

“Secretary” means the Secretary of the State of New Jersey Department of Agriculture or his or her designee.

“Sell” means an offer for sale, expose for sale, possess for sale, exchange, barter, or trade.

Amended by R.2006 d.424, effective December 4, 2006.

See: 38 N.J.R. 3345(a), 38 N.J.R. 4994(a).

Added definition “Cut Christmas tree”; in definition “Grower”, inserted “cut Christmas trees, whether” and “or whether” and deleted “, any horticultural product, nursery stock, or plant” from the end; and rewrote definition “Producer”.

Amended by R.2009 d.296, effective October 5, 2009.

See: 41 N.J.R. 1296(a), 41 N.J.R. 3794(a).

In definition “Grower”, deleted a comma following “grows”, and inserted “or turfgrass sod”.

2:71-7.3 Use of the “Jersey Grown” logo

(a) The New Jersey Department of Agriculture approves the use of “Jersey Grown” in conjunction with the New Jersey map symbol under provisions of N.J.S.A. 4:10-5 and 4:10-15 as an official emblem for identifying New Jersey produced plant material, turfgrass sod, firewood, sunflower seeds (not for human consumption) and cut Christmas trees.

(b) Persons, firms, partnerships, corporations or associations must first obtain a valid nursery certificate, issued by the Division of Plant Industry pursuant to N.J.A.C. 2:16, before applying to utilize the “Jersey Grown” logo on plant material or nursery stock. Persons, firms, partnerships, corporations or associations utilizing the “Jersey Grown” logo on cut Christmas trees must be licensed in accordance with this section and comply with the requirements of N.J.A.C. 2:71-7.5. Persons, firms, partnerships, corporations or associations utilizing the “Jersey Grown” logo on turfgrass sod must be licensed in accordance with this section and comply with the requirements of N.J.A.C. 2:71-7.6. Persons, firms, partnerships, corporations or associations utilizing the “Jersey Grown” logo on firewood must be licensed in accordance with this section and comply with the requirements of N.J.A.C. 13:47C-3.1 and 2:71-7.7. Persons, firms, partnerships, corporations or associations utilizing the “Jersey Grown” logo on sunflower seeds (not for human consumption) must be licensed in accordance with this section and comply with the requirements of N.J.A.C. 2:71-7.8. No nursery certificate is needed for cut Christmas trees, turfgrass sod, firewood or sunflower seeds (not for human consumption).

(c) Only those persons, firms, partnerships, corporations or associations licensed to use the “Jersey Grown” logo shall be permitted to attach or have it imprinted upon any documents related to their nursery stock, plant material, turfgrass sod, firewood, sunflower seeds (not for human consumption) or cut Christmas trees or to employ its use in advertising or in any manner whatsoever. Layout of proposed advertising to be used for the marketing of “Jersey Grown” plants and nursery stock shall be submitted for approval by the Division of Marketing and Development, New Jersey Department of Agriculture, in advance of their manufacture and use.

(d) Any person, firm, partnership, corporation or association wishing to employ the “Jersey Grown” logo in marketing New Jersey produced plant materials, nursery stock, turfgrass sod, firewood, sunflower seeds (not for human consumption) and cut Christmas trees shall make application to the New Jersey Department of Agriculture for a license to do so. The application shall be made in writing, upon a form provided by the Department for this purpose. The application shall reveal the name, address and nursery certificate of the user, the type of plant material, nursery stock or cut Christmas tree for which the user is seeking a license and other such information as is deemed necessary for enforcement of the “Jersey Grown” program. The Department will hold confidential any information provided in the application, which constitutes proprietary commercial or financial information, or is otherwise protected from disclosure under the Open Public Records Act, N.J.S.A. 4:1A-1 et seq., subject to the limitations set forth therein.

(e) All applications approved for issuance of license shall have the license granted for the period of one year commencing July 1. Licenses shall be renewed annually upon application filed with the Department 60 days prior to the date of July 1.

(f) A non-refundable fee of \$30.00 shall accompany the application form and shall be made payable to the New Jersey Farm Products Publicity Fund.

(g) When a license holder discontinues use of the Jersey Grown logo, fails to renew his license when required or has his license revoked, he shall be prohibited from its use in any manner, including, but not limited to, stationery, forms, advertising on billboards or other signs or on trucks or car panels.

(h) The configuration of the Jersey Grown logo is as follows:



(i) All nursery stock marketed under the logo program shall be propagated and/or be grown in New Jersey for a period of at least six months under the conditions set forth in this section and N.J.A.C. 2:71-7.4. All cut Christmas trees marketed under the logo program shall be propagated and/or be grown in New Jersey for a period of at least four years prior to retail sale under the conditions set forth in N.J.A.C. 2:71-7.5. All turfgrass sod marketed under the logo shall be grown in New Jersey for a period of at least eight months prior to retail sale under the conditions set forth in N.J.A.C. 2:71-7.6. All firewood marketed under the program shall be harvested from trees grown in New Jersey private forestlands managed

under an approved woodland management plan or from State lands in accordance with the New Jersey Forest Service Commercial Firewood Program. All sunflower seeds (not for human consumption) marketed under the program shall be grown in New Jersey under the conditions set forth in N.J.A.C. 2:71-7.8.

(j) Any licensed producer using the "Jersey Grown" logo for nursery stock or plant material without satisfying the requirements set forth in this section and N.J.A.C. 2:71-7.4, any licensed grower using the "Jersey Grown" logo for cut Christmas trees without satisfying the requirements set forth in this section and N.J.A.C. 2:71-7.5, any licensed grower using the "Jersey Grown" logo for turfgrass sod without satisfying the requirements set forth in this section and N.J.A.C. 2:71-7.6, any licensed producer using the "Jersey Grown" logo for firewood, any licensed producer using the "Jersey Grown" logo for sunflower seeds (not for human consumption) without satisfying the requirements set forth in this section and N.J.A.C. 2:71-7.7, any unlicensed or uncertified producer or grower using the "Jersey Grown" logo or anyone violating any provision of N.J.S.A. 4:10-14 shall be subject to a penalty of not more than \$50.00 for the first offense and not more than \$100.00 for each subsequent offense, except for violations of N.J.S.A. 4:10-5, which penalty shall be \$50.00.

(k) After the second violation of any part of this subchapter by the same licensed producer or grower during the same calendar year, the license to use the "Jersey Grown" logo shall be revoked for the remainder of the license year.

(l) The Division of Marketing and Development shall make an initial determination as to whether to deny an initial license, or revoke a license as provided in subsections (j) and (k) of this section.

(m) Any applicant who is aggrieved by the determination of the Division of Marketing and Development pursuant to (l) above, shall, upon written request transmitted to the Department within 20 days of the license denial, or notice of intent to revoke a license, be afforded the opportunity for a hearing thereon in the manner provided for contested cases pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

1. Requests for hearings shall be sent to Alfred Murray, Director, Division of Marketing and Development, N.J. Department of Agriculture, PO Box 330, Trenton, New Jersey 08625-0330.

(n) The State Board of Agriculture shall make a final determination as to whether to deny or revoke a license following a hearing as provided in (m) above.

(o) Orders for penalties or to enjoin continuing violations may be enforced by summary action brought in the name of the Department in Superior Court or Municipal Court.

(p) Upon revocation of a license, a producer or grower may reapply for a license for the next license year.

Amended by R.2006 d.424, effective December 4, 2006.

See: 38 N.J.R. 3345(a), 38 N.J.R. 4994(a).

In (a), inserted "and cut Christmas trees"; in (b), (c), (d) and (j), inserted quotation marks around "Jersey Grown" throughout; in (b), inserted "on plant material or nursery stock" and added last sentence; in (c), inserted "nursery stock," and "or cut Christmas trees"; in (d), deleted "and" following "plant materials," inserted ", and cut Christmas trees", substituted a comma for "or" following "plant material" and inserted "or cut Christmas tree"; in (i), deleted quotation marks around "logo" and added last sentence; in (j), inserted "any licensed grower using the 'Jersey Grown' logo for cut Christmas trees without satisfying the requirements set forth in this section and N.J.A.C. 2:71-7.5," and "or grower"; and in (k) and (p), inserted "or grower".

Amended by R.2009 d.98, effective April 6, 2009.

See: 40 N.J.R. 6261(a), 41 N.J.R. 1392(a).

Updated the Jersey Grown logo in (h).

Amended by R.2009 d.296, effective October 5, 2009.

See: 41 N.J.R. 1296(a), 41 N.J.R. 3794(a).

In (a) and (c), inserted ", turfgrass sod, firewood, sunflower seeds (not for human consumption)"; in (d), inserted "turfgrass sod, firewood, sunflower seeds (not for human consumption)"; rewrote (b) and (j); and in (i), inserted the last three sentences.

2:71-7.4 Plant material and nursery stock

(a) Pursuant to the authority of N.J.A.C. 1:30-2.2, the Department hereby adopts and incorporates by reference, the American National Standards Institute, "American Standard for Nursery Stock," ANSI Z60.1-1996 as the standard for the nursery stock. All nursery stock shall meet or exceed the nursery stock and plant standards set forth the American Nursery and Landscape Association ANSI Z60.1-1996.

1. Copies may be obtained by contacting the American Nursery and Landscape Association, 1250 I Street, N.W., Suite 500, Washington, DC 20005.

2. A copy is on file in the Director's office—Division of Plant Industry, New Jersey Department of Agriculture, PO Box 330, Trenton, New Jersey 08625-0330.

(b) All nursery stock marketed under this program shall be maintained free of injurious insects and plant diseases. Pursuant to the authority of N.J.A.C. 1:30-2.2, the Department hereby adopts and incorporates by reference, the Rutgers Cooperative Extension publication "Pest Control Recommendations for Shade Tree and Commercial Nursery Crops" (E036T) for use as a guide by New Jersey plant and nursery stock producers to ensure freedom from injurious plant pests and diseases.

1. Copies of this publication may be purchased from Rutgers, The State University of New Jersey, Publications Distribution Center, RCE, Cook College, 57 Dudley Road, New Brunswick, NJ 08901-8520. In addition, the publication is available free of charge on the Rutgers Cooperative Extension website at <http://www.rce.rutgers.edu>.

2. A copy is on file in the Director's office—Division of Plant Industry, New Jersey Department of Agriculture, PO Box 330, Trenton, New Jersey 08625-0330.

(c) All nurseries and plant producers shall be certified by the Department of Agriculture, Division of Plant Industry in accordance with N.J.A.C. 2:16 and 2:18-1.1 through 1.6.

(d) All nursery stock shall be propagated and/or be grown in New Jersey for a period of at least six months prior to retail sale.

2:71-7.5 Cut Christmas trees

(a) Pursuant to the authority of N.J.A.C. 1:30-2.2, the Department hereby adopts and incorporates by reference, the "United States Standards for Grades of Christmas Trees" §51.3085 through 51.3106, effective October 30, 1989 and reprinted January 1997, as amended and supplemented, as the standard for cut Christmas trees. All cut Christmas trees utilizing the "Jersey Grown" logo shall meet or exceed the standards set forth at §51.3087 for grade "U.S. No. 1".

(b) Copies of the "United States Standards for Grades of Christmas Trees" may be obtained from the following:

1. U.S. Department of Agriculture, Agricultural Marketing Service, Fresh Products Branch Standardization Section, Fruit and Vegetable Programs, 1400 Independence Ave, SW Room 2065-S, Stop Code 0240, Washington, D.C. 20250-0240;

2. Online at the Agricultural Marketing Service website: <http://www.ams.usda.gov/standards/christtr.pdf>;

3. The Director's office - Division of Marketing and Development, New Jersey Department of Agriculture, P.O. Box 330, Trenton, New Jersey 08625-0330; or

4. The Executive Secretary's office - New Jersey Christmas Tree Growers Association, P.O. Box 211, Stockton, NJ 08559.

(c) Leyland Cypress, Norway Spruce, Southwestern White Pine and Canaan Fir, which are not listed in the United States Standards for Grades of Christmas Trees, shall comply with all listed standards with the exception of the density standards, defined at §51.3097, which shall be as follows:

1. Heavy Density:
 - i. Norway Spruce = 80 to 100 percent;
 - ii. Leyland Cypress = 90 to 100 percent;
 - iii. Southwestern White Pine = 90 to 100 percent; and
 - iv. Canaan Fir = 70 to 100 percent;
2. Medium Density:
 - i. Norway Spruce = 60 to 80 percent;
 - ii. Leyland Cypress = 70 to 90 percent;
 - iii. Southwestern White Pine = 70 to 90 percent; and
 - iv. Canaan Fir = 50 to 70 percent; and
3. Light Density:
 - i. Norway Spruce = 40 to 60 percent;
 - ii. Leyland Cypress = 50 to 70 percent;
 - iii. Southwestern White Pine = 50 to 70 percent; and
 - iv. Canaan Fir = 40 to 50 percent.

(d) In addition to the requirements set forth in (a) above, all cut Christmas trees shall be grown in New Jersey for a period of at least four years prior to retail sale.

New Rule, R.2006 d.424, effective December 4, 2006.
See: 38 N.J.R. 3345(a), 38 N.J.R. 4994(a).

2:71-7.6 Turfgrass sod

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

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

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

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

2:71-7.7 Firewood

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

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

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

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

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

2:71-7.8 Sunflower seeds (not for human consumption)

(a) All sunflower seeds marketed under the program shall meet the following standards:

1. Purity: Minimum 98 percent;
2. Test weight: Minimum 27 lbs/Bu;
3. Moisture: Maximum 10 percent;
4. Heat damage: Maximum five percent; and
5. Other factors: No mold, objectionable odor or live infestation present at time of delivery; US No. 2 or better, not for human consumption and shall not contain any prohibited noxious weed seed pursuant to N.J.A.C. 2:21-4.1.

New Rule, R.2009 d.296, effective October 5, 2009 (operative March 31, 2010).
See: 41 N.J.R. 1296(a), 41 N.J.R. 3794(a).

SUBCHAPTER 8. "JERSEY ORGANIC" LOGO**2:71-8.1 Scope and purpose**

(a) A New Jersey "Jersey Organic" producer or handler who is certified by the Department pursuant to N.J.A.C. 2:78 to sell or distribute products identified as organic agricultural products is permitted to make application to the New Jersey Department of Agriculture for a license to use the "Jersey Organic" logo in marketing agricultural commodities.

(b) These rules will become effective and the logo identified in N.J.A.C. 2:71-8.3(h) will become available for use only after the Department becomes accredited by the United States Department of Agriculture, National Organic Program as a certifying agent pursuant to 7 CFR §205.101 et seq.

2:71-8.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings. Words of art undefined in the following paragraphs shall have the meaning attributed to them by trade usage or general usage as reflected by definition in a standard dictionary, such as Webster's.

"Agricultural commodities" means any fresh fruits, vegetables, ornamental, horticultural and floricultural products listed in N.J.A.C. 2:71-2.4.

"Certified" means an entity determined to be in compliance with the New Jersey Organic Certification Program set forth in N.J.A.C. 2:78 and which possesses a certificate from the Department designating it as a certified organic operation.

"Certifying agent" means any entity accredited by the United States Secretary of Agriculture as a certifying agent pursuant to the National Organic Program, 7 CFR Part 205.

"Crops" means a plant or part of a plant intended to be marketed as an agricultural product or fed to livestock.

"Department" means the New Jersey Department of Agriculture.

"Handler" means any person engaged in the business of handling agricultural products, including producers who handle crops or livestock of their own production, except such term shall not include final retailers of agricultural products that do not process agricultural products. For the purposes of this definition, handling shall include the selling, processing or packaging of agricultural products and shall not include the sale, transportation or delivery of crops or livestock by the producer thereof to a handler.

"Livestock" means any cattle, sheep, goat, swine, poultry, or equine animals used for food or in the production of food, fiber, feed, or other agricultural-based consumer products; wild or domesticated game; or other non-plant live, except such term shall not include aquatic animals or bees for the production of food, fiber, feed, or other agricultural-based consumer products.

"Producer" means a person who engages in the business of growing or producing food, fiber, feed and other agricultural-based consumer products.

"Organic" means a labeling term that refers to any agricultural products produced in accordance with the National Organic Program, 7 CFR Part 205.

"Organic certification number" means the identification number listed on the organic certification certificate issued to the organic producer or handler.

"Retailer" means a restaurant, delicatessen, bakery, grocery store, or any retail outlet with an in-store restaurant, delicatessen, bakery, salad bar or other eat-in or carry-out service of processed or prepared raw and ready-to-eat food.

2:71-8.3 Use of the "Jersey Organic" logo

(a) The Department approves the use of "Jersey Organic" in conjunction with the New Jersey map symbol under provisions of N.J.S.A. 4:10-5 and 4:10-15 as an official emblem for identifying New Jersey produced organic products.

(b) The configuration of the "Jersey Organic" logo is as follows:

