

CHAPTER 78**NEW JERSEY ORGANIC CERTIFICATION PROGRAM****Authority**

N.J.S.A. 4:1-11.1, 4:10-14, 4:10-15 and 4:10-79.

Source and Effective Date

R.2006 d.413, effective December 4, 2006.
See: 38 N.J.R. 1899(a), 38 N.J.R. 4998(a).

Chapter Expiration Date

Chapter 78, New Jersey Organic Certification Program, expires on December 4, 2011.

Chapter Historical Note

Chapter 78, New Jersey Organic Certification Program, was adopted as new rules by R.2006 d.413, effective December 4, 2006. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS**2:78-1.1 Purpose, scope and authority**

(a) This chapter is promulgated pursuant to N.J.S.A. 4:10-79, which authorizes the New Jersey Department of Agriculture (NJDA) to adopt rules for the proper administration of a New Jersey Organic Certification Program including, but not limited to, promulgating certification procedures for "NJDA Certified Organic" and "Transitional Sustainable" products,

designing an appropriate label for such products, and charging fees to cover reasonable costs associated with implementation of this program.

(b) These rules will become effective and the certification marks identified in N.J.A.C. 2:78-4.1 and 4.2 will become available for use only after the Department becomes accredited by the USDA, as a certifying agent pursuant to the 7 CFR 205, Subpart F, as amended and supplemented.

2:78-1.2 Adoption of the National Organic Program standards

(a) The NJDA hereby adopts and incorporates by reference the following parts of the National Organic Program, 7 CFR 205, effective April 21, 2001, as amended and supplemented, as the official rules and procedures by which it shall act as a certifying agent for operations producing or handling organic crops, livestock, wild crops and processed food products:

1. Subpart A – Definitions, all sections;
2. Subpart B – Applicability, all sections;
3. Subpart C – Organic Production and Handling Requirements, all sections;
4. Subpart D – Labels, Labeling, and Market Information, all sections;
5. Subpart E – Certification, all sections; and
6. Subpart G – Administrative, the following sections only:
 - i. Sections 205.600 – 205.607 (National List of Allowed and Prohibited Substances);
 - ii. Sections 205.660 – 205.663 (Compliance);
 - iii. Sections 205.670 – 205.672 (Inspecting and Testing, Reporting and Exclusions from Sale); and
 - iv. Sections 205.680 – 205.681 (Adverse Action Appeal Process).

(b) A copy of the NOP may be obtained:

1. By contacting National Organic Program Administrator, USDA-AMS-TMP-NOP, Room 4008-South Building, 1400 Independence Avenue, SW, Washington, DC 20250-0020;
2. By contacting Director's Office, Division of Marketing and Development, New Jersey Department of Agriculture, Health and Agriculture Building, John Fitch Plaza, P.O. Box 330, Trenton, NJ 08625; or
3. Online at: <http://www.ams.usda.gov/nop/NOP/standards/FullRegTextOnly.html>.

2:78-1.3 Definitions

(a) For purposes of this chapter, the following words, terms, and phrases shall have the following meanings unless the context clearly indicates otherwise:

“Dealer” means any person who sells or distributes certified organic agricultural products either at wholesale or at retail.

“Director” means the Director, Division of Marketing and Development, New Jersey Department of Agriculture or his or her designee.

“Facility” means any premises, including, but not limited to, any plant, establishment, facility and the appurtenances thereto, in whole or in part, where organic food is prepared, handled, or processed in any manner for resale or distribution to retail outlets, restaurants and any such other facility selling or distributing to the ultimate consumer.

“NJDA” means the New Jersey Department of Agriculture.

“NOP” means the National Organic Program, 7 CFR 205.1 et seq., as amended and supplemented.

“Organic certification number” means the identification number listed on the organic certification certificate issued to the organic producer or handler.

“Organic production areas” means the field, greenhouse, room, facility or other location where organic crops, wildcrops or livestock are produced.

“Secretary-NJDA” means the Secretary of the New Jersey Department of Agriculture or his designee.

“Transitional Sustainable” means any agricultural commodity (fruits, vegetables or grains) other than livestock that meets all of the NOP’s requirements for 100 percent organic, except that the organic production areas have not been free of prohibited substances for 36 months. Use of prohibited substances in the organic production areas must have ceased for at least 12 months prior to the harvest of a “transitional” crop.

“USDA” means the United States Department of Agriculture.

(b) Whenever, in describing or referring to any person, party, matter or thing, any word importing the singular number is used, the same shall be understood to include and to apply to several persons or parties as well as to one person or party, and to bodies corporate as well as individuals, and to several matters and things as well as one matter or thing.

(c) The words, terms and phrases set forth in (a) above are to be used in addition to and in conjunction with the words, terms and phrases set forth in 7 CFR 205.2, as amended and supplemented.

(d) Words of art not defined in (a) above or in 7 CFR 205.2 shall have the meaning attributed to them by trade usage or general usage as reflected by its definition in a standard English dictionary, such as Merriam-Webster Unabridged Dictionary.

2:78-1.4 Confidentiality

The NJDA will hold confidential any information obtained while implementing the rules set forth in this chapter that constitutes proprietary commercial or financial information, or is otherwise protected from disclosure under 7 CFR Part 205.101 and 205.504, as amended and supplemented, or the Open Public Records Act, N.J.S.A. 47:1A-1 et seq., subject to the limitations set forth therein.

**SUBCHAPTER 2. APPLICATION PROCEDURE,
REGISTRATION AND FEE SCHEDULES**
2:78-2.1 Application for certification

(a) Any producer seeking certification of their operations as certified organic or “Transitional Sustainable,” shall comply with the following requirements:

1. Producers seeking certification by the NJDA must file an application package for certification of their operations as certified organic or “Transitional Sustainable,” along with the necessary fees set forth in N.J.A.C. 2:78-2.2.

i. All applications must be made in writing, upon forms provided by the NJDA for this purpose. Producers can be certified for crops, livestock and/or wildcrafting. When requesting an application package from the NJDA, the producer must specify the category of organic certification sought (crops, wildcrops, livestock, processor).

ii. The application must identify the name, address, commodities for which the user is seeking certification, and other such information as is deemed necessary for the NJDA to determine whether the producer has complied with the NOP and this chapter.

iii. The NJDA will assign a filing deadline for the submission of the required annual update for all following years, which shall be the first day of the ninth month after certification was granted.

iv. Initial certification fees shall be based on the projected 12 months gross income from certified organic production areas, livestock or facilities and gross revenues received from services rendered in connection with certified organic products. Additional fees may apply as set forth in N.J.A.C. 2:78-2.2(e).