

**CHAPTER 71
GRADES AND STANDARDS**

Authority

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

Source and Effective Date

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

Chapter Expiration Date

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

Chapter Historical Note

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

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

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

Pursuant to Executive Order No. 66(1978), Chapter 71, Grades and Standards, was readopted as R.1998 d.376, effective June 26, 1998. See: 30 N.J.R. 1459(b), 30 N.J.R. 2617(c).

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

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

Chapter 71, Grades and Standards, was readopted as R.2003 d.434, effective October 7, 2003. See: Source and Effective Date. See, also, section annotations.

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

2:71-1.1 through 2:71-1.22 (Reserved)

Repealed by R.1978 d.402, eff.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

2:71-1.23 Marketing of shell eggs

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

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

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

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

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

2:71-1.30 Certificates of grade

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

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

2:71-1.31 Name and address on containers

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

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

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

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

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

2:71-1.32 Sealing containers

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

(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).