

**CHAPTER 71**

**GRADES AND STANDARDS**

**Authority**

N.J.S.A. 4:13-11.12.

**Source and Effective Date**

R.1993 d.379, effective July 2, 1993.  
See: 25 N.J.R. 1801(a), 25 N.J.R. 3453(a).

**Executive Order No. 66(1978) Expiration Date**

Chapter 71, Grades and Standards, expires on July 2, 1998.

**Chapter Historical Note**

Chapter 71 was filed and became effective prior to September 1, 1969.

1970 Revisions: Amendments became effective January 27, 1970 as R.1970 d.20. See: 2 N.J.R. 12(a), 2 N.J.R. 29(b). Further amendments became effective October 1, 1970 as R.1970 d.119. See: 2 N.J.R. 69(c), 2 N.J.R. 89(a).

1973 Revisions: Amendments became effective December 18, 1973 as R.1973 d.356. See: 5 N.J.R. 362(a), 6 N.J.R. 2(a).

1974 Revisions: Amendments became effective April 1, 1974 as R.1974 d.275. See: 5 N.J.R. 255(b), 5 N.J.R. 328(a).

1975 Revisions: Amendments to subchapter 5 became effective April 1, 1975 as R.1975 d.81. See: 7 N.J.R. 91(a), 7 N.J.R. 190(b). Further amendments became effective May 16, 1975 as R.1975 d.126. See: 7 N.J.R. 247(a).

1976 Revisions: Amendments became effective January 1, 1976 as R.1976 d.358. See: 7 N.J.R. 398(a), 8 N.J.R. 3(a).

1977 Revisions: Amendments became effective September 7, 1977 as R.1977 d.339. See: 9 N.J.R. 354(b), 9 N.J.R. 451(b).

1978 Revisions: Amendments became effective March 30, 1978 as R.1978 d.114. See: 10 N.J.R. 90(b), 10 N.J.R. 182(b). Further amendments and the deletion of Subchapter 4 became effective November 21, 1978 as R.1978 d.402 (this R.1978 d.402 also deleted Subchapter 4). See: 10 N.J.R. 416(a), 11 N.J.R. 2(b).

1979 Revisions: Amendments became effective February 13, 1979 as R.1979 d.58. See: 11 N.J.R. 2(a), 11 N.J.R. 117(a). Further amendments became effective July 1, 1979 as R.1979 d.229. See: 11 N.J.R. 117(a), 11 N.J.R. 315(c).

1980 Revisions: Amendments became effective April 3, 1980 as R.1980 d.140. See: 12 N.J.R. 102(a), 12 N.J.R. 248(b).

1982 Revisions: Amendments became effective March 15, 1982 (operative April 25, 1982) as R.1982 d.75. See: 14 N.J.R. 66(a), 14 N.J.R. 277(a).

1983 Revisions: Amendments became effective August 1, 1983 as R.1983 d.312. See: 15 N.J.R. 462(a), 15 N.J.R. 1245(a). Subchapters 1 and 2 were readopted in compliance with Executive Order No. 66(1978) effective September 1, 1983 as R.1983 d.394. See: 15 N.J.R. 1050(a), 16 N.J.R. 1574(a).

1984 Revisions: Further amendments became effective July 16, 1984 as R.1984 d.301. See: 16 N.J.R. 946(a), 16 N.J.R. 1966(a).

1985 Revisions: Amendments became effective June 3, 1985 as R.1985 d.282. See: 17 N.J.R. 765(b), 17 N.J.R. 1407(d).

1986 Revisions: Amendments became effective May 5, 1986 as R.1986 d.147. See: 18 N.J.R. 488(a), 18 N.J.R. 938(c). Further

amendments became effective June 2, 1986 as R.1986 d.201. See: 18 N.J.R. 588(b), 18 N.J.R. 1196(a).

1987 Revisions: Amendments became effective February 2, 1987 as R.1987 d.89. See: 18 N.J.R. 2347(a), 19 N.J.R. 287(a), 19 N.J.R. 355(a). Further amendments became effective September 8, 1987 as R.1987 d.354. See: 19 N.J.R. 901(a), 19 N.J.R. 1641(a). Further amendments became effective November 2, 1987 as R.1987 d.442. See: 19 N.J.R. 1593(c), 19 N.J.R. 1987(a).

1988 Revisions: Amendments became effective March 7, 1988 as R.1988 d.97. See: 19 N.J.R. 2327(a), 20 N.J.R. 525(a). This chapter was readopted in compliance with Executive Order No. 66(1978) effective July 8, 1988 with amendments effective August 1, 1988 as R.1988 d.370. See: 20 N.J.R. 953(a), 20 N.J.R. 1871(a).

Pursuant to Executive Order No. 66(1978), Chapter 71 was readopted as R.1993 d.379. See: Source and Effective Date.

See section annotations for specific rulemaking activity.

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**SUBCHAPTER 1. NEW JERSEY STANDARDS FOR QUALITY OF INDIVIDUAL SHELL EGGS**

**2:71-1.1 through 2:71-1.22 (Reserved)**

As amended, R.1978 d.402, eff. November 21, 1978.  
See: 10 N.J.R. 416(a), 11 N.J.R. 2(b).

**2:71-1.23 Marketing of shell eggs**

(a) Any eggs which are marketed to consumers, institutional consumers or retailers shall be edible and shall conform to the standards for consumer grades AA, A or B as published in the Federal Register volume 20, number 22, February 1, 1955, part 56 subpart C, known as the Code of Federal Regulations Governing the Grading of Shell Eggs and United States Standards Grades and Weight Classes for Shell Eggs, (7 CFR part 56, subpart C) effective July 1, 1971, and any further changes in these Federal rules and regulations, after proper promulgation shall be deemed the rules and regulations of the New Jersey State Board of Agriculture:

1. Exception: restricted eggs may be marketed in accordance with the exemption provisions in the Federal Egg Products Inspection Act (Public Law 91-597) and the USDA Regulation Governing the Inspection of Eggs and Egg Products (7 CFR Part 59), and any further changes in these Federal rules and regulations, after proper promulgation shall be deemed to be the rules and regulations of the New Jersey State Board of Agriculture.

As amended, R.1975 d.358, eff. January 1, 1976.

See: 7 N.J.R. 398(a), 8 N.J.R. 3(a).

**2:71-1.24 through 2:71-1.29 (Reserved)**

As amended, R.1978 d.402, eff. November 21, 1978.  
See: 10 N.J.R. 416(a), 11 N.J.R. 2(b).

**2:71-1.30 Certificates of grade**

(a) For the inspection or classification of shell eggs or poultry and the issuance of a certificate of the grade or other classification of such product, the fees and charges for the services of department personnel shall be the same as the current fee schedule of the Agricultural Marketing Service of USDA, as amended, 7 CFR parts 55, 56, 59 and 60.

As amended, R.1970 d.119, eff. October 1, 1970.  
See: 2 N.J.R. 69(c), 2 N.J.R. 89(a).  
As amended, R.1977 d.339, eff. September 7, 1977.  
See: 9 N.J.R. 354(b), 9 N.J.R. 451(b).  
As amended, R.1978 d.115, eff. March 30, 1978.  
See: 10 N.J.R. 90(a), 10 N.J.R. 182(c).  
As amended, R.1978 d.402, eff. November 21, 1978.  
See: 10 N.J.R. 416(a), 11 N.J.R. 2(b).

**2:71-1.31 Name and address on containers**

(a) The name and address of the packer or distributor shall be considered prominently designated on a container of eggs when in bold-faced type not less than 1/16 inch in height.

1. In consumer graded eggs this designation shall be preceded by the words "Produced and Packed by", "Packed and Distributed by", "Packed for and Distributed by", or "Distributed by", whichever is the correct expression of fact.

2. The street address of the packer or distributor need not be shown provided the name is listed in a current public directory.

(b) For the purposes of this section, "consumer graded eggs" are defined to mean eggs offered for sale to consumers at the retail level.

As amended, R.1978 d.402, eff. November 21, 1978.  
See: 10 N.J.R. 416(a), 11 N.J.R. 2(b).

**Authority**

N.J.S.A. 4:3-11.13

**2:71-1.32 Sealing containers**

All containers of loose eggs, produced in New Jersey whether graded or ungraded destined for New Jersey identified pack, shall be sealed with gummed tape at least 2 1/2 inches wide in a manner marked with the name and address of the New Jersey producer partly on the tape and partly on the container. Only those eggs in containers thus taped and marked may be used for packing into New Jersey identified cartons.

As amended, R.1978 d.402, eff. November 21, 1978.

(a)1i: "\$300.00" was "\$290.00"; (a)1ii: "\$11.25" was \$10.88"; (a)1iii: "\$45.00" was "\$43.52"; (a)1iv: "\$13.50" was "\$12.25"; (a)2i: "4,285" was "4,140"; (a)3i: "3,750" was "3,625".  
As amended, R.1983 d.312, effective August 1, 1983.  
See: 15 N.J.R. 462(a), 15 N.J.R. 1245(a).

In (a)1.iv. added "not to exceed light hours per day" and last sentence.

As amended, R.1984 d.301, eff. July 16, 1984.  
See: 16 N.J.R. 946(a), 16 N.J.R. 1966(a).

Section substantially amended.  
Amended by R.1986 d.147, effective May 5, 1986.  
See: 18 N.J.R. 448(a), 18 N.J.R. 938(c).

Charges were raised.  
Amended by R.1987 d.354, effective September 8, 1987.  
See: 19 N.J.R. 901(a), 19 N.J.R. 1641(a).

Increase of fee charges for inspection and grading of farm products.  
Amended by R.1988 d.370, effective August 1, 1988.  
See: 20 N.J.R. 953(a), 20 N.J.R. 1871(a).

Charge raised to \$0.06 in excess of 6,545 packages from \$0.02 in excess of 4,000 packages.  
Amended by R.1990 d.318, effective June 18, 1990.  
See: 22 N.J.R. 1242(c), 22 N.J.R. 1914(a).

Charges increased.  
Amended by R.1992 d.375, effective October 5, 1992.  
See: 24 N.J.R. 2321(a), 24 N.J.R. 3513(a).

Revised text.  
Amended by R.1995 d.456, effective August 21, 1995.  
See: 27 N.J.R. 2035(a), 27 N.J.R. 3155(d).  
Charges were raised.

**2:71-2.29 Written agreements for multiple commodity inspection**

(a) Charges for written agreements shall be made according to the following schedule.

i. A charge of \$1,000 per five day week (Monday through Friday) or 40 hours or less for each inspector for the inspection and/or grading of more than one commodity;

ii. A charge of \$36.00 per hour, or portion thereof, for all hours worked over 40 in the five day week (Monday through Friday), or for all hours over eight hours per day;

iii. There will be at least a four hour minimum charge of \$144.00 assessed for each inspector assigned work on Saturday and/or Sunday;

iv. A charge of \$36.00 per hour, or portion thereof, for the hours worked by each inspector on legal State holidays occurring Monday through Friday;

v. There will be at least a four hour minimum charge of \$144.00 assessed for each inspector assigned work on legal State holidays occurring Monday through Friday; and

vi. A charge of \$0.08 will be made for all packages (other than potatoes) inspected or graded and certified in excess of 6,667 packages during the seven day week (Saturday through Friday).

Amended by R.1990 d.318, effective June 18, 1990.  
See: 22 N.J.R. 1242(c), 22 N.J.R. 1914(a).

Charges increased  
Amended by R.1992 d.375, effective October 5, 1992.  
See: 24 N.J.R. 2321(a), 24 N.J.R. 3513(a).

Revised text.  
Amended by R.1995 d.456, effective August 21, 1995.  
See: 27 N.J.R. 2035(a), 27 N.J.R. 3155(d).  
Charges were raised.

**2:71-2.30 Charges; oral agreements; trailer, car, warehouse and storage lots**

(a) Charges for inspection or grading and certification services performed to an oral agreement between the New Jersey Department of Agriculture and the requester, for all trailer, car, warehouse and storage lots, shall be made according to the schedule detailed below. A minimum of \$25.00 for inspection or grading and certification services shall be charged. However, if the conditions listed in N.J.A.C. 2:71-2.30 are met, the charges shall be calculated according to the hourly rate schedule set out in N.J.A.C. 2:71-2.31.

1. Basic charge schedule for products other than potatoes:

i. A charge of \$0.15 per container for all containers;

2. Basic charge schedule for potatoes:

i. A charge of \$0.18 per hundredweight;

ii. All other size containers and bulk loads shall be converted to hundredweight equivalents. Charges for these equivalents shall be at the rate of \$0.18 per hundredweight.

3. Phytosanitary certificates:

i. No charge will be made for such certificates;

ii. The Deputy Director, Division of Dairy and Commodity Regulation, may be contacted for information on counties, requiring additional declaration statements.

4. Delayed inspections: Delayed inspections are those inspections requiring more than two hours to complete (exclusive to travel time) due to delays of any kind not attributable to the inspector. Additional charges for delayed inspections shall be assessed according to the following schedule:

i. \$18.00 per hour charged in half hour increments.

ii. The minimum charge shall be \$9.00.

5. Saturday, Sunday and legal State holiday inspections: For inspections performed on Saturdays, Sundays or legal State holidays a per man-hour rate will be charged in addition to the regular fee and shall be assessed according to the following schedule:

i. \$12.00 per hour charged in half hour increments.

ii. The minimum charge shall be \$6.00.

R.1978 d.114, eff. March 30, 1978.  
See: 10 N.J.R. 90(b), 10 N.J.R. 182(b).  
As amended, R.1980 d.140, eff. April 3, 1980.  
See: 12 N.J.R. 102(a), 12 N.J.R. 248(b).

As amended, R.1982 d.75, eff. March 15, 1982 (operative April 25, 1982).

See: 14 N.J.R. 66(a), 14 N.J.R. 277(a).

(a): "\$12.00" was "\$11.00";

(a)5i.: "\$7.00" was "\$6.00".

As amended, R.1984 d.301, eff. July 16, 1984.

See: 16 N.J.R. 946(a), 16 N.J.R. 1966(a).

Section substantially amended.

Amended by R.1986 d.147, effective May 5, 1986.

See: 18 N.J.R. 448(a), 18 N.J.R. 938(c).

Charges were received.

Amended by R.1988 d.370, effective August 1, 1988.

See: 20 N.J.R. 953(a), 20 N.J.R. 1871(a).

Basic charge schedules raised throughout section.

Amended by R.1990 d.318, effective June 18, 1990.

See: 22 N.J.R. 1242(c), 22 N.J.R. 1914(a).

Charges increased and charges for Saturday, Sunday and legal holidays established.

Amended by R.1995 d.456, effective August 21, 1995.

See: 27 N.J.R. 2035(a), 27 N.J.R. 3155(d).

Charges were raised.

### 2:71-2.31 Charges; oral agreements between Department of Agriculture and requestor

(a) Charges for inspection or grading and certification services performed pursuant to an oral agreement between the New Jersey Department of Agriculture and the requestor shall be made according to the hourly rate schedule set out in N.J.A.C. 2:71-2.31 when:

1. A restricted inspection of large lots is to be made and the requestor asks that the certificate show the total count or volume of the lot;
2. A requested inspection is not completed for any reason whatsoever not attributable to the inspector or when an inspection is complete and no official certification is issued;
3. A requested inspection involves bulk or bin lots of products, except potatoes.

R.1978 d.114, eff. March 30, 1978.

See: 10 N.J.R. 90(b), 10 N.J.R. 182(b).

As amended, R.1980 d.140, eff. April 3, 1980.

See: 12 N.J.R. 102(a), 12 N.J.R. 248(b).

As amended, R.1984 d.301, eff. July 16, 1984.

See: 16 N.J.R. 946(a), 16 N.J.R. 1966(a).

Section substantially amended.

### 2:71-2.32 Hourly rate charges

(a) The hourly rate charges shall be made according to the following schedule:

1. A charge of \$22.00 per hour, or portion thereof, for regular work hours, 8:00 A.M. to 5:00 P.M. on regular workdays, Monday through Friday;
2. A charge of \$33.00 per hour, or portion thereof, for work started or completed between 6:00 P.M. and 7:00 A.M. on regular workdays, Monday through Friday;
3. A charge of \$33.00 per hour, or portion thereof, for work performed on Saturdays, Sundays, or legal State holidays at the request of the requester.

R.1978 d.114, eff. March 30, 1978.

See: 10 N.J.R. 90(b), 10 N.J.R. 182(b).

As amended, R.1980 d.140, eff. April 3, 1980.

See: 12 N.J.R. 102(a), 12 N.J.R. 248(b).

As amended, R.1982 d.75, eff. March 15, 1982 (operative April 25, 1982).

See: 14 N.J.R. 66(a), 14 N.J.R. 277(a).

(a)1: "\$12.00" was "\$11.00"; (a)2: "\$18.00" was "\$16.50"; (a)3: "\$18.00" was "\$16.50."

As amended, R.1984 d.301, eff. July 16, 1984.

See: 16 N.J.R. 946(a), 16 N.J.R. 1966(a).

Section substantially amended.

Amended by R.1986 d.147, effective May 5, 1986.

See: 18 N.J.R. 448(a), 18 N.J.R. 938(c).

Charges for hourly rates were raised.

Amended by R.1988 d.370, effective August 1, 1988.

See: 20 N.J.R. 953(a), 20 N.J.R. 1871(a).

Hourly rate charges raised.

Amended by R.1990 d.318, effective June 18, 1990.

See: 22 N.J.R. 1242(c), 22 N.J.R. 1914(a).

Charges increased.

Amended by R.1995 d.456, effective August 21, 1995.

See: 27 N.J.R. 2035(a), 27 N.J.R. 3155(d).

Charges were raised.

## SUBCHAPTER 3. PLANT MATERIALS

### 2:71-3.1 Standards for plant material

(a) The State Board of Agriculture adopts and promulgates as Official New Jersey Grades the United States Standards for the following plant materials:

1. Asparagus plumosa;
2. Christmas trees; and
3. Tomato plants.

## SUBCHAPTER 4. (RESERVED)

### Authority

Unless otherwise expressly noted, all provisions of this subchapter were adopted pursuant to authority of N.J.S.A. 4:10-3 and were filed and became effective prior to September 1, 1969. Amendments which deleted this subchapter were filed and became effective on November 21, 1978, as R.1978 d.402. See: 10 N.J.R. 416(a), 11 N.J.R. 2(b).

## SUBCHAPTER 5. MARKING OPEN AND CLOSED PACKAGES OF POTATOES

### Authority

Unless otherwise expressly noted, all provisions of this subchapter were adopted pursuant to authority of N.J.S.A. 4:10-4 and were filed and became effective prior to September 1, 1969. Revisions to these rules were filed March 27, 1975, as R.1975 d.81 to become effective April 1, 1975. See: 7 N.J.R. 91(a), 7 N.J.R. 190(b).