A. 4:1C-5f.

Authorized By: Susan E. Payne, Executive Director.

Effective Date: October 2, 2023.