

CHAPTER 71
GRADES AND STANDARDS

Authority

N.J.S.A. 4:13-11.12.

Source and Effective Date

R.1993 d.379, effective July 2, 1993.
See: 25 N.J.R. 1801(a), 25 N.J.R. 3453(a).

Executive Order No. 66(1978) Expiration Date

Chapter 71, Grants and Standards, expires on July 2, 1998.

Chapter Historical Note

Chapter 71 was filed and became effective prior to September 1, 1969.

1970 Revisions: Amendments became effective January 27, 1970 as R.1970 d.20. See: 2 N.J.R. 12(a), 2 N.J.R. 29(b). Further amendments became effective October 1, 1970 as R.1970 d.119. See: 2 N.J.R. 69(c), 2 N.J.R. 89(a).

1973 Revisions: Amendments became effective December 18, 1973 as R.1973 d.356. See: 5 N.J.R. 362(a), 6 N.J.R. 2(a).

1974 Revisions: Amendments became effective April 1, 1974 as R.1974 d.275. See: 5 N.J.R. 255(b), 5 N.J.R. 328(a).

1975 Revisions: Amendments to subchapter 5 became effective April 1, 1975 as R.1975 d.81. See: 7 N.J.R. 91(a), 7 N.J.R. 190(b). Further amendments became effective May 16, 1975 as R.1975 d.126. See: 7 N.J.R. 247(a).

1976 Revisions: Amendments became effective January 1, 1976 as R.1975 d.358. See: 7 N.J.R. 398(a), 8 N.J.R. 3(a).

1977 Revisions: Amendments became effective September 7, 1977 as R.1977 d.339. See: 9 N.J.R. 354(b), 9 N.J.R. 451(b).

1978 Revisions: Amendments became effective March 30, 1978 as R.1978 d.114. See: 10 N.J.R. 90(b), 10 N.J.R. 182(b). Further amendments and the deletion of Subchapter 4 became effective November 21, 1978 as R.1978 d.402 (this R.1978 d.402 also deleted Subchapter 4). See: 10 N.J.R. 416(a), 11 N.J.R. 2(b).

1979 Revisions: Amendments became effective February 13, 1979 as R.1979 d.58. See: 11 N.J.R. 2(a), 11 N.J.R. 117(a). Further amendments became effective July 1, 1979 as R.1979 d.229. See: 11 N.J.R. 117(a), 11 N.J.R. 315(c).

1980 Revisions: Amendments became effective April 3, 1980 as R.1980 d.140. See: 12 N.J.R. 102(a), 12 N.J.R. 248(b).

1982 Revisions: Amendments became effective March 15, 1982 (operative April 25, 1982) as R.1982 d.75. See: 14 N.J.R. 66(a), 14 N.J.R. 277(a).

1983 Revisions: Amendments became effective August 1, 1983 as R.1983 d.312. See: 15 N.J.R. 462(a), 15 N.J.R. 1245(a). Subchapters 1 and 2 were readopted in compliance with Executive Order 66(1978) effective September 1, 1983 as R.1983 d.394. See: 15 N.J.R. 1050(a), 16 N.J.R. 1574(a).

1984 Revisions: Further amendments became effective July 16, 1984 as R.1984 d.301. See: 16 N.J.R. 946(a), 16 N.J.R. 1966(a).

1985 Revisions: Amendments became effective June 3, 1985 as R.1985 d.282. See: 17 N.J.R. 765(b), 17 N.J.R. 1407(d).

1986 Revisions: Amendments became effective May 5, 1986 as R.1986 d.147. See: 18 N.J.R. 488(a), 18 N.J.R. 938(c). Further amendments became effective June 2, 1986 as R.1986 d.201. See: 18 N.J.R. 588(b), 18 N.J.R. 1196(a).

1987 Revisions: Amendments became effective February 2, 1987 as R.1987 d.89. See: 18 N.J.R. 2347(a), 19 N.J.R. 287(a), 19 N.J.R. 355(a). Further amendments became effective September 8, 1987 as R.1987 d.354. See: 19 N.J.R. 901(a), 19 N.J.R. 1641(a). Further amendments became effective November 2, 1987 as R.1987 d.442. See: 19 N.J.R. 1593(c), 19 N.J.R. 1987(a).

1988 Revisions: Amendments became effective March 7, 1988 as R.1988 d.97. See: 19 N.J.R. 2327(a), 20 N.J.R. 525(a). This chapter was readopted in compliance with Executive Order 66(1978) effective July 8, 1988 with amendments effective August 1, 1988 as R.1988 d.370. See: 20 N.J.R. 953(a), 20 N.J.R. 1871(a).

Pursuant to Executive Order No. 66(1978), Chapter 71 was readopted as R.1993 d.379. See: Source and Effective Date.

See section annotations for specific rulemaking activity.

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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)

As amended, R.1978 d.402, eff. November 21, 1978.
See: 10 N.J.R. 416(a), 11 N.J.R. 2(b).

2:71-1.23 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)

As amended, R.1978 d.402, eff. November 21, 1978.
See: 10 N.J.R. 416(a), 11 N.J.R. 2(b).

2:71-1.30 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).

Authority

N.J.S.A. 4:3-11.13

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 2 1/2 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).

Authority
N.J.S.A. 4:3-11.13

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.

Authority
N.J.S.A. 4:3-11.13

2:71-1.34 (Reserved)

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

Authority
N.J.S.A. 4:3-11.13

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.

Authority
N.J.S.A. 4:3-11.13

2:71-1.36 (Reserved)

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

Authority
N.J.S.A. 4:3-11.15

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.

Authority
N.J.S.A. 4:3-11.15

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 $\frac{1}{8}$ inch nor more than $\frac{3}{32}$ 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 permitted 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 Regulatory Services, 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. FRUITS AND VEGETABLES

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 and the United State Standards for all fruits and vegetables.

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.

2:71-2.2 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 and cut flowers

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

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

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

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

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

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

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.

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

(a) Only the following products may be packed in the Quality Grading Program: Sweet anise (fennel), apples, alfalfa sprouts, asparagus, beets (bunched), beets (topped), beet greens, blueberries, broccoli greens, broccoli rabe (rapi-

ni), bunched Italian sprouting broccoli, cabbage (domestic, savoy and red), cabbage (Chinese), cantaloupes, cauliflower, celery root, collard greens, green corn, cubanelle peppers, cubanelle peppers (red), cucumbers, cucumbers (cukes), cucumbers (pickling type), cucumbers (slicing type), dandelion greens, eggplants, endive, escarole, herbs (fresh), horseradish roots, kale, kohlrabi, leeks, bibb lettuce, big Boston lettuce, iceberg lettuce, lettuce (green leaf and red leaf), 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, romaine, rutabagas, shallots (topped), snap beans, spinach (bunched), spinach plants, strawberries, summer squash (yellow or green), fall and winter type squash (butternut, acorn and spaghetti), Swiss chard, tomatoes (fresh market), cherry tomatoes, plum tomatoes, turnips (topped), turnip greens, watermelons (sugar baby), shell eggs and cut flowers.

(b) Only blueberries, eggplant, peaches, sweet peppers (green, red and yellow bell type), cherry tomatoes and tomatoes 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 one-half of those specified for the Jersey Fresh Quality Grading Program.

(c) All agricultural commodities marketed under the "logo" program shall be produced and packed in New Jersey.

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).

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 and up in diameter. Tray or cell packs—maximum count of 125 apples per container. Tray or cell packs shall be packed fairly tight or be packed for a 40 pound minimum net weight for the above listed varieties. Paper pad is required over top layer of apples in tray or cell packs. Certified controlled atmosphere storage apples are eligible to be packed bearing the "logo" provided the fruit meets the above requirements.

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

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

4. 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.

5. 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.

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. 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.

9. 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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.

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

16. 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.

17. Collard Greens shall be U.S. No. 1 grade. The pack shall be for 18 bunches per container. All containers shall have at least a fairly tight pack.

18. Green 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 green corn shall be hydrocooled. All containers shall be marked "hydrocooled".

19. Cubanelle Peppers shall be U.S. No. 1 grade, as specified in the U.S. Standard for Sweet Peppers, for defects and tolerances. Each pepper shall have a mini-

mum diameter of one and three-quarters inches. Color shall be light green to full yellow. All containers shall be at least fairly well filled.

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

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

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

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

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

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

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

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

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

29. Herbs (fresh) shall be clean, have characteristic color and shall not be affected by discoloration, wilting, freezing, mechanical damage or by other means. Herbs shall be free from decay. All containers shall be new. In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, are provided: five (5) percent in any lot which fails to meet the requirements, including therein not more than one-half of one percent affected by decay. Individual packages in a lot 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.

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

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

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

33. Kale shall be U.S. No. 1 grade. The pack shall be for 18 bunches per container. All containers shall have at least a fairly tight pack.

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

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

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

37. Lettuce (green leaf and red leaf) shall be U.S. Fancy grade as specified in the U.S. Grades of Greenhouse Leaf Lettuce. The pack shall be for 24 plants per container. All containers shall have at least a fairly tight pack.

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

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

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

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

42. Parsley shall be U.S. No. 1 grade. The pack shall be for 60 bunches per bushel. All containers shall have a tight pack.

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

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

45. Peaches shall be U.S. Extra No. 1 grade, or better, with a two and one-quarter inch minimum diameter. Containers shall be marked to denote variety and minimum size or count. All containers shall be at least fairly well filled. All peaches shall be hydrocooled. All containers shall be marked "hydrocooled".

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

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

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

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

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

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

52. White potatoes shall be U.S. No. 1 grade and packed to meet the requirements of Size A or Large. "Size A" means the minimum diameter shall be not less than one and seven-eighths inches and that the lot shall contain at least 40 percent of potatoes which are two and one-half inches in diameter or larger or six ounces in weight or larger. "Large" means that the minimum diameter shall be not less than three inches or the minimum weight shall be not less than 10 ounces and the maximum diameter shall be not more than four and one-quarter inches or the maximum weight shall be not more than 16 ounces. All potatoes shall be washed. All containers shall be packed to meet marked net weight.

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

54. 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.

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

56. Rhubarb shall be U.S. Fancy grade. The diameter of each stalk is not less than one inch, and the length not less than 10 inches. All containers shall be at least tight.

57. 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.

58. 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.

59. 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.

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

61. 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.

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

63. 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.

64. 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. All containers shall be at least fairly well filled.

65. 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.

66. 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 a minimum of 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, the following tolerances are provided: not more than a total of 10 percent, by weight, 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 decay. Individual packages in a lot 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.

67. Tomatoes (fresh market) shall be U.S. No. 1 grade "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. Cherry tomatoes shall be U.S. No. 1 grade, color turning to full color. All containers shall be at least well filled.

68. Tomatoes (fresh market, 10 pound count pack) shall be U.S. No. 1 grade 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 size 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 pound net weight.

69. 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.

70. 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.

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

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

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

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

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

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

74. 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.

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).

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, broccoli rabe (Rapini), cabbage (Chinese), 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, eggplants, 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 of 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 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 filled" means that in the case of beets (topped), cucumbers, okra, cheese peppers (green or red), cubanelle peppers (green or red), hot peppers (green or red), sweet peppers (green, red or yellow, bell type), sweet potatoes, squash (summer), shallots (topped), tomatoes

(fresh market), turnips (topped), and rutabagas, except in sacks, are not in contact with the lid or cover, but not more than one-half inch below the lid or cover. In the case of nectarines and peaches, the container is level full and there is practically no movement of the fruit when the container is closed. In the case of nectarines, the contents of the container may be slightly below the top edge but not more than one-half inch.

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

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

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

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

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

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

"Tight" means, in the case of bibb lettuce, iceberg lettuce and Big Boston lettuce, that the layers are completely and tightly filled without injury to the heads. In the case of green 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), 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 well 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, 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 Sweet Anise (Fennel), that not more than one coarse outer branch is left on each side of the bulb to protect the tender inside portion, and the portion of the root remaining is not more than one-half inch in length. Tops may be either full length or cut back to not less than 10 inches except that not more than five of the outer branches may be cut back to less than 10 inches if necessary to facilitate proper packing, but not more than three of these may be on the same side of the bulb. In the case of shallots, that the tops are no longer than one-quarter inch.

New Rule R.1985 d.282, eff. June 3, 1985.

See: 17 N.J.R. 765(b), 17 N.J.R. 1407(d).

Amended by R.1986 d.201, effective June 2, 1986.

See: 18 N.J.R. 588(b), 18 N.J.R. 1196(c).

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

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

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

Hydrocooled amended to 32°F from 34°F.

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

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

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

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

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

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

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

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

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

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

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

Added definition of "fairly clean" regarding shallots. Expanded definitions of several words and terms as they apply to newly added fruits and vegetables to Jersey Fresh program participation. Amended by R.1990 d.354, effective July 16, 1990. See: 22 N.J.R. 1296(a), 22 N.J.R. 2140(b).

Added definitions of "Application of tolerances" and "tolerances"; expanded cases in definitions of "fairly tight" and "well filled". Amended by R.1992 d.374, effective October 5, 1992. See: 24 N.J.R. 2318(b), 24 N.J.R. 3511(b). Amended by R.1994 d.485, effective September 19, 1994. See: 26 N.J.R. 2831(a), 26 N.J.R. 3828(a).

2:71-2.7 Penalties

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

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

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

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

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

New Rule R.1985 d.282, effective June 3, 1985. See: 17 N.J.R. 765(b), 17 N.J.R. 1407(d). Amended by R.1986 d.201, effective June 2, 1986. See: 18 N.J.R. 588(b), 18 N.J.R. 1196(c).

Deleted "Jersey Fresh" and added text "Quality Grading". Amended by R.1987 d.89, effective February 2, 1987. See: 18 N.J.R. 2347(a), 19 N.J.R. 287(a), 19 N.J.R. 355(a).

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

2:71-2.8 Asparagus for canning or freezing

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

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

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

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

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

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

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

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

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

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

2:71-2.9 Diameter classifications

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

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

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

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

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

4. Beetle holes or beetle eggs which affect the portion of the spear that extends a distance of $4\frac{1}{2}$ 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 $4\frac{1}{2}$ inches from the tip end or which show a hollow opening in the center of the spear not greater than $\frac{1}{8}$ inch in diameter at a distance of $4\frac{1}{2}$ 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 $\frac{1}{8}$ 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 $\frac{1}{4}$ inch in diameter.

(f) "Insect eggs" refer to spears which have no eggs in the area extending $4\frac{1}{2}$ 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 $4\frac{1}{2}$ 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).

Authority

N.J.S.A. 4:1-13

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).

Authority

N.J.S.A. 4:10-13

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).

Authority

N.J.S.A. 4:10-3

2:71-2.18 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.

R.1978 d.114, effective March 30, 1978.
See: 10 N.J.R. 90(b), 10 N.J.R. 182(b).
Administrative Correction.
See: 25 N.J.R. 3453(b).

Authority

N.J.S.A. 4:10-6 and 4:10-13

2:71-2.27 Agreements for inspection services

(a) Agreements for inspection services of five or more consecutive days duration must be made in writing with the Secretary of the Department of Agriculture.

(b) Agreements for inspection services of trailer, car, warehouse and storage lots may be made orally with an authorized representative of the Division of Regulatory Services.

R.1978 d.114, effective March 30, 1978.
See: 10 N.J.R. 90(b), 10 N.J.R. 182(b).

2:71-2.28 Charges for inspection or grading and certification services; written agreements for single commodity inspection

(a) Charges for inspection or grading and certification services of five or more consecutive days duration, performed pursuant to a written agreement between the New Jersey Department of Agriculture and the requestor of the services, shall be made according to the following schedule:

1. Basic schedule for all products:

i. A charge of \$400.00 per five day week (Monday through Friday) or 40 hours or less for each inspector;

ii. A charge of \$15.00 per hour, or portion thereof, for all hours worked over 40 in the five day week (Monday through Friday), or for all hours over eight hours per day;

iii. There will be at least a four hour minimum charge of \$60.00 assessed for each inspector assigned work on Saturday and/or Sunday; and a charge of \$15.00 per hour, or portion thereof, for the actual hours worked by each inspector on Saturday and/or Sunday in excess of four hours.

iv. There will be at least a four hour minimum charge of \$60.00 assessed for each inspector assigned work on legal State holidays occurring Monday through Friday; and a charge of \$15.00 per hour, or portion thereof, for the actual hours worked by each inspector on legal State holidays occurring Monday through Friday in excess of four hours; and

v. Official mileage will be charged at the prevailing State rate per mile starting and ending where the inspector officially reports for duty.

2. Charges for inspection or grading and certification of fruit and vegetables other than potatoes for fresh market:

i. A charge of \$0.06 will be made for all packages inspected or graded and certified in excess of 3,334 packages during the seven day week (Saturday through Friday).

3. Charges for inspection or grading and certification of potatoes for the fresh market:

i. A charge of \$0.03 per hundredweight for all hundredweights inspected or graded and certified in excess of 2,175 hundredweights during the seven day week (Saturday through Friday).

R.1978 d.114, eff. March 30, 1978.
See: 10 N.J.R. 90(b), 10 N.J.R. 182(b).
As amended, R.1979 d.58, eff. February 13, 1979.
See: 11 N.J.R. 2(a), 11 N.J.R. 117(a).
As amended, R.1980 d.140, eff. April 3, 1980.
See: 12 N.J.R. 102(a), 12 N.J.R. 248(b).
As amended, R.1982 d.75, eff. March 15, 1982 (operative April 25, 1982).
See: 14 N.J.R. 66(a), 14 N.J.R. 277(a).

(a)1i: "\$300.00" was "\$290.00"; (a)1ii: "\$11.25" was "\$10.88"; (a)1iii: "\$45.00" was "\$43.52"; (a)1iv: "\$13.50" was "\$12.25"; (a)2i: "4,285" was "4,140"; (a)3i: "3,750" was "3,625".
As amended, R.1983 d.312, effective August 1, 1983.
See: 15 N.J.R. 462(a), 15 N.J.R. 1245(a).

In (a)1iv. added "not to exceed light hours per day" and last sentence.

As amended, R.1984 d.301, eff. July 16, 1984.

See: 16 N.J.R. 946(a), 16 N.J.R. 1966(a).

Section substantially amended.

Amended by R.1986 d.147, effective May 5, 1986.

See: 18 N.J.R. 448(a), 18 N.J.R. 938(c).

Charges were raised.

Amended by R.1987 d.354, effective September 8, 1987.

See: 19 N.J.R. 901(a), 19 N.J.R. 1641(a).

Increase of fee charges for inspection and grading of farm products.

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

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

Charge raised to \$0.06 in excess of 6,545 packages from \$0.02 in excess of 4,000 packages.

Amended by R.1990 d.318, effective June 18, 1990.

See: 22 N.J.R. 1242(c), 22 N.J.R. 1914(a).

Charges increased.

Amended by R.1992 d.375, effective October 5, 1992.

See: 24 N.J.R. 2321(a), 24 N.J.R. 3513(a).

Revised text.

2:71-2.29 Written agreements for multiple commodity inspection

(a) Charges for written agreements shall be made according to the following schedule:

i. A charge of \$800.00 per five day week (Monday through Friday) or 40 hours or less for each inspector for the inspection and/or grading of more than one commodity;

ii. A charge of \$30.00 per hour, or portion thereof, for all hours worked over 40 in the five day week (Monday through Friday), or for all hours over eight hours per day;

iii. There will be at least a four hour minimum charge of \$120.00 assessed for each inspector assigned work on Saturday and/or Sunday;

iv. A charge of \$30.00 per hour, or portion thereof, for the hours worked by each inspector on legal State holidays occurring Monday through Friday;

v. There will be at least a four hour minimum charge of \$120.00 assessed for each inspector assigned work on legal State holidays occurring Monday through Friday; and

vi. A charge of \$0.06 will be made for all packages (other than potatoes) inspected or graded and certified in excess of 6,667 packages during the seven day week (Saturday through Friday).

Amended by R.1990 d.318, effective June 18, 1990.

See: 22 N.J.R. 1242(c), 22 N.J.R. 1914(a).

Charges increased

Amended by R.1992 d.375, effective October 5, 1992.

See: 24 N.J.R. 2321(a), 24 N.J.R. 3513(a).

Revised text.

2:71-2.30 Charges; oral agreements; trailer, car, warehouse and storage lots

(a) Charges for inspection or grading and certification services performed to an oral agreement between the New Jersey Department of Agriculture and the requestor, for all trailer, car, warehouse and storage lots, shall be made according to the schedule detailed below. A minimum of \$20.00 for inspection or grading and certification services shall be charged. However, if the conditions listed in N.J.A.C. 2:71-2.30 are met, the charges shall be calculated according to the hourly rate schedule set out in N.J.A.C. 2:71-2.31.

1. Basic charge schedule for products other than potatoes:

i. A charge of \$0.12 per container for all containers;

2. Basic charge schedule for potatoes:

i. A charge of \$0.14 per hundredweight;

ii. All other size containers and bulk loads shall be converted to hundredweight equivalents. Charges for these equivalents shall be at the rate of \$0.14 per hundredweight.

3. Phytosanitary certificates:

i. No charge will be made for such certificates;

ii. The Chief, Bureau of Commodity Inspection and Grading, Division of Regulatory Services, may be contacted for information on countries requiring additional declaration statements.

4. Delayed inspections: Delayed inspections are those inspections requiring more than two hours to complete (exclusive of travel time) due to delays of any kind not attributable to the inspector. Additional charges for delayed inspections shall be assessed according to the following schedule:

i. \$15.00 per hour charged in half hour increments.

ii. The minimum charge shall be \$7.50.

5. Saturday, Sunday and legal State holiday inspections: For inspections performed on Saturdays, Sundays or legal State holidays a per man-hour rate will be charged in addition to the regular fee and shall be assessed according to the following schedule:

i. \$10.00 per hour charged in half hour increments.

ii. The minimum charge shall be \$5.00.

R.1978 d.114, eff. March 30, 1978.

See: 10 N.J.R. 90(b), 10 N.J.R. 182(b).

As amended, R.1980 d.140, eff. April 3, 1980.

See: 12 N.J.R. 102(a), 12 N.J.R. 248(b).

As amended, R.1982 d.75, eff. March 15, 1982 (operative April 25, 1982).

See: 14 N.J.R. 66(a), 14 N.J.R. 277(a).

(a): "\$12.00" was "\$11.00";

(a)5i.: "\$7.00" was "\$6.00".
 As amended, R.1984 d.301, eff. July 16, 1984.
 See: 16 N.J.R. 946(a), 16 N.J.R. 1966(a).
 Section substantially amended.
 Amended by R.1986 d.147, effective May 5, 1986.
 See: 18 N.J.R. 448(a), 18 N.J.R. 938(c).
 Charges were received.
 Amended by R.1988 d.370, effective August 1, 1988.
 See: 20 N.J.R. 953(a), 20 N.J.R. 1871(a).
 Basic charge schedules raised throughout section.
 Amended by R.1990 d.318, effective June 18, 1990.
 See: 22 N.J.R. 1242(c), 22 N.J.R. 1914(a).
 Charges increased and charges for Saturday, Sunday and legal holidays established.

2:71-2.31 Charges; oral agreements between Department of Agriculture and requestor

(a) Charges for inspection or grading and certification services performed pursuant to an oral agreement between the New Jersey Department of Agriculture and the requestor shall be made according to the hourly rate schedule set out in N.J.A.C. 2:71-2.31 when:

1. A restricted inspection of large lots is to be made and the requestor asks that the certificate show the total count or volume of the lot;
2. A requested inspection is not completed for any reason whatsoever not attributable to the inspector or when an inspection is complete and no official certification is issued;
3. A requested inspection involves bulk or bin lots of products, except potatoes.

R.1978 d.114, eff. March 30, 1978.
 See: 10 N.J.R. 90(b), 10 N.J.R. 182(b).
 As amended, R.1980 d.140, eff. April 3, 1980.
 See: 12 N.J.R. 102(a), 12 N.J.R. 248(b).
 As amended, R.1984 d.301, eff. July 16, 1984.
 See: 16 N.J.R. 946(a), 16 N.J.R. 1966(a).
 Section substantially amended.

2:71-2.32 Hourly rate charges

(a) The hourly rate charges shall be made according to the following schedule:

1. A charge of \$18.50 per hour, or portion thereof, for regular work hours, 8:00 A.M. to 5:00 P.M. on regular workdays, Monday through Friday;
2. A charge of \$27.75 per hour, or portion thereof, for work started or completed between 6:00 P.M. and 7:00 A.M. on regular workdays, Monday through Friday;
3. A charge of \$27.75 per hour, or portion thereof, for work performed on Saturdays, Sundays, or legal State holidays at the request of the requestor.

R.1978 d.114, eff. March 30, 1978.
 See: 10 N.J.R. 90(b), 10 N.J.R. 182(b).
 As amended, R.1980 d.140, eff. April 3, 1980.
 See: 12 N.J.R. 102(a), 12 N.J.R. 248(b).
 As amended, R.1982 d.75, eff. March 15, 1982 (operative April 25, 1982).
 See: 14 N.J.R. 66(a), 14 N.J.R. 277(a).

(a)1: "\$12.00" was "\$11.00"; (a)2: "\$18.00" was "\$16.50"; (a)3: "\$18.00" was "\$16.50".
 As amended, R.1984 d.301, eff. July 16, 1984.
 See: 16 N.J.R. 946(a), 16 N.J.R. 1966(a).
 Section substantially amended.
 Amended by R.1986 d.147, effective May 5, 1986.
 See: 18 N.J.R. 448(a), 18 N.J.R. 938(c).
 Charges for hourly rates were raised.
 Amended by R.1988 d.370, effective August 1, 1988.
 See: 20 N.J.R. 953(a), 20 N.J.R. 1871(a).
 Hourly rate charges raised.
 Amended by R.1990 d.318, effective June 18, 1990.
 See: 22 N.J.R. 1242(c), 22 N.J.R. 1914(a).
 Charges increased.

SUBCHAPTER 3. PLANT MATERIALS

2:71-3.1 Standards for plant material

(a) The State Board of Agriculture adopts and promulgates as Official New Jersey Grades the United States Standards for the following plant materials:

1. Asparagus plumosa;
2. Christmas trees; and
3. Tomato plants.

SUBCHAPTER 4. (RESERVED)

Authority

Unless otherwise expressly noted, all provisions of this subchapter were adopted pursuant to authority of N.J.S.A. 4:10-3 and were filed and became effective prior to September 1, 1969. Amendments which deleted this subchapter were filed and became effective on November 21, 1978, as R.1978 d.402. See: 10 N.J.R. 416(a), 11 N.J.R. 2(b).

SUBCHAPTER 5. MARKING OPEN AND CLOSED PACKAGES OF POTATOES

Authority

Unless otherwise expressly noted, all provisions of this subchapter were adopted pursuant to authority of N.J.S.A. 4:10-4 and were filed and became effective prior to September 1, 1969. Revisions to these rules were filed March 27, 1975, as R.1975 d.81 to become effective April 1, 1975. See: 7 N.J.R. 91(a), 7 N.J.R. 190(b).

2:71-5.1 General provisions; purpose

The following sections of this subchapter are adopted by the State Board of Agriculture to effect administration and enforcement of chapter 116, Laws of 1963, and chapter 164, Laws of 1974, under authority prescribed therein.

2:71-5.2 Grades on potato package

(a) Every package of potatoes shall be classified as meeting the requirements of one of the United States grades, or of "unclassified", or of "culls".

(b) Use of such terms as "ungraded", "field run", "pick outs", or any other term, not specified in the act, to indicate grade or quality, is prohibited.

2:71-5.3 Markings of potato package

(a) All required marking shall be clear and legible, plainly painted, stenciled or stamped.

(b) Labels used in connection with transparent film type packages shall, if inserted, be placed face out in a conspicuous manner and position.

(c) All packages shall contain the required markings whether they are master containers or packages within master containers.

(d) The following schedule of labeling shall prevail:

1. For packages containing less than 10 pounds, all required marking shall be at least 3/16 inch in height.

2. For packages containing 10 or more and less than 50 pounds, all required marking shall be at least 3/8 inch in height.

3. For packages containing 50 pounds or more, all required markings shall be at least 5/8 inch in height.

(e) Whenever the words "unclassified" or "culls" are used, they shall be at least one inch in height.

2:71-5.4 Tags

When tags are used, all required markings shall be at least 5/8 inch in height, and whenever the words "unclassified" or "culls" are used, they shall be at least one inch in height.

2:71-5.5 Invoices and/or manifests (bills of lading)

All persons selling, offering for sale or transporting for sale in this State potatoes in open or closed packages for processing or repacking purposes shall furnish the buyer an invoice and/or manifest covering each sale of such potatoes stating that the potatoes are for processing or repacking. Any lot of potatoes not accompanied by such document shall be considered as coming under the provisions of this act.

As amended, R.1975 d.381, eff. January 1, 1976.
See: 7 N.J.R. 538(b), 8 N.J.R. 54(a).

2:71-5.6 Prohibition of sale

(a) Packages of potatoes found improperly marked in violation of the act shall be tagged or otherwise appropriately identified by the secretary or his duly authorized representative, thus giving notice that such packages are misbranded, mislabeled or misrepresented, and warning all persons not to remove or dispose of such potatoes, by sale or otherwise, until such potatoes are properly branded or labeled, and permission to dispose of them has been granted by the secretary or his duly authorized representative.

(b) It shall be a violation of the act, or the rules and regulations pursuant thereto, for any person to remove or dispose of potatoes so seized, by sale or otherwise, without this permission.

2:71-5.7 Responsibility of packer or repacker

(a) Final determination of compliance with the act and its regulations shall be based upon the facts available at the time and place of inspection. The possessor, however, is responsible for maintaining the grade, whether he be grower, packer or repacker, shipper, dealer, distributor or retailer. Lots of potatoes that fail to comply with the act and its regulations shall be relabeled or regraded to meet compliance.

(b) In interpreting the word "person" in chapter 164, Laws of 1974, the New Jersey Department of Agriculture shall assess a penalty against the individual found responsible for the violation at the specific place involved.

As amended R.1975 d.126, eff. May 16, 1975.
See: 7 N.J.R. 247(a).