

CHAPTER 71 GRADES AND STANDARDS

Authority

N.J.S.A. 4:3-11.12.

Source and Effective Date

R.1998 d.376, effective June 26, 1998.
See: 30 N.J.R. 1459(b), 30 N.J.R. 2617(c).

Executive Order No. 66(1978) Expiration Date

Chapter 71, Grades and Standards, expires on June 26, 2003.

Chapter Historical Note

Chapter 71, Grades and Standards, originally codified as N.J.A.C. 2:31, was filed and became effective prior to September 1, 1969.

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).

Chapter 71 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, Grades and Standards, was readopted as R.1993 d.379, effective July 2, 1993. See: 25 N.J.R. 1801(a), 25 N.J.R. 3453(a).

Pursuant to Executive Order No. 66(1978), Chapter 71, Grades and Standards, was readopted as R.1998 d.376, effective June 26, 1998. See: Source and Effective Date.

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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.

See: 10 N.J.R. 416(a), 11 N.J.R. 2(b).

Authority

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

2:71-1.33 Registering sample of label or container

A sample of any label or container on which appears the name "New Jersey" or "Jersey" or the name of any county or municipality within this State, except as it appears in the name and address of the packer or distributor, shall be registered with the department.

Authority

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

2:71-1.34 (Reserved)

As amended, R.1975 d.358, eff. January 1, 1976.
See: 7 N.J.R. 398(a), 8 N.J.R. 3(a).

Authority

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

2:71-1.35 Reused container

A container is deemed reused when any person refills the container with eggs, and it shall be the responsibility of such person to have markings on the container which are unmistakably those of the packer.

Authority

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

2:71-1.36 (Reserved)

As amended, R.1975 d.358, eff. January 1, 1976.
See: 7 N.J.R. 398(a), 8 N.J.R. 3(a).

Authority

N.J.S.A. 4:3-11.15

2:71-1.37 Sanitary conditions

(a) Any compound used for cleaning eggs shall be one that is approved by the United States Department of Agriculture for that purpose and shall be used in accordance with the manufacturer's instructions.

(b) Egg holding rooms, including sales display cases, shall be kept free of the following:

1. An accumulation of dust, litter, broken eggs;
2. Other matter that may create offensive odors or harbor bacteria or molds detrimental to the quality or flavor of eggs.

(c) Equipment used in cleaning, weighing and candling eggs shall be maintained free of dust and broken egg matter and, by use of an acceptable cleaning compound or other

method, be cleaned daily to prevent the development of bacteria and molds.

(d) Vehicles used for transporting eggs shall be clean and free of dust, odors or other material detrimental to the quality or flavor of eggs.

Authority

N.J.S.A. 4:3-11.15

2:71-1.38 Labeling of eggs

(a) No package, carton, case, container or advertisement shall be labeled so as to include the words "New Jersey", "Jersey", the name of any county, municipality or geographic area within the State, in whole or in part, or any word or words that imply the same except as it appears in the name or address of the packer or distributor unless the eggs contained therein were produced in New Jersey or the declared geographic area thereof.

(b) The name and address of the packer or distributor shall be in bold-face type not less than $\frac{1}{8}$ inch nor more than $\frac{3}{32}$ inch in height, all in the same size, style and color of type.

(c) Each package, carton, case, container, display or advertisement may be considered as a separate violation.

R.1973 d.275, eff. April 1, 1974.
See: 5 N.J.R. 255(b), 5 N.J.R. 328(a).

2:71-1.39 Use of the New Jersey map symbol on egg packages and in advertising

(a) "Map symbol" as used in this regulation shall mean any reasonable reproduction of the geographic outline of the State of New Jersey.

(b) The New Jersey Department of Agriculture has approved the use of the New Jersey map symbol under provisions of N.J.S.A. 4:10-5 as an official emblem for identifying New Jersey produced eggs.

(c) Only those persons, firms, partnerships, corporations or associations licensed to use the map symbol shall be permitted to attach or have it imprinted upon a panel of the container in which the eggs are to be marketed or to employ its use in advertising or in any manner whatsoever. Layout of proposed containers to be used for the marketing of map symbol eggs shall be submitted for approval by the Division of Regulatory Services, New Jersey Department of Agriculture, in advance of their manufacture and use.

(d) Any person, firm, partnership, corporation or association wishing to employ the map symbol to be used in marketing New Jersey produced eggs shall make application to the New Jersey Department of Agriculture for a license to do so. The application shall be made in writing, upon a form provided by the department for this purpose. The application shall reveal such information as is deemed nec-

essary for enforcement of the map symbol program. Information given in the application shall be held confidential.

(e) All applications approved for issuance of license shall have the license granted for the period of one year commencing July 1. Licenses shall be renewed annually upon application filed with the Department 60 days prior to the date of July 1.

(f) All eggs to be packed in cartons or containers bearing the map symbol shall be those produced on New Jersey farms and packed within the State of New Jersey.

(g) All license holders or packers designated by them shall maintain accurate and up-to-date records of the names and addresses of the egg producers from whom they obtain eggs for purposes of packaging in containers bearing the map symbol. Accurate records of all eggs received and those eggs packaged in containers bearing the map symbol shall be maintained and available for examination at all reasonable hours of a normal workday by any representative of the New Jersey Department of Agriculture.

(h) In the event the licensee permits the distribution of map symbol eggs to be performed by persons other than himself, it shall be necessary that he file with the Department of Agriculture the names and addresses of those who perform such distribution.

(i) When a license holder discontinues use of the map symbol or fails to renew his license when required, he shall be prohibited from its use in any manner, to include stationery, forms, advertising on billboards or other signs or on trucks or car panels.

(j) Misuse of the map symbol shall subject the violator to the provisions of N.J.S.A. 4:3-11.23.

R.1973 d.356, effective December 18, 1973.
See: 5 N.J.R. 362(a), 6 N.J.R. 2(a).
Amended by R.1978 d.402, effective November 21, 1978.
See: 10 N.J.R. 416(a), 11 N.J.R. 2(b).
Amended by R.1979 d.229, effective July 1, 1979.
See: 11 N.J.R. 222(b), 11 N.J.R. 315(c).

2:71-1.40 Container defined

"Container" means a package of any description which is capable of being enclosed on all sides and in which eggs are transferred from person to person.

R.1975 d.358, effective January 1, 1976.
See: 7 N.J.R. 398(a), 8 N.J.R. 3(a).
Amended by R.1978 d.402, effective November 21, 1978.
See: 10 N.J.R. 416(a), 11 N.J.R. 2(b).

SUBCHAPTER 2. FRUITS AND VEGETABLES

2:71-2.1 New Jersey grades of fruits and vegetables based on United States Standards

(a) The State Board of Agriculture adopts and promulgates as Official New Jersey Grades and the United State Standards for all fruits and vegetables.

1. Exemption: The New Jersey Standards for asparagus for canning or freezing shall remain in effect as stated in N.J.A.C. 2:71-2.8 through 2:71-2.14.

2:71-2.2 Use of "Jersey Fresh" as the logo for the "Jersey Fresh Quality Grading Program" and "Jersey Fresh Quality Premium Program" (referred to as the "logos") on containers of certain fresh fruits, vegetables, shell eggs and cut flowers

(a) The New Jersey Department of Agriculture approves the use of Jersey Fresh in conjunction with the New Jersey map symbol under provisions of N.J.S.A. 4:10-5 as an official emblem for identifying New Jersey produced agricultural commodities.

(b) The configuration of the Jersey Fresh Quality Grading Program Logos and the Jersey Fresh Quality Grading Program Premium Logo are as follows:

(c) Any person, firm, partnership, corporation or association wishing to employ the Jersey Fresh logo to be used in marketing certain New Jersey produced agricultural commodities shall make application to the New Jersey Department of Agriculture for a license and registration number. The application shall be made in writing, upon a form provided by the Department for this purpose. The application shall reveal such information as is deemed necessary for the enforcement of the Jersey Fresh Quality Grading or Premium logo program. Information given in the application shall be held confidential and not subject to review or reproduction under the provisions of N.J.S.A. 47:1A-1 et seq. (P.L. 1963, c.73).

(d) Any person, firm, partnership, corporation or cooperative wishing to transfer ownership of containers bearing a "logo" to licensed registrants shall make application to the New Jersey Department of Agriculture for a license. The application shall be made in writing, upon a form provided by the Department. Information given in the application shall be held confidential and not subject to review or reproduction under the provisions of N.J.S.A. 47:1A-1 et seq. (P.L. 1963, c.73).

(e) All applications approved for issuance of licenses and registration numbers shall have the license granted for the period of one year commencing April 1. Interim licenses and registration numbers may be granted to qualified packers for the remainder of the license year. Applications shall be submitted at least 20 days prior to application approval. The Department shall approve or deny applications within 20 days of receipt.

New Rule R.1985 d.282, effective June 3, 1985.
See: 17 N.J.R. 765(b), 17 N.J.R. 1407(d).
Amended by R.1986 d.201, effective June 2, 1986.
See: 18 N.J.R. 588(b), 18 N.J.R. 1196(a).
Substantially amended.

2:71-2.13 Procedure for loads received after severe wind and rain storm

(a) Loads delivered after severe wind and rain storms are likely to have varying amounts of dirt or sand in the tips or under the scales.

1. Each processor knows the capacity of his plant machinery to remove such dirt.

2. It is the responsibility of the inspector to notify the receiver when loads show excessive dirt or sand in the tips or under scales.

3. If the load is accepted the inspector should sample and grade it as he normally does without regard for dirt or sand.

4. After establishing the percentages the inspector should write the statement "Except for dirt or sand" across the certificate. This provides a basis for settlement on these loads when accepted by the receiver.

(b) Loads which are rejected by the receiver need not be sampled and graded.

2:71-2.14 Asparagus spears described and permitted in N.J. No. 2 grade

(a) Shape:

1. Flat spears which are not deformed by abnormal growth of spear or tip.

2. Crooked or curved spears that are not actually curled or do not show badly deformed tip.

(b) "Broken tips" refer to spears with not more than two segments missing from tip or with extreme tip missing but fairly well covered by lower scales and general head shape retained.

(c) "Spreading tips" refer to spears with tip branches not exceeding $\frac{3}{4}$ inch length (exclusive of head) and not sprangled out from spear.

(d) "Scars (fresh or healed)" refer to hail, insects, mechanical or other means. Spears with shallow scars that do not aggregate more than $\frac{1}{4}$ inch in diameter in the area extending $4\frac{1}{2}$ inches from the tip end or scars on the remaining green portion of the spear aggregating not more than $\frac{1}{2}$ inch in diameter.

(e) "Insect eggs" refer to spears with not more than a total of six eggs provided that not more than three eggs are within the area extending a distance of $4\frac{1}{2}$ inches from the tip end.

(f) "Disease, discolored scales, rust" refers to spears with not more than four discolored scales in the area extending $4\frac{1}{2}$ inches from the tip end or all scales discolored on remaining green portion.

(g) "Freezing" refers to spears not showing dark green watery, glazy, wrinkled or pebbly areas on the stalk.

(h) "Culls" refer to spears of asparagus which have defects, from any cause, in excess of those permitted in N.J. No. 2 Grade.

(i) "Butt" refers to that part of a spear in excess of the maximum length specified shall be classified as a butt and if a contract between processor and grower restricts the amount of white on a spear, the white in excess of the amount specified shall be classified as a butt; and in either case the remaining portion of the spear shall be considered as meeting the grade requirements in regard to these factors.

(j) "Green color" refers to any shade of green or that shade of purple which will blanch green. The amount of green color shall be determined by measuring the distance from the extreme tip to the lowest point at which the spear is entirely of a green color.

2:71-2.15 Function and need for unrestricted sampling of asparagus for processing

(a) The grading of asparagus for processing is one of the principal functions of the service provided by the State for inspection and classification of products according to standards.

(b) Producers who contract with processors and others on the basis of contract or grade specifications are paid in accordance with the percentage of pay-weight delivered. These percentages of pay-weight and other factors are established for each load or lot by analysis of samples in accordance with contract specifications or State standards. Since accuracy of determination of these percentages is entirely dependent upon the sample analyzed from each load or lot graded, it is imperative that truly representative samples be obtained from each load or lot. Such truly representative samples may be obtained only when the entire load or lot is made accessible for unrestricted sampling.

R.1970 d.20, eff. Jan. 27, 1970.
See: 2 N.J.R. 12(a); 2 N.J.R. 29(b).

Authority
N.J.S.A. 4:1-13

2:71-2.16 Unrestricted sampling; definition

(a) All inspection and grading of asparagus for processing, as performed by the New Jersey Department of Agriculture, shall be on the basis of unrestricted sampling.

(b) Unrestricted sampling means that any and all containers designated by the official inspector as containers to be sampled from a load or lot of asparagus shall be made available to the inspector for sampling.

R.1970 d.20, effective Jan. 27, 1970.
See: 2 N.J.R. 12(a); 2 N.J.R. 29(b).

Authority

N.J.S.A. 4:10-13

2:71-2.17 Equipment and personnel required

(a) All applicants requesting inspection and grading services on asparagus for processing, as provided by the New Jersey Department of Agriculture, shall provide such equipment and personnel as are necessary to make all loads or lots of asparagus accessible for unrestricted sampling.

(b) The Secretary shall deny inspection and grading services to any applicant who does not provide such equipment and personnel as are needed to insure unrestricted sampling of asparagus for processing.

R.1970 d.20, effective Jan. 27, 1970.
See: 2 N.J.R. 12(a); 2 N.J.R. 29(b).

Authority

N.J.S.A. 4:10-3

2:71-2.18 through 2:71-2.25 (Reserved)

2:71-2.26 Requests; charges

Requests may be made of the Department by producers, dealers, shippers, processors, brokers, retailers or other commercial parties to a transaction involving fruits and vegetables to have the fruits or vegetables inspected or graded and certified on official certificates by qualified employees of the Department. A charge shall be made for such services. Such charge shall be paid by the requestor of such services.

R.1978 d.114, effective March 30, 1978.
See: 10 N.J.R. 90(b), 10 N.J.R. 182(b).
Administrative Correction.
See: 25 N.J.R. 3453(b).

Authority

N.J.S.A. 4:10-6 and 4:10-13

2:71-2.27 Agreements for inspection services

(a) Agreements for inspection services of five or more consecutive days duration must be made in writing with the Secretary of the Department of Agriculture.

(b) Agreements for inspection services of trailer, car, warehouse and storage lots may be made orally with an authorized representative of the Division of Regulatory Services.

R.1978 d.114, effective March 30, 1978.
See: 10 N.J.R. 90(b), 10 N.J.R. 182(b).

2:71-2.28 Charges for inspection or grading and certification services; written agreements for single commodity inspection

(a) Charges for inspection or grading and certification services of five or more consecutive days duration, performed pursuant to a written agreement between the New Jersey Department of Agriculture and the requester of the services, shall be made according to the following schedule:

1. Basic schedule for all products:

i. A charge of \$500.00 per five day week (Monday through Friday) or 40 hours or less for each inspector;

ii. A charge of \$18.75 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 \$75.00 assessed for each inspector assigned work on Saturday and/or Sunday; and a charge of \$18.75 per hour, or portion thereof, for the actual hours worked by each inspector on Saturday and/or Sunday in excess of four hours;

iv. There will be at least a four hour minimum charge of \$75.00 assessed for each inspector assigned work on legal State holidays occurring Monday through Friday; and a charge of \$18.75 per hour, or portion thereof, for the actual hours worked by each inspector on legal State holidays occurring Monday through Friday in excess of four hours; and

v. Official mileage will be charged at the prevailing State rate per mile starting and ending where the inspector officially reports for duty.

2. Charges for inspection or grading and certification of fruit and vegetables other than potatoes for fresh market:

i. A charge of \$0.08 will be made for all packages inspected or graded and certified in excess of 3,333 packages during the seven day week (Saturday through Friday).

3. Charges for inspection or grading and certification of potatoes for the fresh market:

i. A charge of \$0.08 per hundredweight for all hundredweight inspected or graded and certified in excess of 3,333 hundredweight during the seven day week (Saturday through Friday).

R.1978 d.114, eff. March 30, 1978.
See: 10 N.J.R. 90(b), 10 N.J.R. 182(b).
As amended, R.1979 d.58, eff. February 13, 1979.
See: 11 N.J.R. 2(a), 11 N.J.R. 117(a).
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).