

**NEW YORK STATE
DEPARTMENT OF
AGRICULTURE AND MARKETS**

Circular 861

**SELECTED STATUTES AND REGULATIONS RELATING
TO AGRICULTURAL SOCIETIES AND FAIRS,**

Including:

**Agriculture and Markets Law, Article 24; Rules and Regulations
of the Department of Agriculture and Markets; and excerpts from
the Not-For-Profit Corporation Law.**

(Revised January, 2008)

TABLE OF CONTENTS

**AGRICULTURE AND MARKETS LAW, ARTICLE 24
PROMOTION OF AGRICULTURE & DOMESTIC ARTS; AGRICULTURAL SOCIETIES**

Section		Page
286	Appropriation and apportionment of moneys for the promotion of agriculture and domestic arts	1
286-a	Construction of certain terms of lease of lands used for fair purposes.....	3
287	Supervision of agricultural fairs and expositions.....	3
288	Gambling; obscene show; state police enforcement	3
290	Association of farmers; powers of.....	4

**1 NYCRR PART 350
STANDARDS FOR CONDUCT OF FAIRS**

350.1	Fair sponsor; definition.....	5
350.2	No fee for 4-H, FFA, junior fair or school department exhibits.....	5
350.3	Prompt, full payment of premiums.....	5
350.4	No premium for unworthy exhibits.....	5
350.5	Premium amount to attract well-balanced exhibits.....	5
350.6	No exhibits by judges in department they oversee.....	6
350.7	Exhibits to be plainly labeled.....	6
350.8	Reexhibition in domestic department.....	6
350.9	Ownership of exhibits entered in fairs and shows.....	6
350.10	Rejection or refusal of an exhibit.....	6
350.11	Compliance with and enforcement of livestock health requirements.....	6

**1 NYCRR PART 351
ANIMAL HEALTH REQUIREMENTS FOR ADMISSION TO FAIRS**

351.1	Definitions.....	7
351.2	Prohibitions.....	10
351.3	General Requirements.....	10
351.4	Rabies Vaccination Requirement.....	10
351.5	Certificate of Veterinary Inspection.....	11
351.6	Cattle.....	11
351.7	Deer.....	11
351.8	Elephants.....	12
351.9	Horses.....	12
351.10	Llamas.....	12
351.11	Non-human primates.....	12
351.12	Poultry.....	13
351.13	Sheep and Goats.....	13
351.14	Isolation on returning home.....	13
351.15	Fair premium book.....	13

**1 NYCRR PART 352
TESTING HORSES FOR DRUGS AT PULLING CONTESTS**

352.1	Definitions.....	14
352.2	Prohibition.....	14
352.3	Tests.....	14
352.4	Assistance in the enforcement of this Part.....	15
352.5	Penalties.....	15

EXCERPTS FROM THE NOT-FOR-PROFIT CORPORATIONS LAW

1409	Agricultural and horticultural corporations.....	17
------	--	----

NOTE: The resolution of specific issues that arise under any of the laws referred to in this circular may require an examination of the full text of the law. Fair managers and directors should consult with the fair’s attorney.

AGRICULTURE AND MARKETS LAW

ARTICLE 24

PROMOTION OF AGRICULTURE AND DOMESTIC ARTS; AGRICULTURAL SOCIETIES

Section

- 286 Appropriation and apportionment of moneys for the promotion of agriculture and domestic arts.
- 286-a. Construction of certain terms of lease of lands used for fair purposes.
- 287. Supervision of agricultural fairs and expositions.
- 288. Gambling; obscene shows; state police enforcement.
- 290. Association of farmers; powers of.

§ 286. Appropriation and apportionment of moneys for the promotion of agriculture and domestic arts.

1. There shall be appropriated annually for the department of agriculture and markets an amount of money sufficient to pay and satisfy the reimbursement moneys herein specified and which money shall be disbursed by the commissioner on behalf of the state for the promotion of agriculture and domestic arts, to duly incorporated agricultural or horticultural corporations as defined in section fourteen hundred nine of the not-for-profit corporation law, the American institute in the city of New York, the Goshen Historic Track, Inc., the Genesee Valley Breeders` Association, Inc. and county extension service associations in proportion to the actual premiums paid during the previous year including premiums paid for trials or tests of speed and endurance of harness horses.

2. Eligibility.

(a) To qualify for premium reimbursement under this section, agricultural and horticultural corporations, the American institute in the city of New York, the Goshen Historic Track, Inc. and the Genesee Valley Breeders` Association, Inc. must have held, with the approval of the commissioner, an annual fair or exposition for the promotion of agriculture and domestic arts during the previous calendar year, paid at least five thousand dollars in actual premiums and filed an annual report as required in paragraph (c) of this subdivision.

(b) To qualify for premium reimbursement under this section a county extension service association must have held, with the approval of the commissioner, a fair or exposition for the promotion of agriculture and domestic arts during the previous calendar year open to all youths in that county up to age twenty-one. A county extension service association may not receive reimbursement for a fair or exposition in a county where an agricultural or horticultural corporation or the American institute in the city of New York has held such a fair or exposition during the past two years. A county extension service association must have paid at least five hundred dollars in actual premiums and filed an annual report as required in paragraph (c) of this subdivision.

(c) All organizations eligible to receive moneys appropriated by the state pursuant to this section shall file with the Department an annual report on or before the fifteenth day of December. The report shall list all premiums awarded during the calendar year and the exhibits for which the premiums were awarded.

3. Reimbursement amounts.

(a) Each organization eligible for premium reimbursement pursuant to paragraph (a) of subdivision two of this section shall receive seven thousand two hundred dollars or the amount actually paid out in premiums, whichever is less. Each organization that has paid out more than seven thousand two hundred dollars shall also be eligible to receive an additional reimbursement equal to the premiums paid in its youth department, not to exceed one thousand five hundred dollars.

(b) Each eligible cooperative extension association shall receive five thousand dollars or the amount actually paid out in premiums, whichever is less.

(c) After reimbursements have been allocated pursuant to paragraphs (a) and (b) of this subdivision, the remaining appropriation, if any, shall be distributed in equal shares to the agricultural or horticultural corporations, the American institute in the city of New York, the Goshen Historic Track, Inc. and the Genesee Valley Breeders` Association, Inc. if they have not been fully reimbursed as a result of the allocations set forth above. The American institute in the city of New York, if eligible, shall receive two shares of the pro-rated amount.

(d) In no event shall any agricultural or horticultural corporation, the American institute in the city of New York, the Goshen Historic Track, Inc. or the Genesee Valley Breeders` Association, Inc. receive more than the amount actually paid out in premiums or twelve thousand dollars, whichever is less.

4. Any organization that shall fail or neglect to hold an annual fair or exposition and file its annual report for two consecutive years, shall forfeit any privileges or money to which it may otherwise be entitled pursuant to the provisions of this article. In computing such period of two consecutive years, no year shall be counted in which such failure was deemed by the commissioner to be attributable to a cause or condition with respect to which the organization or its directors or officers had no control, or for any other reason which the commissioner deems justified.

5. For the purposes of this article, Rockland County Future, Inc. shall be eligible for premium reimbursement, as provided in paragraph (a) of subdivision three of this section so long as such organization has held, with the approval of the commissioner, an annual fair or exposition for the promotion of agriculture and domestic arts in conjunction with a county extension service association during the previous calendar year; paid at least five thousand dollars in actual premiums; and filed an annual report as required in paragraph (c) of subdivision two of this section.

§ 286-a. Construction of certain terms of lease of lands used for fair purposes.

The inability of any agricultural society entitled to receive moneys from the state under section two hundred eighty-six of this chapter, to hold its annual fair or exposition on lands leased to it for that purpose which is occasioned by the use of such lands, for military or war purposes, during either of the years nineteen hundred forty-two, nineteen hundred forty-three and nineteen hundred forty-four, shall not be deemed to be a failure to hold such fair or exposition contemplated by the parties to, or within the meaning of the terms of any contract, agreement or lease therefor, executed prior thereto, which provides for the termination of such contract, agreement or lease upon the failure of such agricultural society to hold its annual fair or exposition and no action or proceeding for the termination of such a contract, agreement or lease shall be maintained for failure of such agricultural society or institute to hold its annual fair or exposition, where such failure is occasioned by the use of such lands, building or property for military or war purposes.

§ 287. Supervision of agricultural fairs and expositions.

The commissioner, after consultation with the dean of the State College of Agriculture at Cornell University, shall have power to establish and promulgate from time to time standards for the conduct of such fairs and expositions in respect to premium lists, exhibits, judging and other educational and agricultural activities. No disbursement shall be made to any agricultural society or to said institute if the last preceding fair or exposition of such society or said institute shall not have been of a standard worthy, in the opinion of the commissioner, of state aid, based upon its contribution to the promotion of agriculture and domestic arts.

§ 288. Gambling; obscene shows; state police enforcement.

No immoral, lewd, obscene or indecent show or exhibition, and no gambling device or devices, instrument or contrivance in the operation of which bets are laid or wagers made, wheel of fortune, or game of chance, shall be permitted upon the grounds during the annual meeting, fair or exposition of any county agricultural society or town or other agricultural society, and it shall be the duty of the state police to enforce this prohibition. This prohibition shall not be construed to prohibit horse racing, tests or trials of skill, or raffles as defined in article nine-A of the general municipal law.¹

¹ Article 9-A of the General Municipal Law defines a "raffle" as "those games of chance in which a participant pays money in return for a ticket or other receipt and in which a prize is awarded on the basis of a winning number or numbers, color or colors, or symbol or symbols designated on the ticket or receipt, determined by chance as a result of a drawing from among those tickets or receipts previously sold." See GML §186(3-b).

§ 290. Association of farmers; powers of.

Any association of farmers, residing in any neighborhood, town or county in this state, now, or hereafter to be organized, and acting under a constitution and by-laws adopted by themselves for their guidance, which shall be filed in the clerk's office of such town or county and which are not inconsistent with the laws of this state, is hereby authorized to lease and maintain grounds and structures for the exhibition and sale of the products of their farms or their skill, and for the instruction and recreation of its members and visitors. Any such association shall have authority to let, for rent, locations on their leased grounds to shopmen and persons wishing to furnish suitable refreshments for victualing members and visitors; to license peddlers to sell on their grounds articles of merchandise, not forbidden to be sold by any law of this state without license from the state; and in the name of such association and upon the action and direction of its officers, to sue for and collect the stipulated sums of such rentals and licenses, and to enforce the observance of its rules and regulations by the several members of its association. And such association is hereby empowered to issue certificates of indebtedness in amounts of five dollars each, providing that the whole amount shall not exceed the sum of one thousand dollars, which they may sell at a price not below the par value thereof, for the purpose of raising money for the erection of buildings, or for such other improvements as may be deemed necessary by a majority of the members of such association.

**Rules and Regulations of the Department of Agriculture and
Markets**
(Title 1 of the Official Compilation of New York Codes Rules and Regulations)

**PART 350
STANDARDS FOR CONDUCT OF FAIRS**

Section

- 350.1 Fair sponsor; definition
- 350.2 No fee for 4-H, F.F.A., junior fair or school department exhibits
- 350.3 Prompt, full payment of premiums
- 350.4 No premium for unworthy exhibit
- 350.5 Premium amount to attract well-balanced exhibits
- 350.6 No exhibits by judges in departments they oversee
- 350.7 Exhibits to be plainly labeled
- 350.8 Reexhibition in domestic department
- 350.9 Ownership of exhibits entered in fairs and shows
- 350.10 Rejection or refusal of an exhibit
- 350.11 Compliance with and enforcement of livestock health requirements

§ 350.1 Fair sponsor; definition.

For purposes of this Part a *fair sponsor* shall mean any organization that receives money from the State for the promotion of agriculture and domestic arts pursuant to Article 24 of the Agriculture and Markets Law.

§ 350.2 No fee for 4-H, F.F.A., junior fair or school department exhibits.

No entry fee shall be charged for 4-H Club, F.F.A. and junior fair exhibits entered for competition in their own classes, or for entries in the school department.

§ 350.3 Prompt, full payment of premiums.

All premiums advertised and awarded must be paid promptly and in full, without deduction in the guise of donations or otherwise, notwithstanding any statements to the contrary or in modification thereof announced or stated in the premium book.

§ 350.4 No premium for unworthy exhibit.

No premium should be awarded by any judge or paid by any fair sponsor for an unworthy exhibit.

§ 350.5 Premium amount to attract well-balanced exhibits.

The amount of premium offered in the various departments should be such as to secure well-balanced exhibits, in the light of the types of agriculture carried on in the territory served by the fair.

§ 350.6 No exhibits by judges in departments they oversee.

No judges shall be permitted to enter exhibits in competition for premiums in the department with which they are connected.

§ 350.7 Exhibits to be plainly labeled.

All exhibits must be plainly labeled so that the full significance of the exhibits will be made clear.

§ 350.8 Reexhibition in domestic department.

No article shall be exhibited in the domestic department if it has been previously exhibited therein, unless permitted by official action of the board of directors of the fair sponsor.

§ 350.9 Ownership of exhibits entered in fairs and shows.

(a) All exhibits shall be entered in the name of the exhibit owner; provided, however, that any animal exhibit entered in a youth fair, youth exhibition, or 4-H show or exhibition may be entered in the name of the exhibitor.

(b) Exhibits shall have been owned by the exhibitor for a period of at least 30 days prior to entry of the exhibit; provided, however, that any animal exhibit entered in a youth fair, youth exhibition or 4-H show or exhibition shall have been in the care of the exhibitor for a period of at least 60 days prior to entry of the exhibit.

(c) Proof of ownership of any exhibit shall be provided by the exhibitor, upon request, to the fair sponsor.

(d) The fair sponsor may limit the number of breeds shown by any exhibitor.

§ 350.10 Rejection or refusal of an exhibit.

Any fair sponsor shall reserve the right to reject or refuse, and to order the removal of, any exhibit which, in the opinion of its board of directors, is not eligible or worthy of showing or has not met the livestock health requirements set forth in Part 351 of this Chapter.

§ 350.11 Compliance with and enforcement of livestock health requirements.

Each fair sponsor shall comply with and enforce the livestock health requirements set forth in Part 351 of this Chapter.

PART 351
ANIMAL HEALTH REQUIREMENTS FOR ADMISSION TO FAIRS

Section

- 351.1 Definitions
- 351.2 Prohibitions
- 351.3 General Requirements
- 351.4 Rabies Vaccination Requirement
- 351.5 Certificate of Veterinary Inspection
- 351.6 Cattle
- 351.7 Deer
- 351.8 Elephants
- 351.9 Horses
- 351.10 Llamas
- 351.11 Non-human primates
- 351.12 Poultry
- 351.13 Sheep and Goats
- 351.14 Isolation on returning home
- 351.15 Fair premium book

§ 351.1 Definitions.

For the purposes of this Part:

- (a) **Accredited veterinarian** means a veterinarian approved by the Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture to perform the functions of Federal and cooperative State-Federal programs for animal disease control.
- (b) **Animal** means any living creature, except a human being.
- (c) **Camel** means any member of the genus *Camelus*.
- (d) **Cattle** means any member of the genus *Bos*.
- (e) **Commissioner** means the Commissioner of Agriculture and Markets of the State of New York and any officer or employee of the Department of Agriculture and Markets of the State of New York duly delegated pursuant to section 17 of the Agriculture and Markets Law.
- (f) **Currently vaccinated** means the animal has been injected with a vaccine suitable to the species, which meets the standards prescribed by the USDA for interstate sale and was administered according to the manufacturer's instructions under the direction of a licensed veterinarian not later than the expiration date on the package. An animal is currently vaccinated beginning 14 days following primary vaccination and immediately following a booster vaccination, continuing for the period stated in the manufacturer's instructions.
- (g) **Deer** means any member of the family *Cervidae* including deer, elk and moose.

(h) **Department** means the New York State Department of Agriculture and Markets.

(i) **Elephant** means any member of the family Elephantidae.

(j) **Fair** means any fair or exposition, which qualifies for premium reimbursement under Agriculture and Markets Law section 286, and the New York State Fair.

(k) **Flock** means all poultry on one farm except that, at the discretion of the Commissioner, any group of poultry which is segregated from another group and has been so segregated for a period of at least 21 days may be considered as a separate flock.

(l) **Herd** means:

(1) any animals under common ownership or supervision that are grouped on one or more parts of any single premises (lot, farm or ranch); or

(2) all animals under common ownership or supervision on two or more premises that are geographically separated, but on which the animals have been interchanged or where there has been contact among the animals on the different premises. Contact between animals on the different premises will be assumed unless the owner establishes otherwise and the results of an epidemiological investigation are consistent with the lack of contact between premises; or

(3) all animals on common premises, such as community pastures or grazing association units, but owned by different persons. Other groups of animals under the same ownership which are located on other premises are considered to be part of this herd unless an epidemiological investigation establishes that animals from the affected herd have not had the opportunity for direct or indirect contact with animals from that specific premises.

(m) **Herd of origin** means any herd of animals or any farm or other premises where the animals were born or where animals have been kept for four months or more before the date of shipping, provided animals from other premises have not been assembled on the farm or premises within four months before the date of shipment.

(n) **Horse** means any member of the family Equidae including horses, asses, mules and zebras.

(o) **Interstate certificate of veterinary inspection** means the original preprinted document which:

(1) is issued by an accredited veterinarian and approved and countersigned by the chief livestock health official or such official's designee of the state or country of origin. Approval and counter-signature of the certificate shall signify that said official has caused the statements thereon to be verified and shall further signify that these statements qualify the animal for movement into New York State in accordance with the provisions of this Part;

(2) uniquely identifies each animal to be moved into this State. Identification shall include all ear tags, ear notches, tattoos and electronic identification devices carried by the animal, its species, breed, age, sex, registration number and any other unique description; and

(3) includes the full name and address of both consignor and consignee, the date of issue, the dates and results of qualifying tests, the anticipated date of entry of the animal into New York State, and a statement that the individual animal and that animal's herd of origin has been inspected by an accredited veterinarian and no evidence of infectious, contagious or communicable disease was found (except where noted) and that the results of the tests are as indicated.

(p) **Intrastate certificate of veterinary inspection** means the original preprinted document which:

(1) contains the name and address of the owner;

(2) uniquely identifies each individual animal. Identification shall include all ear tags, ear notches, tattoos and electronic identification devices carried by the animal, its species, breed, age, sex, registration number and any other unique description;

(3) includes a statement that the individual animal and that animal's herd of origin has been inspected by an accredited veterinarian on or after May 1 of the current year and no evidence of infectious, contagious or communicable disease was found (except where noted);

(4) verifies that all required vaccinations and tests have been performed and provides a record of the results of any or all required tests; and

(5) includes the signature of the accredited veterinarian who has inspected the animals identified on the certificate verifying the accuracy of the statements thereon.

(q) **Llama** means any member of the genus *Lama* including llamas, alpacas, vicunas, and guanacos.

(r) **Non-human primate** means any member of the order Primate except humans.

(s) **Primary Vaccination** means the initial injection of a vaccine suitable for the species that meets the standards prescribed by the USDA for interstate sale and is administered according to the manufacturer's instructions under the direction of a licensed veterinarian.

(t) **Poultry** means domesticated fowl, including chickens, turkeys, waterfowl and game birds, except doves and pigeons.

(u) **Ruminant** means any member of the suborder Ruminantia including cattle, goats, sheep, bison, giraffes and antelope.

(v) **State** means New York State.

(w) **Swine** means any member of the family suidae, feral or domestic.

(x) **USDA** means United States Department of Agriculture.

§ 351.2 Prohibitions.

No person shall bring or have present an animal on the fairgrounds during a fair which is not qualified under the provisions of this Part. No person shall present an interstate or intrastate certificate of veterinary inspection that has been altered by anyone other than the issuing veterinarian or an authorized agent.

§ 351.3 General Requirements.

(a) Animals demonstrating clinical signs or other evidence of infectious, contagious or communicable diseases shall not be allowed on the fairgrounds during a fair.

(b) The Commissioner may deny admission to or require removal from the fair premises, or require the segregation of any animal affected with or exposed to any infectious, contagious or communicable disease.

(c) All animals presented for admission to a fair that originate from a location other than this State shall meet all State importation regulations appropriate to the species in addition to the requirements of this Part. State importation requirements can be obtained by contacting the Department at 10B Airline Drive, Albany, NY 12235, (518) 457- 3502.²

(d) Animals that qualify for admission under this Part at one fair shall be considered approved for admission at all other New York State fairs conducted during the same calendar year, subject to State importation requirements appropriate to the species and compliance with the rabies vaccination requirements of individual fairs, provided that the health status of the individual animal or the herd of origin does not change in the interim period.

(e) In the event the Commissioner issues a notice pursuant to New York State Agriculture and Markets Law section 72 affecting an area which includes a fairground, all animals presented for admission to that fair shall be in compliance with the disease control requirements of such notice.

§ 351.4 Rabies Vaccination Requirement.

(a) To qualify for admission to a fair, all animals 105 days of age or more for which a rabies vaccine labeled by the manufacturer for that species is available must be accompanied by proof that the animal is currently vaccinated against rabies. Animals for which no labeled vaccine is available must be accompanied by proof that the animal is currently vaccinated against rabies if required by the rules of an individual fair.

(b) The primary rabies vaccination must be administered at least 14 days prior to arrival at the fairgrounds.

² NOTE: The Department's address has changed; the official publication of this regulation in the NYCRR includes the Department's previous address.

(c) Acceptable proof of vaccination includes a signed written statement from the attending veterinarian or a valid certificate of veterinary inspection that has the vaccination listed and is signed by the attending veterinarian. Acceptable proof of vaccination must include the name of the product used and the date of administration.

§ 351.5 Certificate of Veterinary Inspection.

(a) To qualify for admission to a fair all camels, deer, elephants, llamas, non-human primates, ruminants and swine must:

(1) be accompanied by an original intrastate or interstate certificate of veterinary inspection which shall be presented to the Commissioner at any time upon request; and

(2) be permanently and uniquely identified by an official eartag, tattoo, electronic identification or a sketch or photograph signed by the accredited veterinarian who has inspected the individual animal.

§ 351.6 Cattle.

In addition to the requirements listed in sections 351.4 and 351.5 of this Part, all cattle presented for admission to a fair must be accompanied by an original intrastate or interstate certificate of veterinary inspection that contains proof that the cattle have tested negative for being persistently infected with bovine viral diarrhea and proof that the cattle are currently vaccinated against bovine respiratory disease complex, including bovine respiratory syncytial virus, bovine viral diarrhea, infectious bovine rhinotracheitis, and parainfluenza with a product administered in a manner and time frame adequate to confer protective immunity for these diseases for the duration of the fair.

§351.7 Deer.

(a) In addition to the requirements listed in sections 351.4 and 351.5 of this Part, all deer presented for admission to a fair must be accompanied by an original intrastate or interstate certificate of veterinary inspection that contains proof that the deer to be admitted originated from a herd classified as:

(1) *accredited* under Title 9 of the *Code of Federal Regulations* section 77.35 (U.S. Government Printing Office, Washington, DC, 20402, January 1, 2001), containing the Federal standards for *Interstate Movement From Accredited Herds*, at pages 219-221, or

(2) *qualified* under Title 9 of the *Code of Federal Regulations* section 77.36 (U.S. Government Printing Office, Washington, DC, 20402, January 1, 2001), containing the Federal standards for *Interstate Movement From Qualified Herds*, at pages 221-222.

(b) Copies of these regulations, as published in the *Code of Federal Regulations*, are maintained in files at the Department of Agriculture and

Markets, Division of Animal Industry, 10B Airline Drive, Albany, NY 12235³ and the Department of State, 41 State Street, Albany, NY 12231, and are available for public inspection and copying during regular business hours.

§ 351.8 Elephants.

In addition to the requirements listed in sections 351.4 and 351.5 of this Part, all elephants presented for admission to a fair must be exhibited pursuant to a current USDA license.

§ 351.9 Horses.

In addition to the requirements listed in section 351.4 of this Part, all horses presented for admission to a fair must be accompanied by an original certificate or statement showing that the horse has tested negative to a USDA approved test for equine infectious anemia (swamp fever) during the calendar year in which the fair is held or during the preceding calendar year.

(a) Foals less than 6 months of age accompanied by a test negative dam do not have to be tested.

(b) The required certificate shall include a complete identification of the horse, the date of the test, and the name and address of the laboratory that conducted the test.

(c) The certificate must be signed by an accredited veterinarian and the director of the laboratory where the test was conducted.

§ 351.10 Llamas.

In addition to the requirements listed in sections 351.4 and 351.5 of this Part, all llamas presented for admission to a fair must be accompanied by an original intrastate or interstate certificate of veterinary inspection that contains:

(a) the results of a negative thoracic tuberculosis skin test conducted on llamas over one year of age within the 12 months preceding the opening date of the fair; or

(b) proof that the llama's herd of origin has undergone a complete negative tuberculosis test of all llamas over 12 months of age within the previous five years.

§ 351.11 Non-human primates.

In addition to the requirements listed in sections 351.4 and 351.5 of this Part, all non-human primates presented for admission to a fair must be accompanied by an original intrastate or interstate certificate of veterinary inspection that contains proof that the non-human primates to be admitted have tested negative

³ NOTE: The Department's address has changed; the official publication of this regulation in the NYCRR includes the Department's previous address.

to an intradermal tuberculosis test performed within 12 months prior to admission.

§ 351.12 Poultry.

All poultry presented for admission to a fair:

(a) shall not originate from any state where the Commissioner has determined that highly pathogenic avian influenza is present. A list of such states is maintained at the offices of the Department's Division of Animal Industry, 10B Airline Drive, Albany, NY 12235⁴; and

(b) must be accompanied by results of a negative pullorum typhoid test conducted within 90 days prior to the opening date of the fair or proof that the fowl originated directly from a U.S. pullorum-typhoid clean or equivalent flock. Waterfowl are exempt from this requirement.

§ 351.13 Sheep and Goats.

(a) In addition to the requirements listed in sections 351.4 and 351.5 of this Part, all sheep and goats presented for admission to a fair must be accompanied by an original intrastate or interstate certificate of veterinary inspection that contains a statement that the herd of origin was inspected on or after May 1 of the current year and no evidence of contagious, infectious or communicable diseases was found.

(b) If evidence of soremouth (contagious ecthyma) is found on any sheep or goat, the entire exhibit including the affected animals shall immediately be removed from the fair premises.

§351.14 Isolation on returning home.

The owner or custodian shall keep show animals biologically separate from the herd or flock for a period of at least two weeks after returning to the premise of origin.

§351.15 Fair premium book.

(a) The foregoing requirements shall be printed in each fair's premium book.

(b) Except as expressly permitted herein or as mandated by any federal, state or county law, no fair shall impose requirements in addition to, or different from, the requirements set forth under this Part.

⁴ NOTE: The Department's address has changed; the official publication of this regulation in the NYCRR includes the Department's previous address.

PART 352
TESTING HORSES FOR DRUGS AT PULLING CONTESTS

Section

- 352.1 Definitions
- 352.2 Prohibition
- 352.3 Tests
- 352.4 Assistance in the enforcement of this Part
- 352.5 Penalties

§352.1 Definitions.

- (a) **Commissioner.** The Commissioner of the New York State Department of Agriculture and Markets.
- (b) **Department.** New York State Department of Agriculture and Markets.
- (c) **Director.** The Director of the Division of Animal Industry of the New York State Department of Agriculture and Markets.
- (d) **Drug.** Any drug, medication, stimulant, depressant, hypnotic or narcotic used in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals.
- (e) **Fair.** All agricultural fairs and expositions including the New York State Fair, which hold pulling contests and receive premium reimbursement from New York State.
- (f) **Horses.** All members of the family Equidae.
- (g) **Laboratory.** A laboratory designated by the commissioner to perform tests on official samples of blood, saliva and urine.
- (h) **Official sample.** A blood sample, a saliva sample or a urine sample obtained from a horse entered in a pulling contest for a test.
- (i) **Test.** A test performed at a laboratory on an official sample to determine the presence of drugs.
- (j) **Veterinarian.** A veterinarian licensed and accredited by New York State and authorized by the director to take official samples.

§ 352.2 Prohibition.

No person shall enter or drive a horse which has a drug in its body in a pulling contest.

§ 352.3 Tests.

- (a) An official sample shall be taken by a veterinarian of a least four horses chosen by lot in every weight class. Each horse entering each weight class shall be identified by number. Numbers shall be drawn by lot until at least four horses are designated for official sampling.

(b) The veterinarian or any judge may also require that an official sample be taken of any horse not included in the selection specified in subdivision (a) of this section, if in his or her opinion such a sample is necessary to assure the integrity of the testing program.

(c) Each official sample shall be submitted by the veterinarian to the laboratory for a test. Test results disclosing the presence of drugs shall be forwarded to the director who shall notify the fair concerned and give written notice thereof by regular mail, personal service or certified mail to the owner and the person having care, custody or control of the horse.

§ 352.4 Assistance in the enforcement of this Part.

(a) The owner or the person having the care, custody or control of any horse shall present such horse for appropriate sample collection when so directed by the veterinarian to obtain the official sample. Failure of the owner or the person having the care, custody or control of a horse to submit it for testing or failure to provide adequate assistance to the veterinarian in obtaining an official sample shall result in forfeiture of all rights to premiums paid for the contest for which the sample was to be collected and immediate exclusion from participation in future pulling contests at fairs.

(b) *Responsibility of fairs.* Each fair shall comply with and assist in the enforcement of this Part and provide such restraint facilities and lighting as may be required by the department.

§ 352.5 Penalties.

The owner of any horse which tests positive for the presence of drugs shall be held responsible for the violation.

(a) *First violation.* Within 15 days from the date of the notice of the first violation, the owner shall return to the director for refund to the appropriate fair, any premium awarded in the pulling contest for which the sample was taken. The owner shall be subject to a penalty pursuant to Agriculture and Markets Law, section 40.

(b) *Second violation.* Within 15 days from the date of notice of the second violation, the owner shall return to the director for refund to the appropriate fair, any premium awarded in the pulling contest for which the sample was taken. The owner shall be subject to a penalty pursuant to Agriculture and Markets Law, section 40.

(c) *Third violation.* Within 15 days from the date of the notice of the third violation, the owner shall return to the director for refund to the appropriate fair, any premium awarded in the pulling contest for which the sample was taken. The owner shall be subject to a penalty pursuant to Agriculture and Markets Law, section 40. Further, the owner shall thereafter be prohibited from participating in pulling contests at fairs for two years from the date of the notification of the third violation.

(d) *Succeeding violations.* Within 15 days from the date of the notice of succeeding violations, the owner shall return to the director for refund to the appropriate fair, any premium awarded in the horse pulling contest for which the sample was taken. The owner shall be subject to a penalty pursuant to Agriculture and Markets Law, section 40. Further, the owner shall be prohibited from participating in pulling contests at fairs for five years from the date of the notification of the succeeding violation.

(e) Failure to return the premium within the 15-day period will result in the exclusion of the owner from participation in contests at fairs thereafter, unless a request for a hearing has been made pursuant to subdivision (f) of this section.

(f) If, within 15 days from the date of the notice of any violation, the owner makes a written request to the commissioner for a hearing, the commissioner, upon reasonable notice to all parties and to the fair at which the pulling contest was held and at which the sample in question was taken, shall fix a date for a hearing to be held pursuant to article 3 of the Agriculture and Markets Law of the State of New York and the rule and regulations of the New York State Department of Agriculture and Markets.

(1) Each request for a hearing must be accompanied by a security deposit in the form of a certified check or money order equal to the amount of premium moneys received in the pulling contest at which the alleged violation occurred. If, subsequent to the date of the pulling contest at which the violation occurred and before the determination is made upon the hearing, the owner receives any premium moneys from any other pulling contest in fairs, the amount of the security deposit shall be increased by the amount of such premium.

(2) After such hearing, the commissioner shall issue a determination and order setting forth any penalties which shall be assessed and the grounds upon which they are based, and any premium moneys which must be returned. The security deposit shall be applied to the payment of premium moneys. Any balance of security deposit funds remaining after such payments are deducted shall be returned to the owner. As required in this Part, the commissioner shall also order that the owner be prohibited from participating in pulling contests.

**AGRICULTURAL AND HORTICULTURAL CORPORATIONS
EXCERPTS FROM THE NOT-FOR-PROFIT CORPORATIONS LAW**

§1409. Agricultural and horticultural corporations.

(a) Definition.

An agricultural or horticultural corporation or society is a corporation formed under or by a general or special law for promoting agriculture, horticulture and the mechanic arts.

(b) Type of corporation.

An agricultural or horticultural corporation is a Type A corporation under this chapter, except that any such corporation which has received moneys from the state or has acted as agent for the state under paragraph (c), or has acquired or does acquire real property by condemnation is or becomes a Type B corporation under this chapter. If such corporation has not already filed as a Type B corporation it shall, upon such receipt of moneys or acting as such agent or such acquisition of real property by condemnation, amend its certificate to that effect.

(c) Condemnation.

In case any agricultural or horticultural corporation or any other agricultural society which has received moneys from the state for premiums paid for improving the breed of cattle, sheep and horses, or has acted as agent for the state in disbursing moneys for such purpose can not acquire real property needed for its corporate purposes upon satisfactory terms, it may acquire such real property by condemnation. Any real property acquired by condemnation, or otherwise, shall not be subject to condemnation by any other private corporation except a railroad corporation.

(d) Report of corporation receiving aid; disposition of property.

Any county agricultural corporation receiving after May tenth, nineteen hundred and twenty, money from any county shall, through its secretary, make annually to the board of supervisors a detailed statement with vouchers showing the disbursement during the year of all moneys so received. If such a corporation shall cease to exist, or without satisfactory reason shall fail or neglect to hold its annual exhibitions or fairs for a period of two years, the board of supervisors on notice to the corporation may petition the supreme court of the judicial district or the county court of the county to declare a forfeiture to the county of the real and personal property of the corporation in whole or in part or to confer on the county a lien upon such property, whereupon such court may make a decree determining the legal or equitable rights of the county in such property subject to the rights of creditors of the corporation.

(e) Restrictions on the formation of corporations.

There shall be but one county corporation in a county, and but one town corporation in a town, except that a second corporation may be formed if it is to be the surviving corporation under a plan of merger with the existing corporation, in which event, the certificate of incorporation of such second corporation shall have endorsed thereon or annexed thereto the approval of a justice of the supreme court of the judicial district in which the office of such corporation is to be located. Ten days written notice of the application for such approval, accompanied by a copy of the proposed certificate, shall be given to the attorney general. Whenever a new county shall be or shall have been erected out of a part of an existing county in which a county corporation existed at the time of the erection of such new county, the existing corporation may at its option be continued as the county corporation of both counties. The determination of an existing corporation to be continued as a county corporation for both counties shall be evidenced by a certificate thereof, signed and acknowledged by a majority of the directors, and filed in the office of the secretary of state and in the office of the clerk of each of such counties. A town corporation may be formed for several towns, but the formation of such corporation shall not prevent the formation of a separate town corporation for any such town.

(f) Annual fairs and premiums.

Every agricultural or horticultural corporation, the American institute in the city of New York, and the New York state agricultural society, shall hold annual fairs and exhibitions, and distribute premiums. Such corporations and societies shall regulate and award premiums on such articles, productions and improvements as they deem best calculated to promote the agricultural, horticultural, mechanic and domestic arts of the state, having special reference to the net profits which accrue or are likely to accrue from the mode of raising crops, or stock, or fabricating the articles exhibited, so that the award be made to the most economical or profitable mode of production. A county or town corporation, by a two-thirds vote of the members present and voting at a regular meeting or at a special meeting, duly called for that purpose, may fix the place where the annual fair and exhibition of the corporation shall be held.

(g) Regulation of shows on exhibition grounds.

Any agricultural or horticultural corporation, or the executive committee of such board, may regulate or prevent all kinds of theatrical, or circus, exhibitions and shows, huckstering and traffic in fruits, goods, wares and merchandise, of whatever description, and shall prevent all kinds of mountebank exhibitions or shows for gain on the fair days on such fair grounds, and also within a distance of two hundred yards of the fair grounds of the corporation, if it shall determine that they obstruct or interfere with the free and uninterrupted use of the highways around and approaching such fair grounds.

(h) Capital stock.

An agricultural or horticultural corporation may have capital stock aggregating not less than five thousand dollars, divided into shares of not less than ten dollars each, and may issue such certificates at not less than the par value thereof to raise money for its corporate purposes, if provision therefor is made in its certificate of incorporation or in a certificate filed pursuant to section 803 (Certificate of amendment; contents). An agricultural or horticultural corporation, which has issued or shall hereafter issue capital stock, entitling its shareholders to dividends from the profits of the corporation, shall be subject to the business corporation law and not to the provisions of this chapter in conflict therewith.

(i) Annual report.

On or before December fifteenth in each year, the directors of every agricultural or horticultural corporation shall make a verified report to the commissioner of agriculture and markets of the transactions of the corporation for the preceding twelve months giving full details of the receipts and expenditures thereof, with a list of premiums awarded and to whom and for what awarded.

(j) Membership in state society.

The presidents of the county agricultural corporations, or delegates to be chosen by such corporations annually, shall be ex officio members of the New York state agricultural society.

(k) Exhibitions and entertainments on fair grounds to be exempt from license.

The provisions of any special or local law or municipal ordinance, requiring the payment of a license fee for exhibitions or entertainments, shall not apply to any exhibition or entertainment held on the grounds of a town or county corporation whether or not the corporation derives a pecuniary profit from such exhibition or entertainment by the lease of its grounds for such purpose.