

Substantially amended.

Amended by R.1987 d.89, effective February 2, 1987.

See: 18 N.J.R. 2347(a), 19 N.J.R. 287(a), 19 N.J.R. 355(a).

New logo replaced logos in the Code. The old logos contained designations of "U.S. Extra No. 1 or Better" or "U.S. No. 1 or Better," pursuant to the U.S.D.A. requirements. Rest of section substantially amended.

Amended by R.1989 d.235, effective April 6, 1989.

See: 21 N.J.R. 591(a), 21 N.J.R. 1118(a).

Added language "Jersey Fresh Quality Premium Program" and added new logo for Premium Program. In (d) and (e) corrected form of P.L. 1963, c.73.

Amended by R.1990 d.354, effective July 16, 1990.

See: 22 N.J.R. 1296(a), 22 N.J.R. 2140(b).

(c) deleted, (d)-(e) recodified as (c)-(d) and new (e) added regarding issuance of licenses and registration numbers.

Amended by R.1992 d.374, effective October 5, 1992.

See: 24 N.J.R. 2318(b), 24 N.J.R. 3511(b).

Revised (a) and (b).

Amended by R.1994 d.485, effective September 19, 1994.

See: 26 N.J.R. 2831(a), 26 N.J.R. 3828(a).

Administrative correction, effective June 5, 2000.

See: 32 N.J.R. 2047(a).

Amended by R.2000 d.380, effective September 18, 2000.

See: 32 N.J.R. 2218(a), 32 N.J.R. 3391(a).

In (a), inserted "and Premium Jersey Fresh" preceding "in conjunction with".

### 2:71-2.3 Fee and reporting requirements for Jersey Fresh Quality Grading Program participation

(a) A fee of \$30.00 shall accompany the application form and shall be made payable to the New Jersey Farm Products Publicity Fund. If an applicant is deemed ineligible, the fee shall be refunded.

(b) Licensees packing Jersey Fresh Quality Grading program commodities may mark with self-adhesive labels, rubber stamp or use imprinted fiberboard containers to identify those commodities as being packed under the "logo" program. For required markings, see N.J.A.C. 2:71-2.5.

(c) A copy of each shipping invoice or a statement shall be supplied to the Department by the licensed person, firm, partnership, corporation or co-operative that transfers ownership of containers or stamps bearing the "logo" to the licensed registrant.

(d) Each licensed packer shall submit by December 31 of each license year a report, on forms supplied by the Department, indicating the number of containers packed by commodity under the Jersey Fresh Quality Grading Program. Failure to timely supply the above may be cause for denial or delay of licensing for the following licensing year.

(e) Processors shall send to the Division of Marketing and Development, by the tenth of each month, on a form provided by the New Jersey Department of Agriculture, the following information for the month prior: the total hundredweight of raw milk (converted to gallons) received from New Jersey dairy farms and the number of pints, quarts, half gallons and gallons bottled in containers bearing the "Jersey Fresh" logo, also converted to gallons. The information reported shall be considered confidential and used only to determine compliance with this chapter as to the use of New Jersey-produced milk.

(f) Processors shall send to the Division of Marketing and Development, by the tenth of each month, on a form provided by the New Jersey Department of Agriculture, the following information for the month just prior: the total hundredweight of New Jersey-produced milk received from dairy processors, the formulas used in the manufacture of dairy processors and ice milk bearing the "Jersey Fresh" logo, and the total amount, in pounds, of the above products produced. The information reported shall be considered confidential and used only to determine compliance with this chapter as to the use of New Jersey-produced milk and ingredients.

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(c).

Substantially amended.

Amended by R.1987 d.89, effective February 2, 1987.

See: 18 N.J.R. 2347(a), 19 N.J.R. 287(a), 19 N.J.R. 355(a).

Subsection (c) substantially amended; (f) added.

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

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

Added new (d); renumbered old (d)-(f) to (e)-(g).

Amended by R.1990 d.354, effective July 16, 1990.

See: 22 N.J.R. 1296(a), 22 N.J.R. 2140(b).

(b)-(g) deleted, new (b)-(d) added regarding fees and reporting requirements, logo labels discontinued from Department.

Amended by R.2000 d.380, effective September 18, 2000.

See: 32 N.J.R. 2218(a), 32 N.J.R. 3391(a).

Added (e) and (f).

### 2:71-2.4 Agricultural commodities intended to be marketed under the Jersey Fresh Quality Grading Program and Premium Program

(a) Only apples, alfalfa sprouts, asparagus, beets (bunched), beets (topped), beet greens, blueberries, bok choy, broccoli greens, broccoli rabe (rapini), bunched Italian sprouting broccoli, cabbage (domestic, savoy and red), cabbage (Chinese), cantaloupes, carrots (topped), carrots (bunched), cauliflower, celery root, collard greens, sweet corn, cranberries, cubanelle peppers, cubanelle peppers (red), cucumbers, cucumbers (cukes), cucumbers (pickling type), cucumbers (slicing type), dandelion greens, eggplants, endive, escarole, fennel (sweet anise), herbs (fresh), horseradish roots, kale, kohlrabi, leeks, bibb lettuce, big Boston lettuce, iceberg lettuce, lettuce (green leaf and red leaf, lolla rosa and red oak leaf), romaine lettuce, radicchio lettuce, mustard greens, nectarines, okra, common green onions, parsley, parsnips, peaches, fresh peas, cheese peppers, hot peppers (green or red), sweet peppers (green and red, bell type), sweet peppers (yellow, bell type), sweet potatoes, white potatoes, pumpkins, radishes (bunched), raspberries, rhubarb, rutabagas, salad mixes, shallots (topped), snap beans, spinach (bunched), spinach plants, strawberries, summer squash (yellow or green), fall and winter squash (butter-nut, acorn and spaghetti), Swiss chard, tomatoes (fresh market), cherry tomatoes, plum tomatoes, grape tomatoes, turnips (bunched), turnip (topped), turnip greens, watermelons (sugar baby), shell eggs, cut flowers, cactus, honey, milk (whole, one percent, two percent, skim, chocolate), and ice cream may be identified by the logo.

(b) All commodities may be identified by the premium "logo" if graded and packed in accordance with the requirements in N.J.A.C. 2:71-2.5, with the exception that the applicable tolerances will be two percent less than the total tolerance stated in the United States Standards (identified at N.J.A.C. 2:71-2.1) or this chapter for the commodities in the premium program.

(c) All agricultural commodities marketed under the "logo" program shall be produced in New Jersey, and packed at a site approved by the Department.

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(c).

Substantially amended.

Amended by R.1987 d.89, effective February 2, 1987.

See: 18 N.J.R. 2347(a), 19 N.J.R. 287(a), 19 N.J.R. 355(a).

Added "peaches" and deleted "Jersey Fresh" from the logo program.

Amended by R.1987 d.442, effective November 2, 1987.

See: 19 N.J.R. 1593(c), 19 N.J.R. 1987(a).

Added raspberries.

Amended by R.1988 d.97, effective March 7, 1988.

See: 19 N.J.R. 2327(a), 20 N.J.R. 525(a).

Added sweet anise (fennel), apples, asparagus, cucumbers (pickling type), endive, escarole, nectarines, okra, parsley and romaine to be identified by logo.

Amended by R.1988 d.421, effective September 6, 1988.

See: 20 N.J.R. 1129(b), 20 N.J.R. 2254(a).

Added "herbs (fresh), leeks, big Boston lettuce".

Amended by R.1989 d.234, effective April 6, 1989.

See: 21 N.J.R. 227(a), 21 N.J.R. 1118(b).

(a): Added a number of fruits and vegetables to be included under the Jersey Fresh Quality Grading Program.

Amended by R.1989 d.235, effective April 6, 1989.

See: 21 N.J.R. 591(a), 21 N.J.R. 1118(b).

Added "Premium Program" to section heading. (a): Added language specifying products to be packed under Quality Grading Program and added new (b) describing products eligible for the Premium Program logo. Old (b) recodified as (c).

Amended by R.1990 d.354, effective July 16, 1990.

See: 22 N.J.R. 1296(a), 22 N.J.R. 2140(b).

Added domestic, savoy and red cabbage; dandelion greens, kohlrabi, hot peppers (green or red), snap beans, spinach plants, yellow or green summer squash and butternut, acorn and spaghetti squash.

Amended by R.1992 d.374, effective October 5, 1992.

See: 24 N.J.R. 2318(b), 24 N.J.R. 3511(b).

Revised (a).

Amended by R.1994 d.485, effective September 19, 1994.

See: 26 N.J.R. 2831(a), 26 N.J.R. 3828(a).

Amended by R.2000 d.380, effective September 18, 2000.

See: 32 N.J.R. 2218(a), 32 N.J.R. 3391(a).

Rewrote (a) and (b).

Amended by R.2003 d.434, effective November 3, 2003.

See: 35 N.J.R. 2974(a), 35 N.J.R. 5060(a).

In (a), inserted "carrots (topped), carrots (bunched)," following "cantaloupes," inserted "cranberries," following "sweet corn," inserted "turnips (bunched)," following "grape tomatoes," and deleted "ice milk" following "ice cream"; rewrote (c).

### 2:71-2.5 Commodity grades, packing requirements, packer identification and containers

(a) Each container bearing the "logo" shall have the name and address of the packer in letters not less than three-eighths inches in height. All imprinted containers must also have "Produce of U.S.A. (NJ)" imprinted no less than three-eighths inch in height. All containers, packages and packaging materials shall be new.

(b) Commodities shall be graded, packed, identified and contained as follows:

1. Apples shall be combination U.S. Extra Fancy and U.S. Fancy grade for tray or cell packs and U.S. Fancy grade for apples packed in bags. Color requirements are those for specified U.S. Grades of Apples by variety. Apples of the Red Delicious, Red Rome, Granny Smith and Paul Red varieties may be packed bearing the "logo." Size requirements are as follows: Bags—apples shall be a minimum of two and one-quarter inches in diameter. Tray or cell packs—maximum count of 125 apples per container. Tray or cell packs shall be packed fairly tight or be packed for a 40-pound minimum net weight for the above-listed varieties. Paper pad is required over top layer of apples in tray or cell packs. Certified controlled atmosphere storage apples are eligible to be packed bearing the "logo" provided the fruit meets the above requirements.

2. Alfalfa Sprouts shall consist of sprouts which are fresh, young and tender, clean and which are free from decay and not materially affected by overmaturity of leaf buds, discoloration, freezing, foreign material, disease, insects, mechanical or other means. All containers shall have a fairly tight pack. In order to allow for variations incident to proper grading and handling, the following tolerances, by weight are provided. Not more than a total of five percent in any lot may fail to meet the required specifications, including not more than one-half on one percent for decay. For application of tolerances, see N.J.A.C. 2:71-2.6.

3. Asparagus shall be U.S. No. 1 grade with not less than two-thirds of the stalk length green color. Stalks shall be of the following diameter classifications. Small—five-sixteenths inch to less than eight-sixteenths inch in diameter. Medium—eight-sixteenths inch to less than eleven-sixteenths in diameter. Large—eleven-sixteenths inch to less than fourteen-sixteenths in diameter. Small to medium—five-sixteenths inch to less than eleven-sixteenths inch in diameter. Medium to large—eight-sixteenths inch to less than fourteen-sixteenths inch in diameter. Stalks shall be well trimmed. When packed loose, all containers shall have a tight pack.

4. Beets (bunched) shall be U.S. No. 1 grade. The diameter of each beet shall be not less than one and one-half inches. The pack shall be for 12 bunches per crate or carton. All containers shall have at least a fairly tight pack.

5. Beets (topped) shall be U.S. No. 1 grade. The diameter of each beet shall be not less than one and one-half inches. All containers shall be at least fairly well filled.

6. Beet greens shall be U.S. No. 1 grade, consisting of either plants (with or without attached roots) or cut leaves. In the case of beet greens with roots attached, the maximum diameter of the root shall not be larger than five-eighths inch. The leaf blades shall not be larger than six and one-half (6½) inches. The pack shall be for 12 or 24 bunches per container. All containers shall have at least a fairly tight pack.

7. Blueberries shall be U.S. No. 1 grade. Size shall meet the requirements of at least Large with a maximum of 129 berries per standard two gill cup. Individual cups shall be well filled.

8. Bok choy shall consist of plants of similar varietal characteristics which are fairly firm and are not withered and which are free from soft rot, and are not materially affected by discoloration, freezing, disease, insects and mechanical or other injury. Stems shall be cut so that they extend no more than one-half inch beyond the point of attachment of the outermost leaves. All containers shall have a tight pack. Tolerance—In order to allow for variations incident to proper grading and handling, not more than a total of 10 percent in any lot may fail to meet the required specifications, including not more than five percent for defects seriously affecting the lot including not more than two percent for soft rot. For application of tolerances, see N.J.A.C. 2:71-2.6.

9. Broccoli greens shall be U.S. No. 1 grade. The pack shall be for 12 to 16 bunches per container. All containers shall have at least a fairly tight pack.

10. Broccoli rabe (rapini) shall consist of leaves and buds of similar varietal characteristics which are fresh, clean and which are free from decay and not materially affected by overmaturity of buds, discoloration of buds or leaves, freezing, foreign material, disease, insects, mechanical or other means. The pack shall be for 12 to 14 bunches per container. All containers shall have a tight pack. Tolerance for defects—In order to allow for variations incident to proper grading and handling, not more than a total of ten percent, by weight, for bunches or individual shoots when packed loose in any lot which fails to meet the required specifications, including not more than two percent for bunches or individual shoots when packed loose which are affected by decay. For application of tolerances, see N.J.A.C. 2:72-2.6.

11. Bunched Italian sprouting broccoli shall be U.S. Fancy grade. Each bunch shall be neatly and fairly evenly cut off at the base, and closely trimmed. All containers shall have at least a tight pack.

12. Cabbage (Chinese) shall consist of heads of similar varietal characteristics which are fairly firm and are not withered, puffy or burst, and which are free from soft rot seedstems, are not materially affected by discoloration, freezing, disease, insects and mechanical or other injury. Stems shall be cut so that they extend no more than one-half inch beyond the point of attachment of the outermost leaves. Containers shall be packed for nine to 10, 10 to 12, or 12 to 14 heads per container. All containers shall have a tight pack. Tolerance—In order to allow for variations incident to proper grading and handling not more than a total of 10 percent, by count, in any lot may fail to meet the required specifications, including not more than five percent for defects seriously affecting the lot including not more than two percent for soft rot. For application of tolerances, see N.J.A.C. 2:76-2.6.

13. Cabbage (domestic type or savoy type) shall be U.S. No. 1 or U.S. No. 1, Green grade, domestic type heads shall be two pound minimum weight to five pound maximum weight, savoy type heads shall be one and a half pound minimum weight to four pound maximum weight. The U.S. No. 1 grade requires that the heads be well trimmed. All containers, except sacks, shall have a tight pack. The U.S. No. 1, Green grade requires that the heads be fairly well trimmed.

14. Cabbage (red type) shall be U.S. No. 1 or U.S. No. 1 new red grade, with the heads being of two pound minimum weight to five pound maximum weight. The U.S. No. 1 grade requires that the heads be well trimmed. The U.S. No. 1 new red grade requires that the heads be fairly well trimmed. All containers, except sacks, shall have a tight pack.

15. Cantaloupes shall be U.S. No. 1 except for very good internal quality. Shall be fairly uniform in size. All containers shall have a tight pack.

16. Carrots (bunched) shall be U.S. No. 1 grade. Unless specified, the diameter of each carrot shall be not less than three-quarter inches. All containers shall be fairly well filled.

17. Carrots (topped) shall be U.S. No. 1 grade. Each carrot shall be not less than three-quarter inches or more than one and one-half inches in diameter, and the length shall not be less than five inches. All containers shall be fairly well filled.

18. Cauliflower shall be U.S. No. 1 grade. All containers shall have at least a tight pack.

19. Celery root (celeriac) with tops or topped, shall consist of root crowns of similar varietal characteristics. If packed with tops, tops shall not be wilted and be free from decay and not materially affected by discoloration, disease, insects and other injury. If topped, tops shall be cut so that they extend no more than one-half inch beyond the point of attachment. Roots or root crown shall be free from decay and not materially affected by discoloration, growth cracks, dirt, freezing, disease, insects, mechanical or other injury. Each root crown shall have a minimum of two inches in diameter. All containers shall have at least a fairly tight pack. In order to allow for variations incident to proper grading and handling, the following tolerances, by weight are provided. Not more than a total of 10 percent in any lot may fail to meet the required specifications, including not more than five percent for defects seriously affecting the lot including not more than one percent for decay. In order to allow for variations incident to proper sizing not more than a total of five percent by weight of root crowns in any lot may be undersize. For application of tolerances, see N.J.A.C. 2:71-2.6.

20. Collard Greens shall be U.S. No. 1 grade. The pack shall be for 12 to 16 bunches per container. All containers shall have at least a fairly tight pack.

21. Sweet Corn shall be U.S. Fancy grade with a minimum count of 48 ears per container for large varieties and 54 ears per container for all other varieties, and when packed in crates, the pack shall be tight. All sweet corn shall be hydrocooled with the exception of lots sold locally to roadside markets. All containers that are hydrocooled shall be marked "hydrocooled."

22. Cranberries shall be U.S. No. 1 grade. The diameter of each cranberry shall be not less than thirteen thirty-second inches. Individual cranberries shall be at least fairly well colored and each container shall be fairly uniform in color.

23. Cubanelle Peppers shall be U.S. No. 1 grade, as specified in the U.S. Standard for Sweet Peppers, for defects and tolerances. Each pepper shall have a minimum diameter of one and three-quarters inches. Color shall be light green to full yellow. All containers shall be at least fairly well filled.

24. Cubanelle Peppers (red) shall be U.S. No. 1 grade, as specified in the U.S. Standard for Sweet Peppers, for defects and tolerances. Each pepper shall have a minimum diameter of one and three-quarter inches with 90 percent of the peppers showing full red color. All containers shall be at least fairly well filled.

25. Cucumbers shall be U.S. No. 1 grade with two and three-eighths inches maximum diameter and six inches minimum length. All containers shall be at least fairly well filled.

26. Cucumbers (large) shall be U.S. No. 1 Large grade, with two and one-quarter inches minimum diameter and six inches minimum length. All containers shall be at least fairly well filled.

27. Cucumbers (cukes) shall be U.S. No. 1 grade, with two and three-eighths inches maximum diameter and six and one-quarter inches maximum length. All containers shall be at least fairly well filled.

28. Cucumbers (pickling type) shall be U.S. No. 1 grade with two inches maximum diameter and six inches maximum length. All containers shall be at least fairly well filled.

29. Cucumbers (slicing type) shall be U.S. No. 1 grade, with two and one-quarter inches maximum diameter and six and one-quarter inches maximum length. All containers shall be at least fairly well filled.

30. Dandelion greens shall be U.S. No. 1 grade. All containers shall have at least a fairly tight pack.

31. Eggplants shall be U.S. No. 1 grade, or better, and reasonably uniform in size. All containers must have at least a fairly tight pack.

32. Endive shall be U.S. No. 1 grade. Plants shall be well trimmed and fairly uniform. All containers shall have at least a fairly tight pack.

33. Escarole shall be U.S. No. 1 grade. Plants shall be well trimmed and fairly uniform. All containers shall have at least a fairly tight pack.

34. Herbs (fresh) shall be clean, have characteristic color and shall not be affected by discoloration, wilting, freezing, mechanical damage or by other means. Herbs shall be free from decay. In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, are provided: five percent in any lot which fails to meet the requirements, including therein not more than one-half of one percent affected by decay. All containers shall have at least a fairly tight pack. For application of tolerance, see N.J.A.C. 2:71-2.6.

35. Horseradish roots shall be U.S. No. 1 grade. All containers shall have a tight pack.

36. Big Boston lettuce shall be U.S. No. 1 grade, or better. The heads shall be fairly uniform in size. The containers shall have a tight pack, provided the heads are not individually packaged.

37. Fennel (Sweet Anise) shall be U.S. No. 1 grade. Stalks shall be well trimmed. The minimum diameter of each bulb shall be not less than two inches. All containers shall have a tight pack.

38. Kale shall be U.S. No. 1 grade. The pack shall be for 12 to 16 bunches per container. All containers shall have at least a fairly tight pack.

39. Kohlrabi (green or purple) shall consist of plants of similar varietal characteristics which bulbs are hard and tops are not wilting and which are free from decay, seedstems, growth cracks and dirt, bulbs and tops are not materially affected by discoloration, freezing, disease, insects and mechanical or other injury. Roots shall be cut so that they extend no more than one-half inch beyond the point of attachment of the bulb. Each bulb shall have a minimum of two inches and a maximum of four inches in diameter. The pack shall be for 12 bunches per container. All containers shall have at least a fairly tight pack. In order to allow for variations incident to proper grading and handling, the following tolerances, by weight of bunches, are provided. Not more than a total of 10 percent in any lot may fail to meet the required specifications, including not more than five percent for defects seriously affecting the lot including not more than one percent for decay. For application of tolerances, see N.J.A.C. 2:71-2.6.

40. Leeks shall be fairly clean, tops and bulbs shall be characteristic color. Tops and bulbs must not be affected by discoloration, wilting, freezing, mechanical damage or by other means. Plants shall be free from decay. If tops are trimmed, it must be done so as not to materially affect the appearance of the individual plant. In order to allow for variations incident to proper grading and handling, the following tolerance, by weight of bunches are provided: 10 percent for plants in any lot which fail to meet the requirements, including therein not more than one percent for plants affected by decay. All containers shall have a tight pack. For application of tolerance, see N.J.A.C. 2:71-2.6.

41. Bibb lettuce shall be U.S. No. 1 grade. The heads shall be fairly uniform in size. The pack shall be of 24 heads per container. All containers shall have a tight pack.

42. Lettuce (green red leaf, and other specialty lettuce varieties such as lolla rosa, red oak leaf and radicchio) shall be U.S. Fancy grade as specified in the U.S. Grades of Greenhouse Leaf Lettuce. The pack shall be for 24 plants per container. All containers shall have at least a fairly tight pack.

43. Iceberg lettuce shall be U.S. No. 1 grade, or better. The pack shall be of 24 or 30 heads per container. The heads shall be fairly uniform in size. The containers shall have a tight pack. All lettuce shall be vacuum cooled. The containers shall be marked "vacuum cooled."

44. Mustard Greens shall be U.S. No. 1 grade. The pack shall be for 12 to 16 bunches per container. All containers shall have at least a fairly tight pack.

45. Nectarines shall be U.S. Extra No. 1 grade. When packed in cells or molded trays, the fruit shall be fairly uniform in size and the pack shall be at least fairly tight and the containers shall be marked with the numerical count. In all other packs the fruit shall have a two and one-quarter inch minimum diameter and the containers shall be marked with the minimum diameter of the contents in terms of inches and not less than one-eighth fractions of inches. Volume filled or jumble packs shall be at least fairly well filled. All nectarines shall be hydrocooled. All containers shall be marked "hydrocooled".

46. Okra shall be U.S. No. 1 grade. All containers shall be at least fairly well filled.

47. Parsley shall be U.S. No. 1 grade. The pack shall be for 30 bunches per half-bushel or 60 bunches per bushel. All containers shall have a tight pack.

48. Common Green Onions shall be U.S. No. 1 grade. The over-all length (roots excepted) of the onions shall be not more than 24 inches nor less than eight inches and the onions shall not be less than one-quarter inch or more than one inch in diameter. All containers shall have at least a fairly tight pack.

49. Parsnips shall be U.S. No. 1 grade. Minimum diameter of each root shall not be less than one and one-half inches. All containers shall have at least a fairly tight pack.

50. Peaches shall be U.S. Extra No. 1 grade, or better, with a two and one-quarter inch minimum diameter. Containers shall be marked to denote variety and minimum size or count. When packed in mold or cell compartments, containers shall be at least fairly tight; and all other packs shall be at least fairly well filled. All peaches shall be hydrocooled. All containers shall be marked "hydrocooled."

51. Fresh peas shall be U.S. No. 1 grade. All containers shall be at least well filled.

52. Cheese peppers (green or red) shall be U.S. No. 1 grade as specified by the U.S. Standard for sweet peppers, for defects and tolerances. Minimum diameter shall be not less than two and one-half inches. Minimum length shall be not less than two inches. In lots designated as red shall have 100 percent of the peppers showing full red color. All containers shall be at least fairly well filled.

53. Hot peppers (green or red) shall consist of peppers of similar varietal characteristics which are firm; long hot peppers may have curved shape; all other varieties must be fairly well shaped for the variety and free from sunscald and decay, and not materially affected by freezing injury, hail, scars, sunburn, discoloration, disease, insects, mechanical or other injury. In lots designated as green shall be full green color for the variety; in lots designated as red, 100 percent of the peppers shall show full red color. In order to allow for variations incident to proper grading and handling, the following tolerances, by count, are provided. Ten percent in any lot which fails to meet the requirements, but not more than one-half of this amount, or five percent, shall be allowed for peppers which are seriously affected, including therein not more than two percent for peppers affected by decay. All containers shall be fairly well filled. For application of tolerance, see N.J.A.C. 2:71-2.6.

54. Sweet peppers (Green or Red, Bell type) shall be U.S. No. 1 grade, or better. Minimum size shall be two and one-half inch minimum diameter and two and one-half inch minimum length. Containers shall be packed to a maximum average of no more than 90 peppers per container. Large-Average no more than 75 peppers per container. Extra Large-Average no more than 65 peppers per container. In lots designated U.S. No. 1 Red, 100 percent of the peppers shall show full red color. All containers shall be at least fairly well filled.

55. Sweet peppers (Yellow, Bell type) shall be U.S. No. 1, as specified by the U.S. Standard for Sweet Peppers, for defects and tolerances with 100 percent of the peppers showing full yellow or orange color. Minimum size and/or count pack shall be as specified under the Sweet Peppers (Green and Red, Bell type) requirements. All containers shall be at least fairly well filled.

56. Sweet potatoes shall be U.S. No. 1 grade. Maximum diameter shall not be more than three and one-half inches. Maximum weight shall not be more than 20 ounces. Length shall not be less than three or more than nine inches. Minimum diameter shall not be less than one and three-quarter inches. All containers shall be at least fairly well filled.

57. White potatoes shall be U.S. No. 1 grade and packed to meet the requirements of Size A or Large. "Size A" means the minimum diameter shall be not less than one and seven-eighths inches and that the lot shall

contain at least 40 percent of potatoes which are two and one-half inches in diameter or larger or six ounces in weight or larger. "Large" means that the minimum diameter shall be not less than three inches or the minimum weight shall be not less than 10 ounces and the maximum diameter shall be not more than four and one-quarter inches or the maximum weight shall be not more than 16 ounces. All potatoes shall be washed. All containers shall be packed to meet marked net weight.

58. Pumpkins shall be U.S. No. 1 grade, and shall be fairly uniform in size. All containers shall have at least a tight pack.

59. Radishes (bunched) shall be U.S. No. 1 grade. The diameter of each root shall be not less than five-eighths inch. The pack shall be for 36 bunches per carton or crate. All containers shall have at least a fairly tight pack.

60. Raspberries shall be U.S. No. 1 grade. Berries shall be well colored. Individual cups shall be well filled.

61. Rhubarb shall be U.S. Fancy grade. The diameter of each stalk shall not be less than one inch, and the length not less than 10 inches. All containers shall have a tight pack.

62. Romaine shall be U.S. No. 1 grade with eight inches minimum length. Plants shall be well trimmed and well developed. All containers shall have a tight pack.

63. Rutabagas shall be U.S. No. 1 grade with a minimum diameter of one and three-quarter inches. All containers, except for sacks, shall be at least fairly well filled.

64. Salad mixes (packaged) shall consist of products listed on the packaging and meet the standards set forth in this chapter with respect to each component.

65. Shallots (topped) shall consist of shallots of similar varietal characteristics which are fairly well formed, well cured, firm, young and tender, well trimmed, fairly clean, free from mold and/or decay, and not materially affected by foreign material, disease, staining, sunburn, sprouts, insects and mechanical or other injury. Minimum diameter shall be not less than seven-eighths inch. All containers except for sacks shall be fairly well filled. Tolerance for defects—In order to allow for variations, other than size, incident to proper grading and handling, not more than a total of 10 percent by count of the shallots in any lot may fail to meet the required specifications, including not more than five percent shall be allowed for defects seriously affecting the lot, including not more than two percent for shallots affected by mold and/or decay. Tolerance for size—Not more than five percent, by count, of the shallots in any lot may fail to meet the size requirements. Application of tolerances—see N.J.A.C. 2:71-2.6.

66. Snap beans shall be U.S. No. 1 grade. All containers shall be well filled.

67. Spinach (bunched) shall be U.S. No. 1 grade. Pack shall be for 24 bunches per container. All containers shall have at least a fairly tight pack.

68. Spinach plants shall be U.S. No. 1 grade. All containers shall have at least a fairly tight pack.

69. Squash, Fall and Winter (acorn, butternut and spaghetti) shall be U.S. No. 1 grade and shall meet the following size specifications: acorn shall be a minimum of one pound and a maximum of three pounds in weight. Butternut shall be a minimum of one and one-half pounds and a maximum of four pounds in weight. Spaghetti must have a creamy yellow color, pack shall be for 12 to 16 squash per container. All containers shall be well filled.

70. Squash, Summer (yellow and green) shall be U.S. No. 1 grade and shall meet the following size specifications: green type shall be a maximum of nine inches in length and a maximum of two and one-quarter inches in diameter; yellow types shall be a maximum of nine inches in length and a maximum of two and one-half inches in diameter at the bulb. Squash marked medium shall meet the following specifications: green type shall be a maximum of eleven inches in length and a maximum of three inches in diameter; yellow type shall be a maximum of eleven inches in length and a maximum of three and one-quarter inches in diameter. All containers shall be at least fairly well filled.

71. Strawberries shall be U.S. No. 1 grade. Minimum diameter shall be not less than three-quarters inch. All containers shall be at least well filled.

72. Swiss chard shall consist of leaves of similar varietal characteristics which are fresh, fairly tender, fairly clean and which are free from decay and not materially affected by coarse stalks and seed stems, discoloration, freezing, foreign material, disease, insects, mechanical or other means. The pack shall be for 12 to 16 bunches per container. All containers shall have at least a fairly tight pack. In order to allow for variations incident to proper grading and handling, not more than a total of 10 percent, by weight, in any lot shall fail to meet the required specifications, including not more than five percent for defects seriously affecting the lot, including not more than two percent for decay. For application of tolerance, see N.J.A.C. 2:71-2.6.

73. Tomatoes (fresh market) shall be 85 percent U.S. No. 1 quality "Mixed Colors." Containers shall be marked with "Extra Large" or "Large" or "Medium" in accordance with the following size specifications: "Extra Large" shall have a two and twenty-four thirty-second inch minimum diameter; "Large" shall have a two and sixteen thirty-second inch minimum diameter and two and twenty-five thirty-second inch maximum diameter. "Medium" shall have a two and eight thirty-second inch minimum diameter and two and seventeen thirty-second inch maximum diameter. Containers may also be marked as follows, in accordance with the facts, "Medium" to "Large" or "Large" and "Extra Large." Containers shall be at least fairly well filled.

74. Tomatoes (fresh market, 10-pound count pack) shall be 85 percent U.S. No. 1 quality with pink to red color. Containers shall be marked with count as follows: 15 count, 20 count, 25 count or 30 count in accordance with the following specifications: 15 count shall have a three and one-half inch minimum diameter and four inch maximum diameter; 20 count shall have a three and one-eighth inch minimum diameter and three and one-half inch maximum diameter; 25 count shall have a two and seven-eighths inch minimum diameter and three and one-eighth inch maximum diameter; and 30 count shall have a two and one-half inch minimum diameter and two and seven-eighths inch maximum diameter. Containers must meet minimum of 10 pounds net weight.

75. Cherry tomatoes shall be U.S. No. 1 grade, color turning to full color. All containers shall be at least well filled.

76. Grape tomatoes shall be U.S. No. 1 grade, color turning to full color. All containers shall be at least well filled.

77. Plum tomatoes shall be U.S. No. 1 grade. Minimum diameter shall not be less than one and one-quarter inches. Color turning to full color. All containers shall be at least fairly well filled.

78. Turnips (bunched) shall be U.S. No. 1 grade. The diameter of each turnip shall be not less than one and three-quarter inches. All containers shall have least a fairly tight pack.

79. Turnips (topped) shall be U.S. No. 1 grade with a minimum diameter of one and three-quarter inches. All containers, except for sacks, shall be at least fairly well filled.

80. Turnip Greens shall be U.S. No. 1 grade. The pack shall be for 12 to 16 bunches per container. All containers shall have at least a fairly tight pack.

81. Watermelons (Sugar Baby) shall be U.S. No. 1 grade.

82. Shell eggs shall be consumer grade A and shall consist of eggs which are at least 87 percent A quality or better. Within the maximum tolerance of 13 percent which may be below A quality, not more than one percent may be B quality due to air cells over three-eighths ( $\frac{3}{8}$ ) inch, blood spots (aggregating not more than one-eighths ( $\frac{1}{8}$ ) inch in diameter), or serious yolk defects. Not more than five percent checks are permitted and not more than 0.50 percent leakers, dirties, or loss (due to meat or blood spots) in any combination, except that such loss may not exceed 0.30 percent. Other types of loss are not permitted. Only weight classes listed below may be packed with the Jersey Fresh Quality logo:

i. Extra large—minimum net weight per dozen 27 ounces, minimum net weight for individual eggs at rate per dozen 26 ounces;

ii. Large—minimum net weight per dozen 24 ounces, minimum net weight for individual eggs at rate per dozen 23 ounces; and

iii. Medium—minimum net weight per dozen 21 ounces, minimum net weight for individual eggs at rate per dozen 20 ounces.

83. Cactus (cacti) shall consist of plants that are fresh, firm, well shaped, clean and which are free from decay and not materially affected by freezing, disease, insects and mechanical or other injury. Tolerance—In order to allow for variations incident to proper grading and handling, not more than a total of five percent, by count, in any lot shall fail to meet the required specifications, including not more than two percent for defects seriously affecting the lot including not more than one percent for decay. For application of tolerance, see N.J.A.C. 2:71-2.6.

i. To meet Jersey Fresh requirements, all cacti shall be propagated and/or cultivated in New Jersey for at least six months prior to retail sale.

84. Cut flowers shall consist of buds which are fresh, firm, well shaped but not overmature and stems which are fresh, strong and fairly straight. Buds and stems shall be free from decay and freezing injury and damage caused by dirt or other foreign material, discoloration, moisture, disease, insects, mechanical or other means. In order to allow for variation incident to proper grading and handling, the following tolerance, by count is provided. Not more than a total of five percent in any container may be below the requirements of these specifications, including not more than one-half of one percent for decay.

85. Honey shall be Grade A as specified by the U.S. standards for grades of extracted honey, specifically 7 C.F.R. §§ 52.1391 through 52.1403, as amended and supplemented, incorporated herein by reference. Honey shall be prepared and processed as one of the following types: liquid honey, crystallized honey or partially crystallized honey. Honey shall be from floral sources predominately found in New Jersey. The styles of honey shall be filtered or strained as specified in the U.S. standards. Color designation may consist of water white, extra white, white, extra light amber, light amber, amber or dark amber.

86. Milk (whole, one percent, two percent, skim and chocolate) shall meet all Grade A requirements set forth at N.J.A.C. 8:21-10 and the United States Food and Drug Administration at 21 C.F.R. § 131.110, as amended and supplemented, incorporated herein by reference. In addition, these products shall be produced from raw milk obtained from New Jersey dairy farms.

87. Ice cream and ice milk shall meet all requirements set forth at N.J.A.C. 8:21-7 and the United States Food and Drug Administration at 21 C.F.R. § 135.110, as amended and incorporated herein by reference. In addition, these products shall be produced from raw or pasteurized milk and milk products obtained from New Jersey dairy farms. All other agricultural ingredients sub-

ject to this chapter used in the production of these products shall be produced in New Jersey, contingent only upon seasonal availability.

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(c).

Substantially amended.

Amended by R.1987 d.89, effective February 2, 1987.

See: 18 N.J.R. 2347(a), 19 N.J.R. 287(a), 19 N.J.R. 355(a).

Weights and sizes of cabbage and squash raised.

Amended by R.1987 d.442, effective November 2, 1987.

See: 19 N.J.R. 1593(c), 19 N.J.R. 1987(a).

(m) added; old (m)-(o) renumbered (n)-(p).

Amended by R.1988 d.97, effective March 7, 1988.

See: 19 N.J.R. 2327(b), 20 N.J.R. 525(a).

Deleted subsections and made a listing; Substantially amended text.

Amended by R.1988 d.421, effective September 6, 1988.

See: 20 N.J.R. 1129(b), 20 N.J.R. 2254(a).

Added new (b)11, 12, 14 and 18 and renumbered existing text accordingly.

Amended by R.1989 d.234, effective April 6, 1989.

See: 21 N.J.R. 227(a), 21 N.J.R. 1118(b).

Greatly expanded and renumbered section to include additional fruit and vegetable products for Jersey Fresh program participation by describing commodity grades, packing requirements, identification and containers.

(a): added requirement that all containers, packages and packaging materials be new.

Amended by R.1990 d.354, effective July 16, 1990.

See: 22 N.J.R. 1296(a), 22 N.J.R. 2140(b).

Changes reflect cessation of Department printing labels and at (b) vegetables added to list.

Amended by R.1992 d.374, effective October 5, 1992.

See: 24 N.J.R. 2318(b), 24 N.J.R. 3511(b).

Amended by R.1994 d.485, effective September 19, 1994.

See: 26 N.J.R. 2831(a), 26 N.J.R. 3828(a).

Administrative Correction to (b).

See: 28 N.J.R. 1377(a).

Amended by R.2000 d.380, effective September 18, 2000.

See: 32 N.J.R. 2218(a), 32 N.J.R. 3391(a).

Rewrote (b).

Amended by R.2003 d.434, effective November 3, 2003.

See: 35 N.J.R. 2974(a), 35 N.J.R. 5060(a).

Rewrote (b).

## 2:71-2.6 Definitions

For the purposes of this subchapter, the following words and terms shall have the following meanings unless the context clearly indicates otherwise.

“Application of tolerances” means, in the case of alfalfa sprouts, bok choy, broccoli rabe (Rapini), cabbage (Chinese), cactus, celery root, kohlrabi, hot peppers (green and red), shallots (topped), swiss chard, leeks and herbs (fresh), that the contents of individual packages in the lot are subject to the following limitations:

1. For a tolerance of 10 percent, individual packages may contain not more than one and one-half times the tolerance specified, provided that the average for the entire lot is within the tolerance specified.
2. For a tolerance of less than 10 percent, individual packages may contain not more than double the tolerance specified, provided that at least one defective specimen may be permitted in any package and provided, further, that the average for the entire lot is within the tolerance specified.

“Closely trimmed” means, in the case of Italian sprouting broccoli (bunched), when not more than a total of five percent by weight, of the bunches, consists of attached stems and leaves longer than the average length of the bunch, regardless of point attachment or loose leaves and stems.

“Cut flowers”. The following definitions apply to cut flowers:

1. “Damage” means any injury or defect which materially affects the appearance or shipping quality of the cut flowers or foliage.
2. “Fairly straight” means that the stem is of normal growth and is not more than slightly curved or crooked.
3. “Firm” means that the bud is fairly compact and yields slightly to moderate pressure of the fingers.
4. “Free from” means any amount is scorable.
5. “Fresh” means that the bud and foliage are bright, not badly wilted, limp or flabby.
6. “Overmature” means that the flower has opened beyond commercial value.
7. “Stem” means the flower stalks with any attached foliage.
8. “Strong” means that the stem is fairly stiff and sturdy enough to hold the bud in a reasonably erect position.
9. “Well shaped” means that the bud is symmetrical, not lopsided or otherwise deformed.

“Fairly clean” means, in the case of shallots, that the appearance of the individual shallot is not affected by dirt.

“Fairly tight” means, in the case of alfalfa sprouts, egg-plants, beets (bunched), beet greens, broccoli greens, collard greens, celery root, dandelion greens, endives, escarole, herbs, kale, kohlrabi, lettuce (green and red leaf), mustard greens, common green onions, parsnips, radishes (bunched), spinach (bunched), spinach plants, Swiss chard and turnip greens, that the package is sufficiently filled to prevent any appreciable movement of the product and that they are in contact with the lid or cover. In the case of apples, that the apples are of the proper size for molds or cell compartments in which they are packed, and that the molds or cells are filled in such a way that no more than slight movement of apples within molds or cells is possible. The pad over the top layer of apples shall be not more than three-quarter inch below the top edge of the carton. In the case nectarines and peaches packed in mold or cell compartments, that they are of the proper size for the mold or cell compartments in which they are packed and that the molds or cells are filled in such a way that there is no more than slight movement within the mold or cells and that the pad or tray over the top layer must be in contact with the lid.

“Fairly uniform in color” means, in the case of cranberries, that the berries in individual containers do not show sufficient variation in color to materially detract from the appearance of the berries in the containers.

“Fairly uniform in size” means, in the case of bibb lettuce, big Boston lettuce and iceberg lettuce, that not more than 10 percent of the heads in a container may vary appreciably from the standard size head for the count pack. In the case of cantaloupes and pumpkins, one size above or one size below the size of most of the cantaloupes or pumpkins in the container.

“Fairly well colored” means, in the case of cranberries, that 75 percent of the surface of the individual berry, in the aggregate shows pink or red color characteristics of the variety.

“Fairly well filled” means that in the case of beets (topped), cucumbers, okra, cheese peppers (green or red), cubanelle peppers (green or red), hot peppers (green or red), sweet peppers (green, red or yellow, bell type), sweet potatoes, squash (summer), shallots (topped), tomatoes (fresh market), turnips (topped), and rutabagas, except in sacks, are not in contact with the lid or cover, but not more than one-half inch below the lid or cover. In the case of nectarines and peaches, the container is level full and there is practically no movement of the fruit when the container is closed. In the case of nectarines, the contents of the container may be slightly below the top edge but not more than one-half inch.

“Fairly well trimmed” means in the case of cabbage, that the head shall not have more than seven wrapper leaves.

“Firm” means, in the case of shallots, that the edible portion is not soft.

“Hydrocooled” means using the process of conveying produce through cold water (as near to 32°F or 0°C as possible) to remove field heat quickly.

“Mixed colors” means that a lot of tomatoes may contain not more than five percent of tomatoes which are green in color. “Green” means that the surface of the tomato is completely green in color. The shade of green color may vary from light to dark.

“Over maturity” means, in the case of alfalfa sprouts, that leaf buds (head) are on the verge of opening. In the case of broccoli rabe (rapini), bunched or individual shoots when packed loose would be materially affected if it has more than two open buds or most buds are on the verge of opening.

“Reasonably uniform in size” means, in the case of eggplants, that the weight of the smallest eggplant in the container is not less than one-half the weight of the largest eggplant.

“Tight” means, in the case of bibb lettuce, iceberg lettuce and Big Boston lettuce, that the layers are completely and tightly filled without injury to the heads. In the case of sweet corn, when packed in crates, the package is filled sufficiently to prevent any movement of the product within the package and it has the proper bulge without causing bruised kernels. In the case of asparagus (loose), bok choy, Italian sprouting broccoli (bunched, broccoli rabe (rapini), cabbage (domestic, savoy, red and Chinese), cantaloupes, cauliflower, fennel, horseradish roots, leeks, parsley, pumpkins, romaine and rhubarb, that the packages are sufficiently filled so as to prevent the product from moving in the container but not overly filled so that injury to the product results.

“Tolerances” means, in the case of packages identified with the Premium Jersey Fresh “logo,” the applicable tolerance will be two percent less than the total tolerance stated in the U.S. Standard or the Jersey Fresh Regulations for the commodities in the premium program.

“Vacuum cooled” means using a process which, through a vacuum, reduces air pressure in a large chamber, thus promoting cooling by rapid evaporation of moisture.

“Well colored” means, in the case of raspberries, that the whole surface of the berry shows a color characteristic of a mature berry.

“Well developed” means, in the case of romaine, that the plant shows normal growth and shape.

“Well filled” means, in the case of blueberries, cherry tomatoes, grape tomatoes, raspberries and strawberries, that the fruit be one-quarter to one-half inch above the rim of the cup. In the case of peas, snap beans and fall and winter squash (acorn, butternut and spaghetti), they shall be in contact with the cover.

“Well trimmed” means, in the case of asparagus, that at least two-thirds of the butt of the stalk is smoothly trimmed in a plane approximately parallel to the bottom of the container and that the butt is not stringy or frayed. In the case of endive and escarole, that the roots are neatly cut near the point of attachment of the outer leaf stems. In the case of romaine, that the stem is trimmed off close to the point of attachment of the outer leaves. In the case of cabbage, that the head shall not have more than four wrapper leaves. In the case of fennel (sweet anise), that not more than one coarse outer branch is left on each side of the bulb to protect the tender inside portion, the portion of the root remaining is not more than one-half inch in length. Tops may be either full length or cut back to not less than 10 inches except that not more than five of the outer branches may be cut back to less than 10 inches if necessary to facilitate proper packing, but not more than three of these may be on the same side of the bulb. In the case of shallots, that the tops are no longer than one quarter-inch.

New Rule R.1985 d.282, eff. 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(c).

Added definitions "fairly well trimmed" and "mixed colors"; amended "fairly well filled" and "tight".

Amended by R.1987 d.89, effective February 2, 1987.

See: 18 N.J.R. 2347(a), 19 N.J.R. 287(a), 19 N.J.R. 355(a).

Hydrocooled amended to 32°F from 34°F.

Amended by R.1987 d.442, effective November 2, 1987.

See: 19 N.J.R. 1593(c), 19 N.J.R. 1987(a).

Added definitions "well colored" and "well filled".

Amended by R.1988 d.97, effective March 7, 1988.

See: 19 N.J.R. 2327(b), 20 N.J.R. 525(a).

Added text to "fairly tight" and added definitions "Well developed" and "Well trimmed".

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

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

Amended "fairly tight" and "fairly well filled".

Amended by R.1989 d.234, effective April 6, 1989.

See: 21 N.J.R. 227(a), 21 N.J.R. 1118(b).

Added definition of "fairly clean" regarding shallots. Expanded definitions of several words and terms as they apply to newly added fruits and vegetables to Jersey Fresh program participation.

Amended by R.1990 d.354, effective July 16, 1990.

See: 22 N.J.R. 1296(a), 22 N.J.R. 2140(b).

Added definitions of "Application of tolerances" and "tolerances"; expanded cases in definitions of "fairly tight" and "well filled".

Amended by R.1992 d.374, effective October 5, 1992.

See: 24 N.J.R. 2318(b), 24 N.J.R. 3511(b).

Amended by R.1994 d.485, effective September 19, 1994.

See: 26 N.J.R. 2831(a), 26 N.J.R. 3828(a).

Amended by R.2000 d.380, effective September 18, 2000.

See: 32 N.J.R. 2218(a), 32 N.J.R. 3391(a).

In "Application of tolerances", inserted references to bok choy and cactus; in "Tight", substituted a reference to sweet corn for a reference to green corn, inserted a reference to bok choy, and deleted "well" following "sufficiently"; and in "Well filled", inserted a reference to grape tomatoes.

Amended by R.2003 d.434, effective November 3, 2003.

See: 35 N.J.R. 2974(a), 35 N.J.R. 5060(a).

Added "Fairly uniform in color" and "Fairly well colored".

### 2:71-2.7 Penalties

(a) Any licensed packer using "logo" containers for products other than those covered by these rules or any unlicensed packer using "logo" packages for any product shall be subject to a penalty of not more than \$50.00 for the first offense and not more than \$100.00 for each subsequent offense, except for violations of N.J.S.A. 4:10-5 which penalty shall be \$50.00.

(b) After the second violation of any part of this subchapter of the same regulated product packed by the same licensed packer during the same calendar year, the license to pack under the Jersey Fresh Quality Grading program will be revoked for the remainder of the license year.

(c) Any entity licensed to transfer ownership of containers bearing the "logo" which violates any part of the regulations shall be subject to a penalty of not more than \$50.00 for the first offense and revocation of license for a subsequent offense, except for violators of N.J.S.A. 4:10-5 which the penalty shall be \$50.00.

(d) Prior to the imposition of penalties under (a), (b) or (c) above the individual charged with a violation of the regulations shall be afforded the opportunity for a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq. and the Uniform Administrative Rules of Practice, N.J.A.C. 1:1-1 et seq.

(e) Upon revocation of a license, a packer may reapply for a license for the next license year.

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(c).

Deleted "Jersey Fresh" and added text "Quality Grading".

Amended by R.1987 d.89, effective February 2, 1987.

See: 18 N.J.R. 2347(a), 19 N.J.R. 287(a), 19 N.J.R. 355(a).

Added (c) and renumbered (c)-(d) as (d)-(e).

### 2:71-2.8 Asparagus for canning or freezing

(a) N.J. No. 1 shall consist of spears of asparagus which are as follows:

1. Fresh and not badly misshapen;
2. Free from decay and broken tips;
3. Free from damage caused by spreading tips, doubles, hail, freezing, dirt, diseases, beetles or other insects, mechanical or other means.

(b) Unless otherwise specified spears shall be classified as:

1. "Small", "Medium" or "Large";
2. The length shall not exceed 7½ inches;
3. Not less than 4½ inches of the spear length shall be of a green color.

(c) N.J. No. 2 shall consist of spears of asparagus which are:

1. Fresh;
2. Free from decay and damage caused by dirt;
3. Free from serious damage caused by diseases, freezing, beetles or other insects, mechanical or other means.

(d) Unless otherwise specified, each spear shall not be:

1. More than 7½ inches in length, nor less than ¼ inch in diameter;
2. Not less than three inches of the spear length shall be of a green color.

(e) Culls are spears of asparagus which do not meet the requirements of either of the foregoing grades. The length of the spear in excess of that specified in the lowest grade upon which a contract is based, and any amount of white in excess of that which may be specified for that grade, shall be considered as a "Butt".

(f) That part of a spear that is in excess of the maximum length specified shall be classified as a butt. If a contract between processor and grower restricts the amount of white on a spear, the white in excess of the amount specified shall also be classified as a butt in either case the remaining portion of the spear shall be considered as meeting the grade requirements in regard to these factors.

#### 2:71-2.9 Diameter classifications

(a) Unless otherwise specified, the following terms shall be used for describing the diameter of spears:

1. "Small"  $\frac{1}{4}$  inch to less than  $\frac{3}{8}$  inch in diameter;
2. "Medium"  $\frac{3}{8}$  inch to less than  $\frac{5}{8}$  inch in diameter;
3. "Large"  $\frac{5}{8}$  inch or larger in diameter.

(b) The diameter shall be the greatest thickness of a spear measured at a point five inches from the tip, except that spears which are less than five inches in length shall be measured at the base of the spear.

#### 2:71-2.10 Definition of terms

The following words and terms, when used in this Subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Damage" means any injury or defect which appreciably affects the canning or freezing quality of the portion of the spear that extends a distance of  $4\frac{1}{2}$  inches from the tip, or which seriously affects the canning or freezing quality of the remaining portion of the spear exclusive of the butt. Any one of the following defects or a combination of defects which exceeds the maximum allowed for any one defect shall be considered as damage:

1. Doubles which appreciably affect the appearance of the portion of the spear that extends a distance of  $4\frac{1}{2}$  inches from the tip. Doubles which occur on the remaining portion of the spear shall not be regarded as damage.

2. Spreading tips, when the tips are so spread or branched that the appearance is appreciably affected. Tips with a "seedy" appearance which materially affect the canning or freezing quality of the spear shall be considered as damage.

3. Dirt or sand which is so embedded in the tip, or under the scales on that portion of the spear that extends a distance of  $4\frac{1}{2}$  inches from the tip, that it cannot be removed in the process of washing. Dirt or sand which occurs on the remaining portion of the spear shall not be regarded as damage.