

**CHAPTER 71  
GRADES AND STANDARDS**

**Authority**

N.J.S.A. 4:3-11.12.

**Source and Effective Date**

R.1998 d.376, effective June 26, 1998.  
See: 30 N.J.R. 1459(b), 30 N.J.R. 2617(c).

**Executive Order No. 66(1978) Expiration Date**

Chapter 71, Grades and Standards, expires on June 26, 2003.

**Chapter Historical Note**

Chapter 71, Grades and Standards, originally codified as N.J.A.C. 2:31, was filed and became effective prior to September 1, 1969.

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

Pursuant to Executive Order No. 66(1978), Chapter 71, Grades and Standards, was readopted as R.1988 d.370, effective July 8, 1988. See: 20 N.J.R. 953(a), 20 N.J.R. 1871(a).

Pursuant to Executive Order No. 66(1978), Chapter 71, Grades and Standards, was readopted as R.1993 d.379, effective July 2, 1993. See: 25 N.J.R. 1801(a), 25 N.J.R. 3453(a).

Pursuant to Executive Order No. 66(1978), Chapter 71, Grades and Standards, was readopted as R.1998 d.376, effective June 26, 1998. See: Source and Effective Date.

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**SUBCHAPTER 1. NEW JERSEY STANDARDS FOR QUALITY OF INDIVIDUAL SHELL EGGS**

- 2:71-1.1 through 2:71-1.22 (Reserved)**  
Repealed by R.1978 d.402, eff. November 21, 1978.

See: 10 N.J.R. 416(a), 11 N.J.R. 2(b).

### 2:71-1.23 Marketing of shell eggs

(a) Any eggs which are marketed to consumers, institutional consumers or retailers shall be edible and shall conform to the standards for consumer grades AA, A or B as published in the Federal Register volume 20, number 22, February 1, 1955, part 56 subpart C, known as the Code of Federal Regulations Governing the Grading of Shell Eggs and United States Standards Grades and Weight Classes for Shell Eggs, (7 CFR part 56, subpart C) effective July 1, 1971, and any further changes in these Federal rules and regulations, after proper promulgation shall be deemed the rules and regulations of the New Jersey State Board of Agriculture:

1. Exception: restricted eggs may be marketed in accordance with the exemption provisions in the Federal Egg Products Inspection Act (Public Law 91-597) and the USDA Regulation Governing the Inspection of Eggs and Egg Products (7 CFR Part 59), and any further changes in these Federal rules and regulations, after proper promulgation shall be deemed to be the rules and regulations of the New Jersey State Board of Agriculture.

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

### 2:71-1.24 through 2:71-1.29 (Reserved)

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

### 2:71-1.30 Certificates of grade

(a) For the inspection or classification of shell eggs or poultry and the issuance of a certificate of the grade or other classification of such product, the fees and charges for the services of department personnel shall be the same as the current fee schedule of the Agricultural Marketing Service of USDA, as amended, 7 CFR parts 55, 56, 59 and 60.

As amended, R.1970 d.119, eff. October 1, 1970.  
See: 2 N.J.R. 69(c), 2 N.J.R. 89(a).  
As amended, R.1977 d.339, eff. September 7, 1977.  
See: 9 N.J.R. 354(b), 9 N.J.R. 451(b).  
As amended, R.1978 d.115, eff. March 30, 1978.  
See: 10 N.J.R. 90(a), 10 N.J.R. 182(c).  
As amended, R.1978 d.402, eff. November 21, 1978.  
See: 10 N.J.R. 416(a), 11 N.J.R. 2(b).

### 2:71-1.31 Name and address on containers

(a) The name and address of the packer or distributor shall be considered prominently designated on a container of eggs when in bold-faced type not less than 1/16 inch in height.

1. In consumer graded eggs this designation shall be preceded by the words "Produced and Packed by", "Packed and Distributed by", "Packed for and Distributed by", or "Distributed by", whichever is the correct expression of fact.

2. The street address of the packer or distributor need not be shown provided the name is listed in a current public directory.

(b) For the purposes of this section, "consumer graded eggs" are defined to mean eggs offered for sale to consumers at the retail level.

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

### 2:71-1.32 Sealing containers

All containers of loose eggs, produced in New Jersey whether graded or ungraded destined for New Jersey identified pack, shall be sealed with gummed tape at least 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).

### 2:71-1.33 Registering sample of label or container

A sample of any label or container on which appears the name "New Jersey" or "Jersey" or the name of any county or municipality within this State, except as it appears in the name and address of the packer or distributor, shall be registered with the department.

### 2:71-1.34 (Reserved)

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

### 2:71-1.35 Reused container

A container is deemed reused when any person refills the container with eggs, and it shall be the responsibility of such person to have markings on the container which are unmistakably those of the packer.

### 2:71-1.36 (Reserved)

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

### 2:71-1.37 Sanitary conditions

(a) Any compound used for cleaning eggs shall be one that is approved by the United States Department of Agriculture for that purpose and shall be used in accordance with the manufacturer's instructions.

(b) Egg holding rooms, including sales display cases, shall be kept free of the following:

1. An accumulation of dust, litter, broken eggs;
2. Other matter that may create offensive odors or harbor bacteria or molds detrimental to the quality or flavor of eggs.

(c) Equipment used in cleaning, weighing and candling eggs shall be maintained free of dust and broken egg matter and, by use of an acceptable cleaning compound or other method, be cleaned daily to prevent the development of bacteria and molds.

(d) Vehicles used for transporting eggs shall be clean and free of dust, odors or other material detrimental to the quality or flavor of eggs.

#### 2:71-1.38 Labeling of eggs

(a) No package, carton, case, container or advertisement shall be labeled so as to include the words "New Jersey", "Jersey", the name of any county, municipality or geographic area within the State, in whole or in part, or any word or words that imply the same except as it appears in the name or address of the packer or distributor unless the eggs contained therein were produced in New Jersey or the declared geographic area thereof.

(b) The name and address of the packer or distributor shall be in bold-face type not less than  $\frac{1}{8}$  inch nor more than  $\frac{1}{2}$  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 the United States Standards for all fruits and vegetables, specifically 7 C.F.R. §§ 51.300 through 51.3749 and 52.1391 through 52.1403; and 21 C.F.R. §§ 131.110 and 135.110, as amended and supplemented, incorporated herein by reference.

1. Exemption: The New Jersey Standards for asparagus for canning or freezing shall remain in effect as stated in N.J.A.C. 2:71-2.8 through 2:71-2.14.

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

See: 32 N.J.R. 2218(a), 32 N.J.R. 3391(a).  
In (a), rewrote introductory paragraph.

**2:71-2.2 Use of "Jersey Fresh" as the logo for the "Jersey Fresh Quality Grading Program" and "Jersey Fresh Quality Premium Program" (referred to as the "logos") on containers of certain fresh fruits, vegetables, shell eggs, cut flowers, cactus, honey, milk (whole, one percent, two percent, skim, chocolate), ice cream and ice milk**

(a) The New Jersey Department of Agriculture approves the use of Jersey Fresh and Premium Jersey Fresh in conjunction with the New Jersey map symbol under provisions of N.J.S.A. 4:10-5 as an official emblem for identifying New Jersey-produced agricultural commodities.

(b) The configuration of the Jersey Fresh Quality Grading Program Logos and the Jersey Fresh Quality Grading Program Premium Logo are as follows:



(c) Any person, firm, partnership, corporation or association wishing to employ the Jersey Fresh logo to be used in marketing certain New Jersey produced agricultural commodities shall make application to the New Jersey Department of Agriculture for a license and registration number. The application shall be made in writing, upon a form provided by the Department for this purpose. The application shall reveal such information as is deemed necessary for the enforcement of the Jersey Fresh Quality Grading or Premium logo program. Information given in the application shall be held confidential and not subject to review or reproduction under the provisions of N.J.S.A. 47:1A-1 et seq. (P.L. 1963, c.73).

(d) Any person, firm, partnership, corporation or cooperative wishing to transfer ownership of containers bearing a "logo" to licensed registrants shall make application to the New Jersey Department of Agriculture for a license. The application shall be made in writing, upon a form provided by the Department. Information given in the application shall be held confidential and not subject to review or reproduction under the provisions of N.J.S.A. 47:1A-1 et seq. (P.L. 1963, c.73).

(e) All applications approved for issuance of licenses and registration numbers shall have the license granted for the

period of one year commencing April 1. Interim licenses and registration numbers may be granted to qualified packers for the remainder of the license year. Applications shall be submitted at least 20 days prior to application approval. The Department shall approve or deny applications within 20 days of receipt.

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

Substantially amended.  
Amended by R.1987 d.89, effective February 2, 1987.  
See: 18 N.J.R. 2347(a), 19 N.J.R. 287(a), 19 N.J.R. 355(a).

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

Amended by R.1989 d.235, effective April 6, 1989.  
See: 21 N.J.R. 591(a), 21 N.J.R. 1118(a).

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

Amended by R.1990 d.354, effective July 16, 1990.  
See: 22 N.J.R. 1296(a), 22 N.J.R. 2140(b).

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

Amended by R.1992 d.374, effective October 5, 1992.  
See: 24 N.J.R. 2318(b), 24 N.J.R. 3511(b).

Revised (a) and (b).  
Amended by R.1994 d.485, effective September 19, 1994.  
See: 26 N.J.R. 2831(a), 26 N.J.R. 3828(a).

Administrative correction, effective June 5, 2000.  
See: 32 N.J.R. 2047(a).

Amended by R.2000 d.380, effective September 18, 2000.  
See: 32 N.J.R. 2218(a), 32 N.J.R. 3391(a).

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

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

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

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

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

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

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

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

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

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

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

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

Substantially amended.

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

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

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

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

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

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

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

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

(b)-(g) deleted, new (b)-(d) added regarding fees and reporting requirements, logo labels discontinued from Department. Amended by R.2000 d.380, effective September 18, 2000.

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

Added (e) and (f).

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

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

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

(c) All agricultural commodities marketed under the "logo" program shall be produced 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).

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

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

Rewrote (a) and (b).

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

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

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

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

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

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

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

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

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

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

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

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

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).

**2:71-2.16 Unrestricted sampling; definition**

(a) All inspection and grading of asparagus for processing, as performed by the New Jersey Department of Agriculture, shall be on the basis of unrestricted sampling.

(b) Unrestricted sampling means that any and all containers designated by the official inspector as containers to be sampled from a load or lot of asparagus shall be made available to the inspector for sampling.

R.1970 d.20, effective Jan. 27, 1970.

See: 2 N.J.R. 12(a); 2 N.J.R. 29(b).

**2:71-2.17 Equipment and personnel required**

(a) All applicants requesting inspection and grading services on asparagus for processing, as provided by the New Jersey Department of Agriculture, shall provide such equipment and personnel as are necessary to make all loads or lots of asparagus accessible for unrestricted sampling.

(b) The Secretary shall deny inspection and grading services to any applicant who does not provide such equipment and personnel as are needed to insure unrestricted sampling of asparagus for processing.

R.1970 d.20, effective Jan. 27, 1970.  
See: 2 N.J.R. 12(a); 2 N.J.R. 29(b).

**2:71-2.18 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).

**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 Dairy and Commodity Regulation.

R.1978 d.114, effective March 30, 1978.  
See: 10 N.J.R. 90(b), 10 N.J.R. 182(b).  
Amended by R.1999 d.279, effective August 16, 1999.  
See: 31 N.J.R. 1405(a), 31 N.J.R. 2329(a).

In (b), changed "Division of Regulatory Services" to "Division of Dairy and Commodity Regulation".

**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 requester of the services, shall be made according to the following schedule:

## 1. Basic schedule for all products:

i. A charge of \$700.00 per five day week (Monday through Friday) or 40 hours or less for each inspector;

ii. A charge of \$26.25 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 \$105.00 assessed for each inspector assigned work on Saturday and/or Sunday; and a charge of \$26.25 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 \$105.00 assessed for each inspector assigned work on legal State holidays occurring Monday through Friday; and a charge of \$26.25 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 \$0.10 will be made for all packages inspected or graded and certified in excess of 4,118 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 \$0.10 per hundredweight for all hundredweights inspected or graded and certified in excess of 4,118 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)1.iv. 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.

Amended by R.1995 d.456, effective August 21, 1995.

See: 27 N.J.R. 2035(a), 27 N.J.R. 3155(d).

Charges were raised.

Amended by R.1999 d.279, effective August 16, 1999.

See: 31 N.J.R. 1405(a), 31 N.J.R. 2329(a).

Increased charges, raised the baseline number of fruit and vegetable packages, and raised the baseline number of potato hundredweights.

### 2:71-2.29 Written agreements for multiple commodity inspection

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

1. A charge of \$1,400 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;

2. A charge of \$52.50 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;

3. There will be at least a four hour minimum charge of \$210.00 assessed for each inspector assigned work on Saturday and/or Sunday;

4. A charge of \$52.50 per hour, or portion thereof, for the hours worked by each inspector on legal State holidays occurring Monday through Friday;

5. There will be at least a four hour minimum charge of \$210.00 assessed for each inspector assigned work on legal State holidays occurring Monday through Friday; and

6. A charge of \$0.10 will be made for all packages (other than potatoes) inspected or graded and certified in excess of 8,235 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.

Amended by R.1995 d.456, effective August 21, 1995.

See: 27 N.J.R. 2035(a), 27 N.J.R. 3155(d).

Charges were raised.

Amended by R.1999 d.279, effective August 16, 1999.

See: 31 N.J.R. 1405(a), 31 N.J.R. 2329(a).

In (a), increased charges, and raised the baseline number of packages.

### 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 requester, for all trailer, car, warehouse and storage lots, shall be made according to the schedule detailed below. A minimum of \$28.75 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 \$0.17 per container for all containers;

2. Basic charge schedule for potatoes;

i. A charge of \$0.21 for 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 \$0.21 per hundredweight.

3. Phytosanitary certificates:

i. No charge will be made for such certificates;

ii. The Deputy Director, Division of Dairy and Commodity Regulation, may be contacted for information on counties, requiring additional declaration statements.

4. Delayed inspections: Delayed inspections are those inspections requiring more than two hours to complete (exclusive to 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. \$21.00 per hour charged in half hour increments.

ii. The minimum charge shall be \$10.50.

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. \$14.00 per hour charged in half hour increments.

ii. The minimum charge shall be \$7.00.

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.

Amended by R.1995 d.456, effective August 21, 1995.

See: 27 N.J.R. 2035(a), 27 N.J.R. 3155(d).

Charges were raised.

Amended by R.1999 d.279, effective August 16, 1999.

See: 31 N.J.R. 1405(a), 31 N.J.R. 2329(a).

Increased charges.

### 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 \$25.50 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 \$38.25 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 \$38.25 per hour, or portion thereof, for work performed on Saturdays, Sundays, or legal State holidays at the request of the requester.

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.

Amended by R.1995 d.456, effective August 21, 1995.

See: 27 N.J.R. 2035(a), 27 N.J.R. 3155(d).

Charges were raised.

Amended by R.1999 d.279, effective August 16, 1999.

See: 31 N.J.R. 1405(a), 31 N.J.R. 2329(a).

Increased charges.

## 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. JERSEY FRESH MATCHED FUNDS PROGRAM

### Authority

N.J.S.A. 4:1-22.2.

### Source and Effective Date

R.1999 d.175, effective June 7, 1999.

See: 31 N.J.R. 572(a), 31 N.J.R. 1478(a).

### 2:71-4.1 Purpose and scope

(a) This subchapter sets forth an application procedure for Jersey Fresh Matched Funds and sets forth the criteria upon which the New Jersey Department of Agriculture shall evaluate applications.

(b) The Jersey Fresh Matched Funds program provides matching funds grants to organizations whose proposed projects meet the criteria set forth in this subchapter and to be utilized for the market development, promotion and advertisement of New Jersey farm products. Such organizations shall be required to match their Jersey Fresh Matched Funds grant on at least a dollar for dollar basis.

(c) All matched funds shall be used exclusively for the market development, promotion and advertisement of generic New Jersey farm products. The use of individual brand names or company names is strictly prohibited.

(d) Successful applicants may or may not receive their full funding request.

#### 2:71-4.2 Definitions

As used in this subchapter, the following words and terms shall have the following meanings:

“Agricultural organizations” means any New Jersey organization or commodity group whose primary function or duty is to represent the New Jersey agricultural industry or specific New Jersey produced commodities.

“Application” means the official application provided by the New Jersey Department of Agriculture to organizations who wish to apply for Jersey Fresh Matched Funds.

“Department” means the New Jersey Department of Agriculture.

“Farm products” means any agricultural commodity or article of trade produced, grown, or raised on a New Jersey farm.

“Jersey Fresh” means the registered trademark held by the New Jersey Department of Agriculture that is used to advertise and promote New Jersey farm products.

“Matched funds” means the grants that are given by the New Jersey Department of Agriculture pursuant to this subchapter to be matched by the recipient at least on a dollar for dollar basis.

“Secretary” means the Secretary of the New Jersey Department of Agriculture.

#### 2:71-4.3 Application procedure

(a) Agricultural organizations who are interested in receiving matched funds shall obtain an application from the New Jersey Department of Agriculture and return the completed form to the New Jersey Department of Agriculture by a date set by the Secretary of Agriculture. The application form is incorporated herein by reference as the subchapter Appendix A. Applicants shall submit with their applications a completed State of New Jersey W-9/Questionnaire, which can be obtained from the New Jersey Department of Agriculture, Division of Markets, PO Box 330, Trenton, NJ 08625-0330.

(b) Applicants shall be required to describe in detail the nature and purpose of their organization and their proposed promotional, advertising, or market development project.

(c) The New Jersey Department of Agriculture shall consider applications from groups other than New Jersey agri-

cultural organizations; however, such applications shall be deemed eligible to receive grants only if the organizations represent New Jersey agricultural interests and if the application establishes that the proposed project benefits New Jersey agriculture.

(d) Applications shall be evaluated and awarded based upon the following criteria:

1. How the proposed project effectively utilizes the existing Jersey Fresh program to best advertise, promote, or market the applicant's respective commodity or New Jersey farm product;
2. The number of projected participants, audience, or targeted individuals;
3. How the proposed project will benefit the New Jersey agricultural industry;
4. The creativity and innovation of the proposed project; and
5. The feasibility of the proposed project.

#### 2:71-4.4 Requirements of grant recipients

(a) Grant recipients shall provide monetary funding to their proposed project in an amount at least equivalent to the matched fund grant provided by the New Jersey Department of Agriculture. The matched fund grant, together with the funding provided by the applicant itself, shall be used solely for the project which the applicant listed on its application form.

(b) Grant recipients shall use the New Jersey Department of Agriculture's “Jersey Fresh” slogan and/or logo. Use of the slogan and/or logo shall be in accordance with the commodity grades and standards requirements as set forth in this chapter.

(c) Grant recipients shall complete their projects within the calendar year during which the funds were received.

1. In the event that the project will not be completed within the prescribed time frame, the receiving organization shall petition the New Jersey Department of Agriculture for an extension. Such extensions may be granted by the New Jersey Department of Agriculture for a good cause on a case-by-case basis.

(d) Grant recipients shall use these funds solely for market development, advertising and promotion of New Jersey farm products.

(e) Upon completion of their project, grant recipients shall submit a notarized affidavit of performance, incorporated herein by reference as subchapter Appendix B, to the New Jersey Department of Agriculture. Such affidavit shall itemize all expenditures directly incurred with the use of Jersey Fresh Matched Funds. The affidavit shall also show that the grant recipient provided an exact monetary match

of the grant received. Such proof of performance shall consist of receipts or canceled checks. Such affidavits shall be sent to the Department within 30 days after the conclusion of the project, or no later than December 31 of the year in which the grant was received.

2:71-4.5 Restrictions

(a) Organizations that receive matched fund grants shall not use these moneys for in-house administrative costs associated with their projects. Examples of in-house administrative costs include, but are not limited to, salaries, equipment, rent and insurance.

(b) All promotion and advertising with grant money shall be generic in nature. Organizations which receive matched fund grants shall not promote or advertise individual brand names or company names with grant money.

APPENDIX A

NEW JERSEY DEPARTMENT OF AGRICULTURE
APPLICATION FOR "JERSEY FRESH"
DEVELOPMENT AND/OR
PROMOTIONAL FUNDS

The undersigned hereby applies for matched funds to be used in market development programs and/or promotion of New Jersey grown or produced agricultural commodities during calendar year \_\_\_\_\_. In consideration of the receipt of such funds, the undersigned agrees:

- 1. To provide an equal amount of monetary funds for the specified purpose.
2. To use the New Jersey Department of Agriculture Jersey Fresh promotion theme, slogan and/or logo in conjunction with their programs.
3. To submit to the New Jersey Department of Agriculture a notarized listing of expenditures at the completion of the promotional program.

ORGANIZATION \_\_\_\_\_
ADDRESS \_\_\_\_\_
CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_
TELEPHONE \_\_\_\_\_ VENDOR FEDERAL ID # \_\_\_\_\_
SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_
AMOUNT OF MATCHED FUNDS REQUESTED FROM THE NEW JERSEY DEPARTMENT OF AGRICULTURE \$\_\_\_\_\_
SCHEDULED DATE OF EVENT (IF APPLICABLE) \_\_\_\_\_
Return this application by \_\_\_\_\_ to Al Murray, New Jersey Department of Agriculture, Division of Markets, PO Box 330, Trenton, New Jersey 08625-0330. PLEASE BE SURE TO ATTACH A W-9 FORM.
Purpose of Organization
1. Please describe your organization, its purpose or mission.

JERSEY FRESH MATCHED FUNDS APPLICATION
PART II
(Use separate sheets as needed)

- 1. Explain in detail how your proposed project will benefit the New Jersey Agricultural Industry, and complement the existing Jersey Fresh program.
2. Include the estimated number of people, projected participants, audience, or targeted individuals (i.e., the number of people who you anticipate benefiting from your project).
3. Outline promotional program and provide a breakdown of estimated costs of all components of the program.

APPENDIX B

NEW JERSEY DEPARTMENT OF AGRICULTURE
AFFIDAVIT OF PERFORMANCE

The undersigned hereby acknowledges the receipt of \$\_\_\_\_\_ on or about \_\_\_\_\_ from the New Jersey Department of Agriculture used in a program of market development, promotion, and/or education of New Jersey grown or produced agricultural commodities.

The undersigned attests that he/she/it contributed monetary funds to at least match (on a dollar for dollar basis) those provided by the New Jersey Department of Agriculture in the amount of \$\_\_\_\_\_ and that a total of \$\_\_\_\_\_ was expended for the following program(s).

The following is an itemization of all expenditures directly incurred with the use of Jersey Fresh Matched Funds. ATTACH PAID INVOICES, CANCELED CHECKS OR OTHER RECEIPTS which show your total expenditures. (Attach additional sheets as required.)

ORGANIZATION \_\_\_\_\_
ADDRESS \_\_\_\_\_
CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_
SIGNATURE \_\_\_\_\_ TITLE \_\_\_\_\_
Subscribed and sworn to before me
this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_.

Notary Public of New Jersey
RETURN THIS FORM BEFORE \_\_\_\_\_ to Al Murray, NJ Department of Agriculture, Division of Markets, PO Box 330, Trenton, New Jersey 08625-0330.

SUBCHAPTER 5. MARKING OPEN AND CLOSED PACKAGES OF POTATOES

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.

As amended, R.1975 d.81, eff. April 1, 1975.
Sec: 7 N.J.R. 91(a), 7 N.J.R. 190(b).

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.

As amended, R.1975 d.81, eff. April 1, 1975.  
See: 7 N.J.R. 91(a), 7 N.J.R. 190(b).

### 2:71-5.4 Tags

When tags are used, all required markings shall be at least  $\frac{3}{8}$  inch in height, and whenever the words "unclassified" or "culls" are used, they shall be at least one inch in height.

As amended, R.1975 d.81, eff. April 1, 1975.  
See: 7 N.J.R. 91(a), 7 N.J.R. 190(b).

### 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.81, eff. April 1, 1975.  
See: 7 N.J.R. 91(a), 7 N.J.R. 190(b).  
As amended, R.1975 d.126, eff. May 16, 1975.  
See: 7 N.J.R. 247(a).