

**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.2003 d.434, effective October 7, 2003.
See: 35 N.J.R. 2974(a), 35 N.J.R. 5060(a).

Chapter Expiration Date

Chapter 71, Grades and Standards, expires on October 7, 2008.

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: 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Repealed by R.1978 d.402, eff.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).

2:71-6.3 Use of "Jersey Bred" as the logo for any "Jersey Bred Program"

(a) The New Jersey Department of Agriculture approves the use of Jersey Bred 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 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.

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**Authority**

N.J.S.A. 4:1-23 and 4:10-16 et seq.

Source and Effective Date
R.2004 d.201, effective June 7, 2004.
See: 36 N.J.R. 626(a), 36 N.J.R. 2715(b).

Subchapter Historical Note

Subchapter 7, "Jersey Grown" Logo, was adopted as R.2004 d.201, effective June 7, 2004. See: Source and Effective Date.

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.

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.

"Grower" means, but is not limited to, any person who raises, grows, or propagates, for profit or other reasons, outdoors or indoors, any horticultural product, nursery stock, or plant.

"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 grows and maintains 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.

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.

(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.

(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 plant material 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 material and nursery stock 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 or nursery stock 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. 47:1A-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.

(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 unlicensed or uncertified producer 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 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 may reapply for a license for the next license year.

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.