

**CHAPTER 71
GRADES AND STANDARDS**

Authority

N.J.S.A. 4:1-11.1, 4:3-11.12, 4:10-6 and 4:10-13.

Source and Effective Date

R.2009 d.98, effective February 23, 2009.
See: 40 N.J.R. 6261(a), 41 N.J.R. 1392(a).

Chapter Expiration Date

Chapter 71, Grades and Standards, expires on February 23, 2014.

Chapter Historical Note

Pursuant to Executive Order No. 66(1978), Subchapter 1, New Jersey Standards for Quality of Individual Shell Eggs, and Subchapter 2, Fruits and Vegetables, were readopted as R.1983 d.394 and d.395, respectively, effective September 1, 1983. See: 15 N.J.R. 1050(a), 15 N.J.R. 1574(a); 15 N.J.R. 1051(a), 15 N.J.R. 1574(b).

Pursuant to Executive Order No. 66(1978), Chapter 71, Grades and Standards, was readopted as R.1988 d.370, effective July 8, 1988. 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: 30 N.J.R. 1459(b), 30 N.J.R. 2617(c).

Subchapter 4, Jersey Fresh Matched Funds Program, was adopted as R.1999 d.175, effective June 7, 1999. See: 31 N.J.R. 572(a), 31 N.J.R. 1478(a).

Administrative change: Pursuant to Reorganization Plan No. 03-2002, the Division of Dairy and Commodity Regulation was renamed Division of Marketing and Development, effective February 27, 2003. See: 35 N.J.R. 3(a), 35 N.J.R. 1539(b).

Chapter 71, Grades and Standards, was readopted as R.2003 d.434, effective October 7, 2003. See: 35 N.J.R. 2974(a), 35 N.J.R. 5060(a).

Subchapter 6, "Jersey Bred" Logo, was adopted as new rules by R.2004 d.6, effective January 5, 2004. See: 35 N.J.R. 3749(a), 36 N.J.R. 169(a).

Subchapter 7, "Jersey Grown" Logo, was adopted as new rules by R.2004 d.201, effective June 7, 2004. See: 36 N.J.R. 626(a), 36 N.J.R. 2715(b).

Subchapter 8, "Jersey Organic" Logo, was adopted as new rules by R.2006 d.412, effective December 4, 2006. See: 38 N.J.R. 2237(a), 38 N.J.R. 4995(a).

Subchapter 9, "Jersey Seafood" Logo, was adopted as new rules by R.2008 d.104, effective April 21, 2008. See: 39 N.J.R. 4887(a), 40 N.J.R. 2105(a).

Chapter 71, Grades and Standards, was readopted as R.2009 d.98, effective February 23, 2009. See: Source and Effective Date. See, also, section annotations.

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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)

Repealed by 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)

Repealed by 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).

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 2½ 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).

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.

2:71-1.34 (Reserved)

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

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.

2:71-1.36 (Reserved)

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

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.

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 1/8 inch nor more than 9/32 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 per-

mitted 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 Marketing and Development, 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 necessary 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. AGRICULTURAL COMMODITIES

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 the United States Standards for all fruits and vegetables, specifically 7 CFR §51.300 through 51.3749 and 52.1391 through 52.1402; and 21 CFR §§131.110 and 135.110, as amended and supplemented, incorporated herein by reference.

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. Exemption: The New Jersey Standards for vine ripened tomatoes shall be as set forth in N.J.A.C. 2:71-2.18.

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), rewrote introductory paragraph.
Amended by R.2005 d.329, effective October 3, 2005.
See: 37 N.J.R. 2163(a), 37 N.J.R. 3809(c).
In (a), added 2.

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, cut flowers, cactus, honey, milk (whole, one percent, two percent, skim and chocolate), ice cream and ice milk

(a) The New Jersey Department of Agriculture approves the use of Jersey Fresh and Premium 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.

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".

Amended by R.2009 d.98, effective April 6, 2009.

See: 40 N.J.R. 6261(a), 41 N.J.R. 1392(a).

Section was "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, cut flowers, cactus, honey, milk (whole, one percent, two percent, skim, chocolate), ice cream and ice milk". Updated the logos in (b).

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

(a) A non-refundable fee of \$30.00 shall accompany the application form and shall be made payable to the New Jersey Farm Products Publicity Fund.

(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) Producers shall send to the Division of Marketing and Development, by the 10th 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) Producers shall send to the Division of Marketing and Development, by the 10th 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 used, the formulas used in the manufacture of products bearing the "Jersey Fresh" or "Premium 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.

(g) Wineries shall send to the Division of Marketing and Development, by the 30th of each January, the gallons of wine sold and ingredients used for all wine sold under the "Jersey Fresh" logo during the previous calendar year. This report will list the wine by varieties 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 wine 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).

Amended by R.2004 d.422, effective November 15, 2004.

See: 36 N.J.R. 2319(a), 36 N.J.R. 5088(b).

In (a), inserted "non-refundable" preceding "fee" and deleted the second sentence; in (f), substituted "used" for "received from dairy processors" and "products" for "ice cream", inserted "or 'Premium Jersey Fresh'" preceding "logo".

Amended by R.2005 d.329, effective October 3, 2005.
See: 37 N.J.R. 2163(a), 37 N.J.R. 3809(c).
Added (g).

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, lolita 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 (butternut, 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, and honey may be identified by the logo.

(b) A New Jersey producer of raw milk or an organization of New Jersey producers of raw milk is permitted to make application to the New Jersey Department of Agriculture for a license and registration number to employ the use of the Jersey Fresh logo to market "Jersey Fresh Milk," "Jersey Fresh Flavored Milk," "Made with Jersey Fresh Milk" and "Made with Premium Jersey Fresh Milk" from raw milk produced in New Jersey.

1. Milk marketed under the "Jersey Fresh" logo may not be co-mingled with fluid milk produced outside the State of New Jersey.

(c) Raw milk used to process "Jersey Fresh Milk," "Jersey Fresh Flavored Milk" and "Made with Jersey Fresh Milk" displaying the Jersey Fresh logo 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.

(d) Raw milk used to process products "Made with Premium Jersey Fresh Milk" shall meet the standards set forth in (c) above as well as a somatic cell count not exceeding 300,000 cells per milliliter.

(e) Ice cream marketed using the "Made with Jersey Fresh Milk" logo 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 supplemented, incorporated herein by reference. In addition, these products shall be produced using only raw or pasteurized milk and milk products obtained from New Jersey dairy farms. All other agricultural ingredients subject to this chapter used in the production of these products shall be produced in New Jersey, contingent only upon seasonal availability.

(f) A New Jersey winery is permitted to make application to the New Jersey Department of Agriculture for a license and registration number to employ the use of the "Jersey Fresh" logo to market wine produced in New Jersey.

1. All wine using the "Jersey Fresh" logo on its packaging shall only be produced from grapes, fruit, and other agricultural products that were grown in New Jersey. Wine marketed under the "Jersey Fresh" logo shall not be commingled with grapes, fruit or other agricultural products grown or produced outside the State of New Jersey.

2. The Department hereby adopts and incorporates by reference as amended and supplemented the Davis 20-point scale (1995), which forms the basis for the Garden State Wine Growers Association, Quality Wine Alliance (QWA) Program.

3. A copy of the Davis 20-point scale and Quality Wine Alliance Program guidelines are available by contacting Executive Director of the Garden State Winegrowers Association. The phone number is: (609) 890-8188. A copy is also available in the Director's Office, Division of Marketing and Development, New Jersey Department of Agriculture, PO Box 330, Trenton, NJ 08625-0330.

4. All wine bearing the "Jersey Fresh" logo must score a minimum of 13 (out of 20) points on the QWA. This designates the wine as free from flaws.

(g) All commodities, other than peaches and those set forth in (b) through (f) above, 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.

1. For peaches to be marketed as "premium," they must meet the requirements of the United States Department of Agriculture's (USDA's) US Fancy Grade; be grown and packed in accordance with the United States Department of Agriculture's Good Agricultural Practices/Good Handling Practices Program, which includes the Guide to Minimize Microbial Food Safety Hazards for Fresh Fruits and Vegetables (October 1998) along with 2005 Audit Matrix and Score Sheets to determine compliance, hereby adopted

and incorporated by reference as amended and supplemented; and be packed and shipped within seven days of harvest.

2. A copy of the U.S. Food and Drug Administration's Guide to Minimize Microbial Food Safety Hazards for Fresh Fruits and Vegetables (October 1998) may be found at <http://vm.cfsan.fda.gov/~dms/prodglan.html>. A copy of USDA's Good Agricultural Practices/Good Handling Practices Program, including the 2005 Audit Matrix and the Score Sheets may be obtained at www.ams.usda.gov/fv/fpbgapghp.htm. A copy of this information is also on file in the Director's Office, Division of Marketing and Development, New Jersey Department of Agriculture, PO Box 330, Trenton, NJ 08625-0330.

(h) 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(a).

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).
Amended by R.2004 d.422, effective November 15, 2004.
See: 36 N.J.R. 2319(a), 36 N.J.R. 5088(b).

In (a), deleted "milk (whole, one percent, two percent, skim, chocolate), and ice cream" preceding "may be identified by the logo"; added (b) through (e); recodified existing (b) and (c) as (f) and (g).
Amended by R.2005 d.329, effective October 3, 2005.
See: 37 N.J.R. 2163(a), 37 N.J.R. 3809(c).

Added (f); recodified former (f) as (g) and rewrote subsection; recodified former (g) as (h).

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 atmos-

phere 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.

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 (3/8) inch, blood spots (aggregating not more than one-eighths (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.

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).

Amended by R.2004 d.422, effective November 15, 2004.

See: 36 N.J.R. 2319(a), 36 N.J.R. 5088(b).

In (b), deleted 86 and 87.

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.

“Jersey Fresh Milk” means milk produced in New Jersey that may be whole, one percent, two percent or skim and may be fortified with milk solids.

“Jersey Fresh Flavored Milk” means whole, one percent, two percent, and skim milk produced in New Jersey that may be fortified with milk solids and includes non-dairy ingredients as specified on the label.

“Licensed packer” means any entity that has applied for and been granted approval to package products using any of the “Jersey Fresh” logos.

“Made with Jersey Fresh Milk” means food products that utilize milk produced in New Jersey as an ingredient and meet the New Jersey and Federal standards for Jersey Fresh milk.

“Made with Premium Jersey Fresh Milk” means food products that utilize milk produced in New Jersey with a somatic cell count not exceeding 300,000 cells per milliliter as an ingredient and meet the New Jersey and Federal standards for Jersey Fresh milk.

“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.

“Producer” means a farmer that owns and maintains dairy animals in New Jersey for the purpose of producing raw milk.

“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.

“Wine” means a diverse commodity class composed of the yeast fermentation products of the must, or juice, pressed from grapes, fruit or other agricultural products. Wine is a fruit product, but fermentation produces a variety of chemical changes in the must, and so wine is not simply juice with ethanol added. Fermentation alters the must by altering the conjugation of organic acids and phenolics, by extraction and the formation of copigments and the development of an anaerobic and protective redox potential.

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”.

Amended by R.2004 d.422, effective November 15, 2004.

See: 36 N.J.R. 2319(a), 36 N.J.R. 5088(b).

Added “Jersey Fresh Milk”, “Jersey Fresh Flavored Milk”, “Licensed packer”, “Made with Jersey Fresh Milk”, “Made with Premium Jersey Fresh Milk” and “Producer”.

Amended by R.2005 d.329, effective October 3, 2005.

See: 37 N.J.R. 2163(a), 37 N.J.R. 3809(c).

Added definition “Wine”.

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 licensed producer 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.

(d) After the second violation of any part of this subchapter by the same licensed producer 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.

(e) 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.

(f) The Division of Marketing and Development shall make an initial determination as to whether to deny an initial license, or revoke a license as provided in (a) through (e) above.

(g) Any applicant who is aggrieved by the determination of the Division of Marketing and Development pursuant to (f) above shall, upon written request transmitted to the Department within 20 days of the license denial, or notice of intent to revoke a license, be afforded the opportunity for a hearing thereon in the manner provided for contested cases pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Administrative Procedure Rules, N.J.A.C. 1:1.

1. Requests for hearings shall be sent to Alfred Murray, Director, Division of Marketing and Development, N.J. Department of Agriculture, P.O. Box 330, Trenton, New Jersey 08625-0330

(h) The State Board of Agriculture shall make a final determination as to whether to deny or revoke a license following a hearing as provided in (g) above.

(i) Orders for penalties or to enjoin continuing violations may be enforced by summary action brought in the name of the Department in Superior Court or Municipal Court.

(j) Upon revocation of a license, a producer 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).

Amended by R.2004 d.422, effective November 15, 2004.

See: 36 N.J.R. 2319(a), 36 N.J.R. 5088(b).

Added (c), (d), and (f) through (j), recodified existing (c) as (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" ¼ inch to less than ⅜ inch in diameter;
2. "Medium" ⅜ inch to less than ½ inch in diameter;
3. "Large" ½ 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 4½ 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 4½ 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 4½ 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.
4. Beetle holes or beetle eggs which affect the portion of the spear that extends a distance of 4½ inches from the tip, or which seriously affect the canning or freezing quality of the remaining portion of the spear exclusive of the butt.

"Fresh" means the spear is not badly wilted, limp, or flabby.

"Green color" means any shade of green color. 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.

“Not badly misshapen” means the spear is not badly flattened, crooked, or otherwise so badly deformed that its canning or freezing quality is materially affected.

“Serious damage” means any injury or defect which seriously affects the canning or freezing quality of that portion of the spear not classed as a butt.

2:71-2.11 Grade classifications of asparagus spears

(a) In an attempt to minimize the possibility for misunderstanding in the interpretation of the New Jersey Standards For Green Asparagus For Canning Or Freezing and to promote uniformity in grading asparagus under these standards, the following information is meant to further clarify the “definition of terms” of Section 2.10 of this Chapter as used in the standards; also to show the extent of damage permitted on individual spears, from the causes mentioned; and the grade classification thereof:

1. No amount of damage on white part of any spear shall be considered as affecting the canning or freezing quality.

2. “Fresh” means that the spear is not so wilted, limp or flabby as to appear lifeless or does not appear shrunken from loss of moisture.

2:71-2.12 Asparagus spears described and permitted in N.J. No. 1 grade

(a) “Shape” refers to spears which are slightly flat with rounded or oval sides and having a normal tip. Spears without sharp crooks, but whose curves are not so great as to prevent their being straightened, after blanching, without breaking.

(b) “Doubles” refer to doubles which do not affect the shape of that portion of the spear which extends 4½ inches from the tip end or which show a hollow opening in the center of the spear not greater than ¼ inch in diameter at a distance of 4½ inches from the tip end.

(c) “Broken tips” refer to spears with one segment missing in the tip providing it does not materially affect the shape or general appearance of the tip.

(d) “Spreading tips” refer to tips which are not so spread or branched that the appearance is appreciably affected. “Seedy” tips which are not materially affected in appearance and canning or freezing quality is not materially affected when seeds are removed.

(e) “Scars (fresh or healed)” refer to hail, insects, mechanical or other means. Spears with superficial scars that do not aggregate more than ¼ inch in diameter in the area extending 4½ inches from the tip end or scars on the remaining green

portion of the spear aggregating not more than ¼ inch in diameter.

(f) “Insect eggs” refer to spears which have no eggs in the area extending 4½ inches from the tip end, nor more than three eggs on the remaining green portion of the spear.

(g) “Disease-discolored scales-rust” refers to spears having not more than a total of four discolored scales, provided that not more than two are within the area extending 4½ inches from the tip end. (Slight discoloration of edges or tips of scales will not be considered as discolored scales, except that scales showing more than slight discoloration of edges, or tips, sufficient to detract from the appearance of the spear more than two discolored scales do, should be scored.)

(h) “Freezing” refers to spears showing slight or minor whitish or bleached areas and dark spears which do not have a watery, glazy appearance.

(i) It is no longer the policy to score individual spears when dirt is imbedded in the tips or under the scales.

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).

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).

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).

2:71-2.18 Vine ripened tomatoes

(a) "Vine ripened" means tomatoes have been left on the plant until the surface of the flesh of each tomato has achieved some discernable degree of pink or red color at the time of harvest and have not been treated with ethylene gas.

(b) Tomatoes labeled with the term "vine ripened" shall be considered mislabeled unless the surface of the flesh of each tomato has attained some discernable degree of pink or red color at the time of harvest and has not been treated with ethylene gas.

(c) Any person labeling tomatoes as "vine ripened" which have not met the standards set forth in (a) above 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.

1. Each improperly labeled carton shall be considered a separate offense.

(d) The Division of Marketing and Development shall make an initial determination as to whether tomatoes are improperly labeled as "vine ripened."

(e) Any applicant who is aggrieved by the determination of the Division of Marketing and Development pursuant to (d) above shall, upon written request transmitted to the Department within 20 days of the violation notice, be afforded the opportunity for a hearing thereon in the manner provided for contested cases pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

1. Requests for hearings shall be sent to Alfred Murray, Director, Division of Marketing and Development, N.J. Department of Agriculture, PO Box 330, Trenton, New Jersey 08625-0330.

(f) The State Board of Agriculture shall make a final determination as to whether to impose a penalty following a hearing as provided in (e) above.

(g) Orders for penalties or to enjoin continuing violations may be enforced by summary action brought in the name of the Department in Superior Court or Municipal Court.

New Rule by R.2005 d.329, effective October 3, 2005.
See: 37 N.J.R. 2163(a), 37 N.J.R. 3809(c).
Section was "Reserved."

2:71-2.19 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.

as an official emblem for identifying New Jersey bred horses and 4-H market lambs.

(b) Only those persons, firms, partnerships, corporations or associations licensed to use the Jersey Bred logo shall be permitted to attach or have it imprinted upon any documents related to their horses and 4-H market lambs or to employ its use in advertising or in any manner whatsoever. Layout of proposed advertising to be used for the marketing of Jersey Bred horses and 4-H market lambs shall be submitted for approval by the Division of Marketing and Development, New Jersey Department of Agriculture, in advance of their manufacture and use.

(c) Any person, firm, partnership, corporation or association wishing to employ the Jersey Bred logo to be used in marketing New Jersey produced horses and 4-H market lambs 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 the name and address of the user, the type of animal for which the user is seeking a license and other such information as is deemed necessary for enforcement of the Jersey Bred program. The Department will hold confidential any information provided in the application which constitutes proprietary commercial or financial information, or is otherwise protected from disclosure under the Open Public Records Act, N.J.S.A. 47:1A-1 et seq., subject to the limitations set forth therein.

(d) 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.

(e) 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.

(f) When a license holder discontinues use of the Jersey Bred logo, fails to renew his or her license when required or has his or her license revoked, he or she shall be prohibited from its use in any manner, including, but not limited to, stationery, forms, advertising on billboards or other signs or on trucks or car panels.

(g) The configuration of the Jersey Bred Logo is as follows:



(h) All horses and 4-H market lambs marketed under the "logo" program shall be produced in New Jersey under the conditions set forth in N.J.A.C. 2:71-6.4 and 6.5.

(i) Any licensed producer using the Jersey Bred logo for horses and 4-H market lambs without satisfying the requirements set forth in N.J.A.C. 2:71-6.4 and 6.5, any unlicensed producer using the Jersey Bred logo, or anyone violating any provision of N.J.S.A. 4:10-14 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.

(j) After the second violation of any part of this subchapter by the same licensed producer during the same calendar year, the license to use the Jersey Bred logo shall be revoked for the remainder of the license year. A preliminary determination of revocation made by the Department shall be reviewed and approved by the State Board.

(k) Orders for penalties or to enjoin continuing violations may be enforced by summary action brought in the name of the Department in Superior Court or Municipal Court.

(l) Upon revocation of a license, a producer may reapply for a license for the next license year.

Amended by R.2009 d.98, effective April 6, 2009.

See: 40 N.J.R. 6261(a), 41 N.J.R. 1392(a).

Updated the Jersey Bred logo in (g).

2:71-6.4 Horses

(a) A Jersey Bred pleasure horse shall meet all requirements set forth in N.J.A.C. 2:34-2.1(b).

(b) A Jersey Bred Standardbred shall meet all requirements set forth in N.J.A.C. 2:32-2.2.

(c) A Jersey Bred Thoroughbred shall meet all requirements set forth in N.J.A.C. 13:70-6.53.

2:71-6.5 4-H market lambs

All 4-H market lambs born in the State of New Jersey will be eligible for the use of the Jersey Bred logo as long as the ewe has been in the State for the last trimester (50 days) of her pregnancy.

SUBCHAPTER 7. "JERSEY GROWN" LOGO

2:71-7.1 Scope and purpose

A New Jersey producer who is certified pursuant to N.J.A.C. 2:16 to sell or distribute nursery stock or plant material is permitted to make application to the New Jersey Department of Agriculture for the use of the "Jersey Grown" logo in marketing their nursery stock and plant material. In addition, a New Jersey grower who complies with the re-

quirements set forth in N.J.A.C. 2:71-7.3 and 7.5 is permitted to make application to the New Jersey Department of Agriculture for the use of the "Jersey Grown" logo in marketing their cut Christmas trees.

Amended by R.2006 d.424, effective December 4, 2006.
See: 38 N.J.R. 3345(a), 38 N.J.R. 4994(a).
Added final sentence.

2:71-7.2 Definitions

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

"Agriculture" means the production of plants and animals useful to man, including all forms of farm products and farm production.

"Certificate" means a document authorized or prepared by a duly authorized Federal or State regulatory official that affirms, declares, or verifies that an article, nursery stock, plant, product, shipment or any other officially regulated article meets phytosanitary (quarantine), nursery inspection, pest freedom, plant registration or certification, or other set of legal requirements (N.J.S.A. 4:7-15 et seq.).

"Certification" means the act, by a duly authorized regulatory official of the Department, of affirming, declaring, or verifying compliance with nursery inspection, pest freedom, plant registration or certification, or any other set of legal requirements.

"Cut Christmas tree" means sheared stock of the coniferous species which are normally cut and marketed as Christmas trees or holiday trees and include the following species:

1. Leyland Cypress (*Cupressocyparis Leylandii*);
2. Douglas Fir (*Pseudotsuga Menziesii*);
3. Balsam Fir (*Abies Balsamea*);
4. Canaan Fir (*Abies Balsamea* var. *Phanerolepis*);
5. Red Fir (*Abies Magnifica*);
6. White Fir (*Abies Concolor*);
7. Fraser Fir (*Abies Fraseri*);
8. Grand Fir (*Abies Grandis*);
9. Noble Fir (*Abies Proceras*);
10. White Spruce (*Picea Glauca*);
11. Blue Spruce (*Picea Pungens*);
12. Norway Spruce (*Picea Abies*);
13. Eastern Red Cedar (*Juniperus Virginiana*);
14. Red Pine (*Pinus Resinosa*);
15. White Pine (*Pinus Strobus*);

16. Southwestern White Pine (*Pinus Strobiformis*);
17. Virginia Pine (*Pinus Virginiana*); and
18. Scotch Pine (*Pinus Sylvestris*).

"Grower" means, but is not limited to, any person who raises, grows, or propagates cut Christmas trees, whether for profit or other reasons, or whether outdoors or indoors.

"Nursery" means any location where nursery stock is grown, propagated, stored, or sold; or any location from which nursery stock is distributed direct to a customer.

"Nursery Certificate" is a document issued by the Department indicating that the nursery stock was inspected pursuant to N.J.S.A. 4:7-15 et seq. and certified to be apparently free of dangerously injurious insects, highly invasive weed plants and plant diseases. The certificate is valid for one calendar year or until a subsequent inspection finds infestation of dangerously injurious plant pests or diseases.

"Nursery stock" means all plants, trees, shrubs, and vines grown for sale, as well as grafts, cuttings, and buds and other parts of plants that may be sold for propagation, whether cultivated or wild; but shall not include herbaceous annuals or plants, flowers, vines or cuttings grown under glass and commonly known as florists' stock.

"Plant material" includes any part of a plant, tree, aquatic plant, plant product, plant material, shrub, vine, fruit, rhizome, vegetable, seed, bulb, stolon, tuber, corm, pip, cutting, scion, bud, graft, or fruit pit.

"Plant pest" includes, but is not limited to: any pest of plants, agricultural commodities, crop seed, farm products, horticultural products, nursery stock, or non-cultivated plants. This includes, but is not limited to: insects, snails, nematodes, fungi, viruses, bacterium, microorganisms, mycoplasma like organisms, weeds, plants, or parasitic higher plants.

"Producer" means a farmer who raises, grows, propagates or maintains, for profit or other reasons, outdoors or indoors, any horticultural product, plant material or nursery stock in New Jersey.

"Secretary" means the Secretary of the State of New Jersey Department of Agriculture or his or her designee.

"Sell" means an offer for sale, expose for sale, possess for sale, exchange, barter, or trade.

Amended by R.2006 d.424, effective December 4, 2006.
See: 38 N.J.R. 3345(a), 38 N.J.R. 4994(a).

Added definition "Cut Christmas tree"; in definition "Grower", inserted "cut Christmas trees, whether" and "or whether" and deleted "any horticultural product, nursery stock, or plant" from the end; and rewrote definition "Producer".

2:71-7.3 Use of the "Jersey Grown" logo

(a) The New Jersey Department of Agriculture approves the use of "Jersey Grown" in conjunction with the New

Jersey map symbol under provisions of N.J.S.A. 4:10-5 and 4:10-15 as an official emblem for identifying New Jersey produced plant material and cut Christmas trees.

(b) Persons, firms, partnerships, corporations or associations must first obtain a valid nursery certificate, issued by the Division of Plant Industry pursuant to N.J.A.C. 2:16, before applying to utilize the "Jersey Grown" logo on plant material or nursery stock. Persons, firms, partnerships, corporations or associations utilizing the "Jersey Grown" logo on cut Christmas trees need only be licensed in accordance with this section and comply with the requirements of N.J.A.C. 2:71-7.5. No nursery certificate is needed.

(c) Only those persons, firms, partnerships, corporations or associations licensed to use the "Jersey Grown" logo shall be permitted to attach or have it imprinted upon any documents related to their nursery stock, plant material or cut Christmas trees or to employ its use in advertising or in any manner whatsoever. Layout of proposed advertising to be used for the marketing of "Jersey Grown" plants and nursery stock shall be submitted for approval by the Division of Marketing and Development, New Jersey Department of Agriculture, in advance of their manufacture and use.

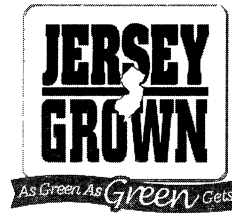
(d) Any person, firm, partnership, corporation or association wishing to employ the "Jersey Grown" logo in marketing New Jersey produced plant materials, nursery stock, and cut Christmas trees shall make application to the New Jersey Department of Agriculture for a license to do so. The application shall be made in writing, upon a form provided by the Department for this purpose. The application shall reveal the name, address and nursery certificate of the user, the type of plant material, nursery stock or cut Christmas tree for which the user is seeking a license and other such information as is deemed necessary for enforcement of the "Jersey Grown" program. The Department will hold confidential any information provided in the application which constitutes proprietary commercial or financial information, or is otherwise protected from disclosure under the Open Public Records Act, N.J.S.A. 4:1A-1 et seq., subject to the limitations set forth therein.

(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) A non-refundable fee of \$30.00 shall accompany the application form and shall be made payable to the New Jersey Farm Products Publicity Fund.

(g) When a license holder discontinues use of the Jersey Grown logo, fails to renew his license when required or has his license revoked, he shall be prohibited from its use in any manner, including, but not limited to, stationery, forms, advertising on billboards or other signs or on trucks or car panels.

(h) The configuration of the Jersey Grown logo is as follows:



(i) All nursery stock marketed under the logo program shall be propagated and/or be grown in New Jersey for a period of at least six months under the conditions set forth in this section and N.J.A.C. 2:71-7.4. All cut Christmas trees marked under the logo program shall be propagated and/or be grown in New Jersey for a period of at least four years prior to retail sale under the conditions set forth in N.J.A.C. 2:71-7.5.

(j) Any licensed producer using the "Jersey Grown" logo for nursery stock or plant material without satisfying the requirements set forth in this section and N.J.A.C. 2:71-7.4, any licensed grower using the "Jersey Grown" logo for cut Christmas trees without satisfying the requirements set forth in this section and N.J.A.C. 2:71-7.5, any unlicensed or uncertified producer or grower using the "Jersey Grown" logo, or anyone violating any provision of N.J.S.A. 4:10-14 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.

(k) After the second violation of any part of this subchapter by the same licensed producer or grower during the same calendar year, the license to use the "Jersey Grown" logo shall be revoked for the remainder of the license year.

(l) The Division of Marketing and Development shall make an initial determination as to whether to deny an initial license, or revoke a license as provided in subsections (j) and (k) of this section.

(m) Any applicant who is aggrieved by the determination of the Division of Marketing and Development pursuant to (l) above, shall, upon written request transmitted to the Department within 20 days of the license denial, or notice of intent to revoke a license, be afforded the opportunity for a hearing thereon in the manner provided for contested cases pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

1. Requests for hearings shall be sent to Alfred Murray, Director, Division of Marketing and Development, N.J. Department of Agriculture, PO Box 330, Trenton, New Jersey 08625-0330.

(n) The State Board of Agriculture shall make a final determination as to whether to deny or revoke a license following a hearing as provided in (m) above.

(o) Orders for penalties or to enjoin continuing violations may be enforced by summary action brought in the name of the Department in Superior Court or Municipal Court.

(p) Upon revocation of a license, a producer or grower may reapply for a license for the next license year.

Amended by R.2006 d.424, effective December 4, 2006.
See: 38 N.J.R. 3345(a), 38 N.J.R. 4994(a).

In (a), inserted "and cut Christmas trees"; in (b), (c), (d) and (j), inserted quotation marks around "Jersey Grown" throughout; in (b), inserted "on plant material or nursery stock" and added last sentence; in (c), inserted "nursery stock," and "or cut Christmas trees"; in (d), deleted "and " following "plant materials," inserted ", and cut Christmas trees", substituted a comma for "or" following "plant material" and inserted "or cut Christmas tree"; in (i), deleted quotation marks around "logo" and added last sentence; in (j), inserted "any licensed grower using the 'Jersey Grown' logo for cut Christmas trees without satisfying the requirements set forth in this section and N.J.A.C. 2:71-7.5," and "or grower"; and in (k) and (p), inserted "or grower".

Amended by R.2009 d.98, effective April 6, 2009.
See: 40 N.J.R. 6261(a), 41 N.J.R. 1392(a).

Updated the Jersey Grown logo in (h).

2:71-7.4 Plant material and nursery stock

(a) Pursuant to the authority of N.J.A.C. 1:30-2.2, the Department hereby adopts and incorporates by reference, the American National Standards Institute, "American Standard for Nursery Stock," ANSI Z60.1-1996 as the standard for the nursery stock. All nursery stock shall meet or exceed the nursery stock and plant standards set forth the American Nursery and Landscape Association ANSI Z60.1-1996.

1. Copies may be obtained by contacting the American Nursery and Landscape Association, 1250 I Street, N.W., Suite 500, Washington, DC 20005.

2. A copy is on file in the Director's office—Division of Plant Industry, New Jersey Department of Agriculture, PO Box 330, Trenton, New Jersey 08625-0330

(b) All nursery stock marketed under this program shall be maintained free of injurious insects and plant diseases. Pursuant to the authority of N.J.A.C. 1:30-2.2, the Department hereby adopts and incorporates by reference, the Rutgers Cooperative Extension publication "Pest Control Recommendations for Shade Tree and Commercial Nursery Crops" (E036T) for use as a guide by New Jersey plant and nursery stock producers to ensure freedom from injurious plant pests and diseases.

1. Copies of this publication may be purchased from Rutgers, The State University of New Jersey, Publications Distribution Center, RCE, Cook College, 57 Dudley Road, New Brunswick, NJ 08901-8520. In addition, the publication is available free of charge on the Rutgers Cooperative Extension website at <http://www.rce.rutgers.edu>.

2. A copy is on file in the Director's office—Division of Plant Industry, New Jersey Department of Agriculture, PO Box 330, Trenton, New Jersey 08625-0330.

(c) All nurseries and plant producers shall be certified by the Department of Agriculture, Division of Plant Industry in accordance with N.J.A.C. 2:16 and 2:18-1.1 through 1.6.

(d) All nursery stock shall be propagated and/or be grown in New Jersey for a period of at least six months prior to retail sale.

2:71-7.5 Cut Christmas trees

(a) Pursuant to the authority of N.J.A.C. 1:30-2.2, the Department hereby adopts and incorporates by reference, the "United States Standards for Grades of Christmas Trees" §51.3085 through 51.3106, effective October 30, 1989 and reprinted January 1997, as amended and supplemented, as the standard for cut Christmas trees. All cut Christmas trees utilizing the "Jersey Grown" logo shall meet or exceed the standards set forth at §51.3087 for grade "U.S. No. 1".

(b) Copies of the "United States Standards for Grades of Christmas Trees" may be obtained from the following:

1. U.S. Department of Agriculture, Agricultural Marketing Service, Fresh Products Branch Standardization Section, Fruit and Vegetable Programs, 1400 Independence Ave, SW Room 2065-S, Stop Code 0240, Washington, D.C. 20250-0240;

2. Online at the Agricultural Marketing Service website: <http://www.ams.usda.gov/standards/christtr.pdf>;

3. The Director's office - Division of Marketing and Development, New Jersey Department of Agriculture, P.O. Box 330, Trenton, New Jersey 08625-0330; or

4. The Executive Secretary's office - New Jersey Christmas Tree Growers Association, P.O. Box 211, Stockton, NJ 08559.

(c) Leyland Cypress, Norway Spruce, Southwestern White Pine and Canaan Fir, which are not listed in the United States Standards for Grades of Christmas Trees, shall comply with all listed standards with the exception of the density standards, defined at §51.3097, which shall be as follows:

1. Heavy Density:
 - i. Norway Spruce = 80 to 100 percent;
 - ii. Leyland Cypress = 90 to 100 percent;
 - iii. Southwestern White Pine = 90 to 100 percent; and
 - iv. Canaan Fir = 70 to 100 percent;
2. Medium Density:
 - i. Norway Spruce = 60 to 80 percent;
 - ii. Leyland Cypress = 70 to 90 percent;
 - iii. Southwestern White Pine = 70 to 90 percent; and
 - iv. Canaan Fir = 50 to 70 percent; and
3. Light Density:
 - i. Norway Spruce = 40 to 60 percent;
 - ii. Leyland Cypress = 50 to 70 percent;
 - iii. Southwestern White Pine = 50 to 70 percent; and
 - iv. Canaan Fir = 40 to 50 percent.

(d) In addition to the requirements set forth in (a) above, all cut Christmas trees shall be grown in New Jersey for a period of at least four years prior to retail sale.

New Rule, R.2006 d.424, effective December 4, 2006.
 See: 38 N.J.R. 3345(a), 38 N.J.R. 4994(a).

SUBCHAPTER 8. "JERSEY ORGANIC" LOGO

2:71-8.1 Scope and purpose

(a) A New Jersey "Jersey Organic" producer or handler who is certified by the Department pursuant to N.J.A.C. 2:78 to sell or distribute products identified as organic agricultural products is permitted to make application to the New Jersey Department of Agriculture for a license to use the "Jersey Organic" logo in marketing agricultural commodities.

(b) These rules will become effective and the logo identified in N.J.A.C. 2:71-8.3(h) will become available for use only after the Department becomes accredited by the United States Department of Agriculture, National Organic Program as a certifying agent pursuant to 7 CFR §205.101 et seq.

2:71-8.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings. Words of art undefined in the following paragraphs shall have the meaning attributed to them by trade usage or general usage as reflected by definition in a standard dictionary, such as Webster's.

"Agricultural commodities" means any fresh fruits, vegetables, ornamental, horticultural and floricultural products listed in N.J.A.C. 2:71-2.4.

"Certified" means an entity determined to be in compliance with the New Jersey Organic Certification Program set forth

in N.J.A.C. 2:78 and which possesses a certificate from the Department designating it as a certified organic operation.

"Certifying agent" means any entity accredited by the United States Secretary of Agriculture as a certifying agent pursuant to the National Organic Program, 7 CFR Part 205.

"Crops" means a plant or part of a plant intended to be marketed as an agricultural product or fed to livestock.

"Department" means the New Jersey Department of Agriculture.

"Handler" means any person engaged in the business of handling agricultural products, including producers who handle crops or livestock of their own production, except such term shall not include final retailers of agricultural products that do not process agricultural products. For the purposes of this definition, handling shall include the selling, processing or packaging of agricultural products and shall not include the sale, transportation or delivery of crops or livestock by the producer thereof to a handler.

"Livestock" means any cattle, sheep, goat, swine, poultry, or equine animals used for food or in the production of food, fiber, feed, or other agricultural-based consumer products; wild or domesticated game; or other non-plant live, except such term shall not include aquatic animals or bees for the production of food, fiber, feed, or other agricultural-based consumer products.

"Producer" means a person who engages in the business of growing or producing food, fiber, feed and other agricultural-based consumer products.

"Organic" means a labeling term that refers to any agricultural products produced in accordance with the National Organic Program, 7 CFR Part 205.

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

"Retailer" means a restaurant, delicatessen, bakery, grocery store, or any retail outlet with an in-store restaurant, delicatessen, bakery, salad bar or other eat-in or carry-out service of processed or prepared raw and ready-to-eat food.

2:71-8.3 Use of the "Jersey Organic" logo

(a) The Department approves the use of "Jersey Organic" in conjunction with the New Jersey map symbol under provisions of N.J.S.A. 4:10-5 and 4:10-15 as an official emblem for identifying New Jersey produced organic products.

(b) The configuration of the "Jersey Organic" logo is as follows:



(c) Persons, firms, partnerships, corporations, cooperatives or associations must possess a valid organic certificate, issued by Department pursuant to N.J.A.C. 2:78 in order to apply for and utilize the "Jersey Organic" logo.

(d) Only those persons, firms, partnerships, corporations, cooperatives or associations licensed to use the "Jersey Organic" logo pursuant to N.J.A.C. 2:71-8.4, shall be permitted to attach or imprint it upon any documents, labels, packages or containers related to their products or to employ its use in advertising or in any manner whatsoever. Layout of proposed advertising to be used for the marketing of "Jersey Organic" agricultural products must be submitted to and approved by the Department's Division of Marketing and Development in advance of its manufacture and/or use. Advertising layouts will be evaluated based upon the following criteria:

1. The color scheme of the advertisement;
2. The font used;
3. The configuration, color, and size of the logo;
4. Placement of the logo;
5. The advertising medium used; and
6. Consistency with the wholesome image of the "Jersey Fresh" Promotional Program.

(e) When a license holder discontinues use of the "Jersey Organic" logo, fails to renew its license when required or has its license revoked, the license holder shall be prohibited from its use in any manner, including, but not limited to, stationery, forms, advertising on billboards or other signs or on trucks or car panels.

(f) All agricultural organic commodities marketed under the "Jersey Organic" logo program must comply with the specific grades and standards for each commodity as set forth at N.J.A.C. 2:71-1, 2 and 5 and meet the conditions for organic certification set forth in N.J.A.C. 2:78. Persons, firms, partnerships, corporations, cooperatives or associations are prohibited from using the "Jersey Organic" logo on any agricultural commodity that does not meet the requirements of this subchapter.

(g) All unlicensed and/or uncertified persons, firms, partnerships, corporations, cooperatives or associations shall be

prohibited from using the "Jersey Organic" logo in any manner.

2:71-8.4 Licensing

(a) Any producer or handler wishing to employ the "Jersey Organic" logo 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 identify the name, address and organic certification number of the user, the commodities for which the user is seeking a license and other such information as the Department deems necessary for the enforcement of the "Jersey Organic" logo program. Applications can be obtained by contacting the Department at Director, Division of Marketing and Development, N.J. Department of Agriculture, P.O. Box 330, Trenton, New Jersey 08625-0330.

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

(c) A non-refundable annual fee of \$30.00 shall accompany all initial and license renewal application forms and shall be made payable to the New Jersey Farm Products Publicity Fund.

(d) The Department will hold confidential any information provided in the application which constitutes proprietary commercial or financial information, or is otherwise protected from disclosure under the Open Public Records Act, N.J.S.A. 47:1A-1 et seq., subject to the limitations set forth therein.

(e) The Division of Marketing and Development shall make an initial determination as to whether to deny an initial license or an annual license renewal pursuant to (a) and (b) above, or revoke a license as provided in N.J.A.C. 2:71-8.5(b).

2:71-8.5 Penalties

(a) Any person, firm, partnership, corporation, cooperative or association using the "Jersey Organic" logo for organic agricultural commodities without satisfying the requirements set forth in N.J.A.C. 2:78 or this subchapter, any unlicensed or uncertified producer or handler using the "Jersey Organic" logo, or anyone violating any provision of N.J.S.A. 4:10-1 et seq., 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.

(b) After the second violation of any part of this subchapter by the same licensed person, firm, partnership, corporation, cooperative or association during the same calendar year, the license to use the "Jersey Organic" logo shall be revoked for the remainder of the license year.