

**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

(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).

2:71-7.6 Turfgrass sod

(a) All turfgrass sod marketed under the program shall meet or exceed the standards set forth at N.J.A.C. 2:16-7, Turfgrass Sod, or shall meet the conditions set forth in (b) below.

(b) Growers who do not meet or exceed the standards set forth in N.J.A.C. 2:16-7 solely because the turfgrass species and varieties they wish to utilize are not yet approved by the Turfgrass Extension Specialist, SEBS, Rutgers, the State University, must obtain Department approval prior to planting. To be eligible for Department approval, all turfgrass species and varieties must be recognized and recommended by appropriate specialists at other universities as suitable for growing under New Jersey conditions. Plantings approved by the Department will be considered pilot projects for a period not to exceed five years.

(c) Licensed individuals or entities must satisfy all the conditions set forth in N.J.A.C. 2:71-7.3 and N.J.S.A. 4:10-5 and 4:10-14 and pay a \$3.00 inspection fee for each acre entered.

New Rule, R.2009 d.296, effective October 5, 2009.
See: 41 N.J.R. 1296(a), 41 N.J.R. 3794(a).

2:71-7.7 Firewood

(a) All firewood marketed under the program shall meet or exceed the New Jersey Office of Weights and Measures standards set forth at N.J.A.C. 13:47C-3.1, Cordwood and Firewood.

(b) All firewood marketed under the program shall be harvested from trees grown in New Jersey from private forestlands managed under an approved forest management plan, or from State lands in accordance with the New Jersey State Lands Management Review Procedure.

(c) All firewood marketed under the program shall conform to the requirements set forth at N.J.A.C. 2:20, Quarantines, to ensure that firewood is not moved outside regulated areas unless accompanied by a valid certificate or limited permit issued by the United States Department of Agriculture, Animal and Plant Health Inspection Service or the Department.

(d) Licensed individuals or entities must satisfy all the conditions set forth in N.J.A.C. 2:71-7.3 and N.J.S.A. 4:10-5 and 4:10-14.

New Rule, R.2009 d.296, effective October 5, 2009.
See: 41 N.J.R. 1296(a), 41 N.J.R. 3794(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.