

CHAPTER 3**FORESTRY****Authority**

N.J.S.A. 13:1B-15.101c, 13:1L-1 et seq., 45:1-8, 45:1-9, 45:15C-1 et seq., and 54:4-23.1 et seq.

Source and Effective Date

R.2005 d.16, effective December 6, 2004.
See: 36 N.J.R. 3384(a), 37 N.J.R. 47(b).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 3, Forestry, expires on June 4, 2010. See: 42 N.J.R. 14(a).

Chapter Historical Note

All provisions of this chapter 3 were adopted by the Department of Environmental Protection pursuant to authority delegated at N.J.S.A. 13:8-20 et seq. and became effective prior to September 1, 1969.

1971 Revisions: Amendments became effective October 21, 1971 as R.1971 d.189. See: 2 N.J.R. 83(b), 3 N.J.R. 221(c).

1988 Revisions: Subchapter 2 was adopted effective March 21, 1988 as R.1988 d.139. See: 20 N.J.R. 137(a), 20 N.J.R. 642(b).

Subchapter 3, Advertising By Tree Experts, was adopted as R.1990 d.188, effective April 2, 1990. See: 21 N.J.R. 3212(a), 22 N.J.R. 1122(a).

Chapter 3, Bureau of Forestry, expired on March 21, 1993 and was subsequently adopted as new rules pursuant to Executive Order No. 66(1978) as R.1993, d.304, effective June 21, 1993. See: 25 N.J.R. 1348(a), 25 N.J.R. 2704(a).

Pursuant to Executive Order No. 66(1978), Chapter 3, Bureau of Forestry, was readopted as R.1998 d.356, effective June 19, 1998. See: 30 N.J.R. 759(a), 30 N.J.R. 2659(a).

In accordance with N.J.S.A. 52:14B-5.1d, Chapter 3, Bureau of Forestry, expiration date was extended by gubernatorial directive from June 19, 2003 to June 19, 2004. See: 35 N.J.R. 2649(a).

Chapter 3, Bureau of Forestry, was readopted as R.2005 d.16, effective December 6, 2004. As a part of R.2005 d.16, Chapter 3, Bureau of Forestry, was renamed Forestry, effective January 3, 2005. See: Source and Effective Date. See, also, section annotations.

CHAPTER TABLE OF CONTENTS**SUBCHAPTER 1. GENERAL PROVISIONS**

- 7:3-1.1 Construction
- 7:3-1.2 Severability
- 7:3-1.3 Definitions
- 7:3-1.4 through 7:3-1.6 (Reserved)

SUBCHAPTER 2. FORESTATION PROGRAM

- 7:3-2.1 Scope and authority
- 7:3-2.2 Distribution of forestation stock to New Jersey land-owners
- 7:3-2.3 Compliance
- 7:3-2.4 Permitted uses of forestation stock
- 7:3-2.5 through 7:3-2.9 (Reserved)

SUBCHAPTER 3. APPROVED FORESTER LIST

- 7:3-3.1 Scope and authority
- 7:3-3.2 Purpose

- 7:3-3.3 Application procedure
- 7:3-3.4 Qualifications for Approved Foresters
- 7:3-3.5 Removal from the Approved Forester List
- 7:3-3.6 Reinstatement to the Approved Forester List
- 7:3-3.7 Adjudicatory hearing requests

SUBCHAPTER 4. CERTIFIED TREE EXPERTS

- 7:3-4.1 Scope and authority
- 7:3-4.2 Application procedure
- 7:3-4.3 Fees
- 7:3-4.4 Advertising by Certified Tree Experts
- 7:3-4.5 Suspensions; revocations; violations; penalties
- 7:3-4.6 Canons of Professional Ethics and standards of conduct for Certified Tree Experts

SUBCHAPTER 1. GENERAL PROVISIONS**7:3-1.1 Construction**

These rules shall be liberally construed to permit the Department to discharge its statutory functions.

Recodified from N.J.A.C. 7:3-1.2 and amended by R.2005 d.16, effective January 3, 2005.

See: 36 N.J.R. 3384(a), 37 N.J.R. 47(b).

Rewrote the section. Former N.J.A.C. 7:3-1.1, Scope, repealed.

7:3-1.2 Severability

If any section, subsection, provision, clause, or portion of this chapter, or the application thereof to any person, is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the section, subsection, provision, clause, portion, or application directly involved in the controversy in which such judgment shall have been rendered and it shall not affect or impair the remainder of this chapter or the application thereof to other persons.

New Rule R.2005 d.16, effective January 3, 2005.

See: 36 N.J.R. 3384(a), 37 N.J.R. 47(b).

Rewrote the section.

7:3-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

“Advertising” or “advertisement” means the description or presentation of a product or service in some medium or communication in order to induce the public to buy, support, or approve of it, including, but not limited to, telephone directory listings, letterhead, business cards, pamphlets, flyers, lettering on vehicles, television and radio advertisements, e-mail and internet websites, and any other written, oral, verbal, auditory, visual or other electronic media.

“Approved Forester” means a forester meeting the standards and qualifications established by the Department in this

chapter and whose name is entered on the Approved Forester List.

“Approved Forester List” means the list, maintained and updated by the Department in accordance with this chapter, of “Approved Foresters,” as defined above.

“Board of Tree Experts” or “Board” means the Board established by the Department pursuant to N.J.S.A. 45:15C-3.

“Certificate” means certification by the Board of a person as a Certified Tree Expert pursuant to this chapter.

“Certified Tree Expert” or “CTE” means a person who has satisfied the requirements at N.J.S.A. 45:15C-1 et seq. and this chapter, who has been issued a certificate, and whose certificate has not been suspended or revoked.

“Commissioner” means the Commissioner of the Department.

“Department” means the Department of Environmental Protection.

“Farmland Assessment Act” means the Farmland Assessment Act of 1964, N.J.S.A. 54:4-23.1 et seq., and any subsequent amendments.

“Society of American Foresters Code of Ethics” means the canons governing professional conduct, adopted by the Society of American Foresters by Member Referendum, November 3, 2000, and any subsequent revisions, and available from that agency at the following address:

Society of American Foresters
5400 Grosvenor Lane
Bethesda, Maryland 20814
Telephone number: (301) 897-8720
Facsimile number: (301) 897-3690
Email address: safweb@safnet.org.

“Woodland management plan” means a plan prepared in accordance with the criteria set forth in the Department of Treasury rules at N.J.A.C. 18-2.10, implementing the Farmland Assessment Act.

Amended by R.2005 d.16, effective January 3, 2005.
See: 36 N.J.R. 3384(a), 37 N.J.R. 47(b).
Rewrote the section.

7:3-1.4 (Reserved)

Repealed by R.2005 d.16, effective January 3, 2005.
See: 36 N.J.R. 3384(a), 37 N.J.R. 47(b).
Section was “Agreement”.

7:3-1.5 (Reserved)

As amended, R.1971 d.189, effective October 21, 1971.
See: 2 N.J.R. 83(b), 3 N.J.R. 221(c).

Repealed by R.2005 d.16, effective January 3, 2005.
See: 36 N.J.R. 3384(a), 37 N.J.R. 47(b).
Section was “Refusal”.

7:3-1.6 (Reserved)

Repealed by R.2005 d.16, effective January 3, 2005.
See: 36 N.J.R. 3384(a), 37 N.J.R. 47(b).
Section was “Distribution”.

SUBCHAPTER 2. FORESTATION PROGRAM

7:3-2.1 Scope and authority

Unless otherwise provided by rule or statute, the provisions of this subchapter shall constitute the rules of the Department, pursuant to the State Park and Forestry Resources Act, N.J.S.A. 13:1L-1 et seq., governing the State’s forestation program, as it pertains to the distribution by the Department of forestation stock, including seeds and seedlings, and to the use of that stock.

New Rule R.2005 d.16, effective January 3, 2005.
See: 36 N.J.R. 3384(a), 37 N.J.R. 47(b).

7:3-2.2 Distribution of forestation stock to New Jersey landowners

(a) Any New Jersey landowner or his or her authorized representative may obtain forestation stock from the Department, provided that the landowner or the landowner’s representative complies with the requirements of this subchapter.

(b) The landowner or his or her authorized representative who orders forestation stock shall complete an order form obtained from the Department and submit the form to:

New Jersey Forest Tree Nursery
370 East Veteran’s Highway
Jackson, New Jersey 08527
ATTN: Forestation Stock Order

(c) The landowner or his or her authorized representative shall certify on the order form that:

1. The forestation stock shall be planted in the State of New Jersey on the landowner’s property;
2. The forestation stock shall be used only for one or more of the purposes set forth at N.J.A.C. 7:3-2.4; and
3. The forestation stock shall not be resold or removed from the property, whether as live trees or severed from the stump, for:
 - i. Ornamental use; or
 - ii. Use as Christmas trees or holiday decorations.

Board of Tree Experts
 c/o State Forestry Service
 Division of Parks and Forestry
 New Jersey Department of Environmental Protection
 P.O. Box 404
 Trenton, NJ 08625-0404
 ATTN: Certified Tree Expert Application

(b) An application submitted pursuant to (a) above shall include:

1. A completed application form. The application form is available from the Department at the address given in (a) above. An applicant shall provide the following information on the application form:

- i. The applicant's name, address, telephone number and, if available, email address;
- ii. The country of citizenship of the applicant. If the applicant is not a citizen of the United States, the applicant shall declare whether or not it is his or her intention of becoming a citizen;
- iii. The applicant's date of birth;
- iv. The name, address, and telephone number of at least three persons who can be contacted as references;
- v. A statement as to whether the applicant has ever been convicted of any crime or offense other than a motor vehicle traffic violation and, if so, the date of conviction, the specific charge(s) for which applicant was convicted, and the status of the conviction; and
- vi. The applicant's employment history in arboriculture or the practice of tree care; and

2. The following documentation:

- i. A certified copy of the applicant's post-secondary school transcripts from each school attended, together with specification of any degree(s) awarded to the applicant; and
- ii. A copy of a document, such as a birth certificate or driver's license, evidencing the applicant's date of birth.

(c) The Board shall review each application to determine whether the applicant meets the following requirements for certification:

1. The applicant is a citizen of the United States; or has duly declared his or her intention of becoming a citizen;
2. The applicant is over the age of 21 years;
3. The information provided by the applicant's references, as well as all other information available to the Board, indicates that the applicant is of good character; and

4. The applicant has:

- i. Received a bachelor's degree in forestry, arboriculture, ornamental horticulture, landscape architecture, or an equivalent field of study;
- ii. Been continuously employed in the practice of arboriculture for a period of at least five years immediately preceding the date of application; or
- iii. Completed two years of college; has passed courses in the theory and practice of tree care, such as botany, plant physiology, dendrology, entomology, plant pathology, and soils, or their equivalent; and has been continuously employed in the practice of arboriculture for a period of at least three years preceding the date of application or entry into college.

(d) If the Board determines that an applicant does not meet one or more of the requisite qualifications set forth in (c) above, or if the applicant fails to submit the required fee pursuant to N.J.A.C. 7:3-4.3, the Board shall deny the application and so notify the applicant in writing.

(e) If an applicant meets the qualifications set forth in (c) above, the applicant shall take the CTE examination pursuant to (f) below, except that the Board may, at its discretion, waive this examination requirement for an applicant who has previously been a CTE and has voluntarily relinquished his or her CTE certificate in accordance with (i) below. Unless the requirement has been waived, the Board shall notify each applicant in writing of the CTE examination requirement.

(f) The Board shall periodically conduct Certified Tree Expert examinations for applicants who have qualified to take the examination pursuant to (e) above. Such examinations shall be conducted at least once each year.

(g) If the Board determines that an applicant has met the qualifications at (c) above and, if required to take the Certified Tree Expert examination under (e) above, the applicant has taken and passed all subjects in the examination, the Board shall certify the applicant as a Certified Tree Expert. The Board shall issue to each successful applicant a wall certificate evidencing the certification.

(h) The Board's determination under this section as to an applicant's qualifications, including whether an applicant has passed the Certified Tree Expert examination, shall constitute a final agency action for purposes of judicial review under the Administrative Procedure Act, at N.J.S.A. 52:14B-12.

New Rule. R.2005 d.16, effective January 3, 2005.
 Sec: 36 N.J.R. 3384(a), 37 N.J.R. 47(b).

7:3-4.3 Fees

(a) A person who applies for certification as a Certified Tree Expert pursuant to this subchapter shall submit with

the application, an application fee of \$40.00 to the address set forth at N.J.A.C. 7:3-4.2 (a).

(b) A person who is certified as a Certified Tree Expert shall submit each year an annual renewal fee of \$25.00 to the following address:

Examination and Licensing Unit
New Jersey Department of Environmental Protection
P.O. Box 441
Trenton, New Jersey 08065-0411

New Rule, R.2005 d.16, effective January 3, 2005.
See: 36 N.J.R. 3384(a), 37 N.J.R. 47(b).

7:3-4.4 Advertising by Certified Tree Experts

(a) A Certified Tree Expert who wishes to use the Certified Tree Expert designation in advertising shall include his or her name and certificate number in any form or medium of advertisement relating to tree care, using the following format:

1. Name of Certified Tree Expert;
2. The abbreviation "CTE"; and
3. The Certified Tree Expert's certificate number, preceded by the "#" symbol.

(b) The elements required in (a)1 through 3 above may be followed by the phrase "NJ Certified Tree Expert" at the Certified Tree Expert's option.

(c) The owner or operator of a business that employs a Certified Tree Expert and that claims in advertising that one or more of its employees is a Certified Tree Experts shall do so in accordance with the following:

1. The owner or operator of the business shall not advertise or authorize advertisement that represents that a CTE's certification applies to the business itself or to any of the employees of the business other than the CTE; and
2. The owner or operator of the business shall:
 - i. List by name in any and all advertising at least one CTE employed by the business, using the format specified in (a) and (b) above for each CTE listed, unless the owner or operator obtains prior approval from the Board to modify such format; and
 - ii. Delete a CTE listed in any and all advertising if the CTE's certificate is revoked or suspended or the CTE ceases to be employed by the business.

(d) All existing forms of advertising shall conform with the requirements of this section by January 3, 2006, or the first time after January 3, 2005 that the advertisement is updated, reprinted, renewed, or otherwise reauthorized, whichever is sooner.

(e) A CTE whose certificate is revoked or suspended shall not advertise or represent himself or herself to the public or continue to practice as a CTE and shall not use any title, designation, word(s), letters, or abbreviation tending to indicate that he or she is a Certified Tree Expert.

1. Notwithstanding (d) above, the CTE shall immediately change all of his or her existing forms of advertising to remove any reference to certification by the Board following the suspension or revocation of a certificate by the Board, and shall not make any representation that he or she holds a CTE certification during the period of suspension or revocation.

(f) A person shall not advertise or represent himself or herself to the public, or practice as a Certified Tree Expert, or use any title, designation, word(s), letters, or abbreviation(s) tending to indicate that such person is a Certified Tree Expert, unless the person has been certified as a CTE by the Board and his or her certificate has not been suspended or revoked.

Recodified from N.J.A.C. 7:3-3.5 and amended by R.2005 d.16, effective January 3, 2005.
See: 36 N.J.R. 3384(a), 37 N.J.R. 47(b).
Rewrote the section.

7:3-4.5 Suspensions; revocations; violations; penalties

(a) The Board may temporarily suspend or permanently revoke a CTE's certificate in accordance with this section, if the CTE:

1. Is convicted of a crime in any New Jersey court. A CTE shall report any conviction to the Board within 30 days of the conviction;
2. Is determined by the Board to be guilty of:
 - i. Fraud or deceit in obtaining a certificate; or
 - ii. Negligence or wrongful conduct in the practice of professional tree care; or
3. Fails to pay the annual renewal fee required under N.J.A.C. 7:3-4.3.

(b) The Board may temporarily suspend, for a period not to exceed two years, the certificate of a Certified Tree Expert who violates the canons of professional ethics for Certified Tree Experts, set forth at N.J.A.C. 7:3-4.6.

(c) Prior to suspending or revoking the certificate of a Certified Tree Expert as provided at (a) or (b) above, the Board shall provide the CTE with an opportunity for a hearing, as follows:

1. The Board shall schedule a hearing on an intended revocation or suspension and mail notice of its intent to suspend or revoke the CTE's certificate to the CTE at his or her registered address at least 20 days before said hearing. In the notice the Board shall give its basis for the intended suspension or revocation and the date of the hearing thereon, and shall advise the CTE of his or her right at the hearing to give reason(s) for the Board's consideration as to why his or her certificate should not be suspended or revoked;

2. The Board shall not revoke the violator's certificate until it has afforded the violator the opportunity for a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq. on the contemplated revocation. Failure of the CTE to appear at the hearing after notice has been provided shall not prevent the hearing from being held; and

3. After the hearing, the Board, by majority vote, may suspend or revoke the CTE's certificate.

(d) By majority vote, the Board may reinstate a suspended certificate or reissue a certificate that has been revoked.

(e) The Department may institute a civil action, in a court of competent jurisdiction, for injunctive relief against any person who violates any of the provisions of this subchapter.

(f) A person who violates any provision of N.J.S.A. 45:15C-8 or N.J.A.C. 7:3-4.4 shall be subject to penalties in accordance with N.J.S.A. 45:15C-1 et seq.

(g) Any CTE in good standing may voluntarily relinquish his or her CTE certificate. Any such person may subsequently apply for a CTE certificate in accordance with the application procedures set forth in this subchapter.

Recodified from N.J.A.C. 7:3-3.6 and amended by R.2005 d.16, effective January 3, 2005.
See: 36 N.J.R. 3384(a), 37 N.J.R. 47(b).
Rewrote the section.

7:3-4.6 Canons of Professional Ethics and standards of conduct for Certified Tree Experts

(a) The Canons of Professional Ethics for Certified Tree Experts are set forth in this subsection. A Certified Tree Expert shall:

1. Adhere to the highest standards of integrity, honesty and skill, to inspire and instill public trust and confidence;
2. Remain reasonably informed about current advances in technology and arboricultural techniques and practices and standards of practice within the professional community;
3. Honestly and accurately describe to prospective clients the likely results of contemplated services, to the extent reasonably necessary to permit a client to make an informed decision regarding the retention of services;

4. Base expert testimony on published and well-accepted standards and practices of the profession;

5. Maintain a high regard for the safety, health and welfare of the general public in the performance of his or her professional duties; and

6. Render professional services in a manner that is not misleading, false, fraudulent or grossly negligent.

(b) Wrongful conduct in the practice of professional services by Certified Tree Experts shall include, but shall not be limited to:

1. Handling or neglecting to handle professional services in such a manner that the conduct constitutes gross negligence, malpractice or gross incompetence;

2. Exhibiting a pattern, or repeated acts of neglect, negligence, malpractice or incompetence in the performance of professional services;

3. Engaging in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense in the performance of professional services;

4. Using or approving the use of false, fraudulent or deceptive advertising;

5. Charging a monetary fee for work not done or hours not spent in the performance of professional services;

6. Failing to abide by the "American National Standard for Tree Care Operations—Tree, Shrub and Other Woody Plant Maintenance—Standard Practices," ANSI A300-1995, approved June 1, 1995, and all subsequent editions, which standards are adopted and incorporated by reference in this rule. A copy of this standard may be obtained at the following address: American National Standards Institute, 11 West 42nd Street, New York, New York 10036; or

7. Failing to abide by the "American National Standard for Arboricultural Operations—Pruning, Repairing, Maintaining, and Removing Trees, and Cutting Brush—Safety Requirements," ANSI Safety Standard Z133.1, Rev. October 19, 2000, and all subsequent editions, which standards are adopted and incorporated by reference in this rule. A copy of this standard may be obtained at the address given in (a)6 above.

New Rule, R.2005 d.16, effective January 3, 2005.
See: 36 N.J.R. 3384(a), 37 N.J.R. 47(b).