

a penalty of \$1,000 plus the amount of the first sustaining payment within 30 days of the original due date of the payment.

2:32-2.20 Entry fees

(a) Entry fees will be added to the basic purse in Standardbred Development Fund and Premier series races. Entry fees will be:

Premier Division	Standardbred Development Fund Division
2 year olds. . . \$500.00	2 year olds. . . \$200.00
3 year olds. . . \$500.00	3 year olds. . . \$200.00

(b) Entry fees for Premier Finals will be \$1,500.

(c) Entry fees for all Standardbred Development Fund finals will be \$500.00.

(d) The Sire Stakes Board of Trustees may reduce entry fees by majority vote in the interest of the Sire Stakes Program.

2:32-2.22 Qualifying standards

All starters in the New Jersey Sire Stakes Premier Division and the New Jersey Sires Stakes Standardbred Development Fund Division must meet all track qualifying standards at the track where the race is being contested and be eligible at time of entry.

2:32-2.27 Final races

(a) There will be a two- and three-year old "Final" race in each Premier Division at the pari-mutuel raceways as scheduled by the New Jersey Sire Stakes Board of Trustees. There will be a Standardbred Development Fund Division series "Final" race in each Division for two-and three-year-olds.

(b) (No change.)

(c) Each Premier Final will have a \$1,500 entry fee at The Meadowlands and is open to the highest New Jersey Sire Stakes point winners in the series that are declared in and can be drawn to a post position in the first tier. Each Standardbred Development Fund Final will have a \$500.00 entry fee and is open to the highest New Jersey Sire Stakes Standardbred Development Fund point earners that are declared in and can be drawn to post in the first tier. Trailers are not permitted to start in any New Jersey Sire Stakes Finals. The entry fee is subject to reduction by the Sire Stakes Board of Trustees in the interest of the Sire Stakes Program.

(d) All horses competing in both the Premier and Standardbred Development Fund Finals at all tracks will be determined on a point basis. A horse must start and finish a heat in order to earn points. The point value will be awarded as follows:

1.-9. (No change.)

(e)-(i) (No change.)

(j) Total points accumulated towards Final Race eligibility in the Premier Division shall include only Premier Division points. Only Standardbred Development Division race points count toward the Standardbred Development Final eligibility.

2:32-2.28 Separate Standardbred Development Fund Division

A separate New Jersey Sire Stakes Standardbred Development Fund Division with a separate payment schedule may be in force.

(a)

DIVISION OF MARKETING AND DEVELOPMENT

New Jersey Standardbred Development Fund Program

Adopted New Rules: N.J.A.C. 2:32A

Proposed: May 16, 2022, at 54 N.J.R. 806(a).

Adopted: July 26, 2022, by the New Jersey Sire Stakes Board of Trustees, Michael Gulotta, Chair.

Filed: August 11, 2022, as R.2022 d.110, **without change**.

Authority: N.J.S.A. 5:5-91 and 5:5-91.1.

Effective Date: September 6, 2022.

Expiration Date: September 6, 2029.

Summary of Public Comment and Agency Response:

The Department of Agriculture (Department) received comments from a Jean Public in response to the notice of the proposed rulemaking concerning N.J.A.C. 2:32A.

COMMENT: Jean Public states that she opposes the continuation of the Standardbred Development Fund Program (Program) because she contends that the Program encourages "horse abuse." She contends that the Program has no value at all to the people of New Jersey or to the horses because, according to her, "the whole business is full of drugs and horses dying on the racetracks." She states that the proposed rules are neither reasonable nor proper.

RESPONSE: The Department and the Sire Stakes Board of Trustees do not agree with the views expressed by Jean Public. The Standardbred Development Fund Program provides the social and economic benefits to the State and the people of New Jersey that were discussed in the rulemaking notice of proposal. The Program is established by statute, and it is run in a humane manner.

Federal Standards Statement

Executive Order No. 27 (1994) and P.L. 1995, c. 65, require State agencies that adopt, readopt, or amend State rules that exceed any Federal standards or requirements to include in the rulemaking document a comparison with Federal law. A Federal standards analysis is not required because the regulation of the Standardbred Development Fund Program is dictated by the N.J.S.A. 5:5-91 and 5:5-91.1 and is not subject to any Federal requirements or standards.

Full text of the expired rules adopted herein as new rules can be found in the New Jersey Administrative Code at N.J.A.C. 2:32A.

Full text of the adopted amendments follows:

SUBCHAPTER 1. STANDARDBRED DEVELOPMENT FUND PROGRAM

2:32A-1.1 General provisions

The Sire Stakes Program Board of Trustees, on behalf of the Standardbred Development Fund Program, hereby adopts and incorporates by reference, as amended and supplemented, the 2021 U.S. Trotting Rule Book. Copies of the most current regulations may be procured online at <https://www.ustrotting.com/rulebook/> and are available for inspection by contacting the Division of Marketing and Development at the New Jersey Department of Agriculture, 200 Riverview Plaza, Trenton, New Jersey. The Division's contact information can be found at: <https://www.nj.gov/agriculture/divisions/md/about/contacts.html>.

SUBCHAPTER 2. NEW JERSEY STANDARDBRED DEVELOPMENT FUND CONDITIONS

2:32A-2.2 Qualifying standards

(a) In order to be eligible for nomination to the New Jersey Standardbred Development Fund Program, a foal must be the product of the mating of:

1. A Standardbred mare with a resident New Jersey Sire Stakes stallion meeting the requirements at N.J.A.C. 2:32-2.3. Said mares do not need to be registered with the New Jersey Standardbred Development Fund Program, nor does a registration fee need to be paid for said mares; or

2. A Standardbred mare with any Standardbred stallion that is registered with the United States Trotting Association or such other generally recognized Standardbred breed provided the mare resides in the State of New Jersey for a period of at least 150 days including the date of foaling. Said mare must be registered with the New Jersey Standardbred Development Fund Program by December 31 of the year of foaling in order for the offspring to be eligible to the Standardbred Development Fund Program. The registration form must be accompanied by a payment of \$100.00.

2:32A-2.5 Yearling nominations

(a) All yearlings to be nominated to the Standardbred Development Fund Program must be registered with the United States Trotting Association or any Standardbred registry recognized by the United States

Trotting Association and must hold a certificate of registration dated on or before the time of nomination.

1.-4. (No change.)

5. Supplemental nominations may be made to the New Jersey Standardbred Development Fund. Parties delinquent in paying on or before the May 15 yearling nomination fee date are given until September 15 of the yearling year to fulfill the aforementioned conditions of nomination and pay the nomination fee along with an additional late fee of \$500.00. For nominations received after September 15, but on or before February 15 of the two-year-old year, the cost will be \$700.00 in addition to the original nomination fee.

2:32A-2.6 Sustaining fees

The sustaining fee schedule to the Standardbred Development Fund Program will be as follows:

<u>Age</u>	<u>First Sustaining Fee</u>	<u>Second Sustaining Fee</u>
Two and three	\$100.00 (February 15)	\$150.00 (April 15)

The Board of Trustees of the New Jersey Sire Stakes Program may, at any time, in its sole discretion, reduce the amount of these fees as conditions warrant.

2:32A-2.8 Eligibility

(a) (No change.)

(b) A two-year-old's owner who makes the nomination payment but fails to make the first sustaining payment may regain his or her horse's eligibility for its two-year-old and three-year-old seasons by payment of a penalty of \$1,000 plus the amount of the first sustaining payment within 30 days of the original due date of the payment.

2:32A-2.15 Entry fees

(a) Entry fees will be:

1. Two-year-olds: \$200.00; and
2. Three-year-olds: \$200.00.

(b) Entry fees for Standardbred Development Fund Finals will be \$500.00. Finals fee is waived if entry fees are paid for the first and second legs.

(c) (No change.)

2:32A-2.21 Final races

(a) There will be a two- and three-year-old "Final" race in each Standardbred Development Fund division at a licensed facility approved by the New Jersey Racing Commission, as scheduled by the New Jersey Sire Stakes Board of Trustees.

(b) (No change.)

(c) Each Standardbred Development Fund Final will have a \$500.00 entry fee, subject to waiver consistent with N.J.A.C. 2:32A-2.15, and is open to the highest New Jersey Standardbred Development Fund point winners in the series that are declared in and can be drawn to a post position in the first tier. Trailers are not permitted to start in any New Jersey Standardbred Development Fund Finals.

(d) (No change.)

(e) In the event of less than five starters, the points shall be awarded in the same fashion as the purse breakdown with less than five starters at (d) above.

(f)-(i) (No change.)

2:32A-2.29 Payments, correspondence, and inquiries

(a) (No change.)

(b) All nominating and sustaining payments, correspondence, and inquiries shall be directed to:

New Jersey Sire Stakes
 PO Box 330
 Trenton, NJ 08625.

Inquiries may also be directed to (609) 913-6514.

(a)

DIVISION OF MARKETING AND DEVELOPMENT

Producers

Adopted New Rules: N.J.A.C. 2:50

Proposed: May 2, 2022, at 54 N.J.R. 755(a).

Adopted: July 27, 2022, by the State Board of Agriculture and Douglas H. Fisher, Secretary, Department of Agriculture.

Filed: July 28, 2022, as R.2022 d.105, **without change**.

Authority: N.J.S.A. 4:1-11.1, 4:1-25, and 4:12A-1 et seq., specifically 4:12A-7 and 4:12A-20.

Effective Date: September 6, 2022.

Expiration Date: September 6, 2029.

Summary of Public Comment and Agency Response:

No comments were received.

Federal Standards Analysis

Executive Order No. 27 (1994) and P.L. 1995, c. 65 require State agencies that adopt, readopt, or amend State rules that exceed any Federal standards or requirements to include in the rulemaking document a comparison with Federal law. Because the adopted new rules increase the minimum price payable to the dairy producer above the price established by the Federal Milk Marketing Order in effect in New Jersey, the adopted new rules might be considered to exceed the Federal standards.

The Agricultural Marketing Agreement Act of 1937 (AMAA), 7 U.S.C. §§ 601 et seq., authorizes the United States Secretary of Agriculture to issue Federal milk market orders based on geographic locations, which establish minimum uniform producer prices for milk, 7 U.S.C. § 608c(1) and (5). New Jersey is subject to the Northeast Milk Marketing Order, which sets a Class I milk price each month, as well as a statistical blend price which is the minimum amount of payment to producers for three and a half percent butterfat milk. With a classified pricing system, such as that used in the Federal Milk Marketing Order, processors pay different prices for milk in each category of use, all of which is collected in a central location, "the pool," by the Federal Market Administrator's Office. Producers are paid a weighted average, or "blend," price for all uses of milk in a particular order or market. Processors pay into or draw out of the pool on the basis of their utilization of milk relative to market average utilization. Producers participating in the pool receive identical uniform blend prices, with adjustments for butterfat content and location of the plant to which the milk is delivered (the zone). In markets with multiple component pricing, adjustments also are made for protein and other solids.

For example, the price of Class I milk for September of 2021 was \$21.59 per hundred-weight (cwt) for the \$3.15 zone price, while the New Jersey producers received a statistical blend price of \$16.60 to \$16.70 per cwt of raw milk produced in September 2021. Although the Federal Milk Marketing Order establishes the minimum price at which milk can be purchased from a producer, it does not prohibit states from setting a higher price to be paid to producers.

The New Jersey Milk Control Law of 1941, N.J.S.A. 4:12A-1 et seq., independently authorizes the Director of the Department of Agriculture (Director) to fix the minimum prices of milk to be paid to New Jersey producers to ensure a sufficient quantity of fresh, pure, and wholesome milk to the inhabitants of the State. N.J.S.A. 4:12A-22. In so doing, the Director may take into consideration the amount of money necessary to yield a reasonable return to the producer. N.J.S.A. 4:12A-22.

The Federal Milk Marketing Order for the Northeast does not fully protect New Jersey producers economically. The Northeast Federal Milk Marketing Order is only designed to fix the monthly blend price of milk a producer is due to receive from a handler, directly, or through an operating cooperative. In particular, the Federal Milk Marketing Order does not provide adequate compensation to the New Jersey producer because it fails to take into consideration the variation in cost of production based on location. New Jersey has higher than average costs of living, including high labor prices and high property taxes, and cost of production and processing is more expensive in New Jersey than elsewhere in the Northeast.