

CHAPTER 3

BUREAU OF FORESTRY

Authority

N.J.S.A. 13:1L-1 et seq. and 54:4-23.1 et seq., specifically 54:4-23.3.

Source and Effective Date

R.1993 d.304, effective June 21, 1993.
See: 25 N.J.R. 1348(a), 25 N.J.R. 2704(a).

Executive Order No. 66(1978) Expiration Date

Chapter 3, Bureau of Forestry, expires on June 21, 1998.

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: Source and Effective Date.

See section annotations for further rulemaking.

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SUBCHAPTER 1. REFORESTATION PROGRAM

7:3-1.1 Scope

Unless otherwise provided by rule or statute, the provisions of this Chapter shall constitute the rules governing the State reforestation program.

7:3-1.2 Construction

These rules shall be liberally construed to permit the Department, the Bureau of Forestry and its various agencies to discharge its statutory functions.

7:3-1.3 Practice where rules do not govern

(a) The Commissioner may rescind, amend or expand these rules from time to time, and such new rules shall be filed with the Secretary of State as provided by law.

(b) The Commissioner, the Director of the Division of Parks and Forestry or any agency chief shall exercise his discretion in respect of any other matters not governed by these rules.

7:3-1.4 Agreement

Every person ordering reforestation stock shall enter into an agreement to use the stock solely for reforestation purposes as described in N.J.A.C. 7:3-1.6(b). The agreement shall provide that reforestation stock must not be resold or removed from the property for ornamental use as living trees, or for use as Christmas trees, except trees severed from the stump in a thinning without reducing the initial acreage reforested. Any person violating this agreement will reimburse the Department for the cost of the seedlings removed and administrative costs incurred due to breach. The Department has the right to inspect the planting site after notifying the landowner as to time and date of the inspection.

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

7:3-1.5 Refusal

- (a) No reforestation stock shall be sold to any landowner:
1. Whose total acreage is less than three acres of land;
 2. Who has violated provisions of an agreement signed pursuant to N.J.A.C. 7:3-1.4; or
 3. For a purpose other than those described in N.J.A.C. 7:3-1.6.

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

7:3-1.6 Distribution

(a) Reforestation stock shall be distributed in the urban, suburban and agricultural areas only after a recipient signs an agreement conforming to N.J.A.C. 7:3-1.4 and attests, as part of the seedling order form, to the ownership of a minimum of three acres of land.

(b) The use of State grown reforestation stock shall be restricted to legitimate reforestation projects, including planting for school, and youth conservation education projects; plantings for aesthetic screening and improvement; air and noise pollution abatement; wildlife habitat enhancement; erosion control; and lumber and cordwood production.

(c) Every New Jersey student attending third grade is eligible to receive a free forest tree seedling from the State Tree Seedling Nursery if adequate supplies are available. The Department will furnish the seedlings to the students on receipt of consolidated requests from the students' respective schools.

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

SUBCHAPTER 2. APPROVED FORESTERS LIST**7:3-2.1 Scope and authority**

This subchapter constitutes the rules of the Department of Environmental Protection concerning the establishment of a list of foresters approved by the Department as necessary to implement P.L. 1986, c.201, amending and supplementing the Farmland Assessment Act of 1964, N.J.S.A. 54:4-23.1 et seq. (the Act), and authorized by the State Park and Forestry Resources Act, N.J.S.A. 13:1L-1 et seq.

7:3-2.2 Purpose

The purpose of this subchapter is to provide the criteria for the establishment and maintenance of a list of foresters approved by the Department. The Act imposes certain requirements on those owners of land devoted exclusively to the production for sale of trees and forest products other than Christmas trees, and which is not appurtenant woodland, who desire to qualify for reduced property taxation. The landowner must establish and comply "with the provisions of a woodland management plan for this land prepared in accordance with policies, guidelines and practices approved by the Division of Parks and Forestry in the Department of Environmental Protection, in consultation with the Department of Agriculture and the Dean of Cook College at Rutgers, The State University, which policies, guidelines and practices are designed to eliminate excessive and unnecessary cutting." N.J.S.A. 54:4-23.3. In addition, both the landowner and a forester from the list of foresters approved by the Department in accordance with this subchapter shall annually attest to compliance with the woodland management plan.

7:3-2.3 Construction

This subchapter shall be liberally construed to allow the Department to implement fully its statutory functions pursuant to the Act and the State Park and Forestry Resources Act.

7:3-2.4 Severability

If any section, subsection, provision, clause, or portion of this subchapter, 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 subchapter or the application thereof to other persons.

7:3-2.5 Definitions

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

"Act" means the Farmland Assessment Act of 1964, N.J.S.A. 54:4-23.1 et seq.

"Approved forester" means a forester meeting the standards and qualifications established by the Department in this subchapter.

"Commissioner" means the Commissioner of the Department of Environmental Protection.

"Department" means the Department of Environmental Protection.

"List of approved foresters" means a list of approved foresters meeting the requirements of N.J.A.C. 7:3-2.7 that is maintained and updated annually, or more frequently if needed, and available from the State Forestry Services, Division of Parks and Forestry, Department of Environmental Protection.

"Society of American Foresters Code of Ethics" means the canons governing professional conduct, adopted by the Society of American Foresters by Member Referendum, June 23, 1976, and on file at the Office of Administrative Law and available from that agency or the State Forestry Services, Division of Parks and Forestry, Department of Environmental Protection.

"Woodland management plan" means a plan prepared in accordance with the criteria set forth at N.J.A.C. 18:15-2.10.

7:3-2.6 Application procedure

(a) Any natural person may apply for entry on the list of approved foresters by submitting the following to the State Forestry Services, Division of Parks and Forestry, Department of Environmental Protection, CN 404, Trenton, New Jersey 08625:

1. A completed and executed application for entry on the list of approved foresters available from the State Forestry Services at the address given in (a) above; and

2. A certified copy of post-secondary school transcripts.

(b) The Department will advise the applicant of its determination of the qualifications of the applicant. If approved, the name of the applicant will be entered on the list of approved foresters.

7:3-2.7 Qualifications for entry on the list of approved foresters

(a) The Department shall approve for entry on the list of approved foresters any natural person applying therefor and who at the time of application, satisfies the following qualifications:

1. Graduation from a four-year college or university accredited by the Society of American Foresters with a major course in forest management or from the Cook College-Rutgers University forest management option within the natural resource management curriculum or from a graduate degree program that the Department determines to be equivalent to the aforementioned major course in forest management;

2. Two years experience in forest management employment, beginning not earlier than the time of registration for the educational requirements specified above at (a)1, including one or both of the following:

i. The preparation of woodland management plans; or

ii. The implementation of forestry practices for the protection, development, marketing, and utilization of forest land resources; and

3. Execution of a Department-prepared agreement to abide by the Society of American Foresters Code of Ethics.

(b) Each natural person on the list of approved foresters shall:

1. Submit accomplishments in a quarterly report upon request by the Department including, but not limited to, the following items:

i. The number of woodland management plans and the acreage covered by each such plan;

ii. The number of timber stand improvements completed and the acreage covered by each such improvement;

iii. The number of reforestation and Christmas tree plantations completed and the acreage covered by each such plantation;

iv. The number, acres, volumes, and dollar returns on timber, pulpwood, and firewood harvests;

v. Evidence of annual participation in a relevant program of professional education to maintain forestry skills that is sponsored by the Society of American Foresters, Cook College-Rutgers University, or the Department, or is otherwise approved by the Department; and

vi. Other necessary information requested by the Department; and

2. Abide by the Society of American Foresters Code of Ethics.

7:3-2.8 Deletion from list of approved foresters

(a) The Department may delete from the list of approved foresters any forester on the list who:

1. Fails to submit a complete quarterly report as specified at N.J.A.C. 7:3-2.7(b)1 to the Department in accordance with the request therefor;

2. Submits the quarterly report specified at N.J.A.C. 7:3-2.7(b)1 to the Department with a fraudulent statement(s);

3. Fails to satisfy the requirement for participation in professional education specified at N.J.A.C. 7:3-2.7(b)1v;

4. Fails to abide by the Society of American Foresters Code of Ethics; or

5. Consistently evidences substantial error or otherwise falls below recognized professional standards in the provision of professional services to woodland owners.

7:3-2.9 Appeal from adverse determination on entry or deletion from list of approved foresters

(a) When the Department has made an adverse determination of the qualifications of the applicant and not approved the name of the applicant for entry on the list of approved foresters as provided at N.J.A.C. 7:3-2.6(b) or seeks to delete the name of any forester from the list of approved foresters as provided at N.J.A.C. 7:3-2.8(a), the applicant or forester shall be furnished with a written notice stating:

1. The Department action taken or sought;

2. The basis for such action; and

3. That an opportunity will be afforded to the applicant or forester for an administrative hearing if the hearing is requested within 21 days from the date of personal delivery or the date of receipt of such notice.

(b) The applicant or forester requesting an administrative hearing shall submit to the Department, at Office of Legal Affairs, ATTENTION: Adjudicatory Hearing Requests, Department of Environmental Protection and Energy, 401

East State Street, CN 402, Trenton, New Jersey 08625-0402, the following information in writing:

1. The name and mailing address of the applicant or forester;
2. The date the adverse determination was received;
3. A description of the adverse determination; and
4. The specific reason(s) why the basis identified at (a)2 above is inadequate to support the Department action taken.

(c) All such hearings shall be conducted in accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 54:14B-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1 et seq.

SUBCHAPTER 3. ADVERTISING BY CERTIFIED TREE EXPERTS

7:3-3.1 Scope and authority

This subchapter constitutes the rules of the Department of Environmental Protection (Department) and the Department's Board of Tree Experts (Board) governing advertising by tree experts and by Certified Tree Experts certified by the Board under the authority of N.J.S.A. 45:15C-1 through 45:15C-10. The purpose of these rules is to protect the public from deceptive advertising by uncertified tree experts, and to codify as part of the Department's administrative rules the contractor licensing requirements imposed on Certified Tree Experts by N.J.S.A. 45:1-8 and 45:1-9.

7:3-3.2 Construction

This subchapter shall be liberally construed to permit the Department of Environmental Protection and the Board of Tree Experts to effectuate the purposes of N.J.S.A. 45:1-8, 45:1-9, and 45:15C-1 through 45:15C-10.

7:3-3.3 Severability

If any section, subsection, provision, clause, or portion of this subchapter, 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 subchapter or the application thereof to other persons.

7:3-3.4 Definitions

The following words and terms, when used in this subchapter, shall have the following meaning unless the context clearly indicates otherwise:

"Advertising" means the description or presentation of a product or service in some medium of communication in order to induce the public to buy, support, or approve of it, including, but not limited to, telephone listings, letterhead, business cards and lettering on vehicles.

"Board" means the Board of Tree Experts established in the Department of Environmental Protection by N.J.S.A. 45:15C-3.

"Certified Tree Expert" means a natural person meeting the qualifications at N.J.S.A. 45:15C-4 who has received from the Board of Tree Experts, after successful completion of an examination by the Board as provided at N.J.S.A. 45:15C-5, a certificate authorizing him or her to practice as a Certified Tree Expert.

"Department" means the Department of Environmental Protection.

"Tree expert" means a person skilled in the science of tree care who presents himself or herself to the public for compensation as a practicing tree expert, including as an arborist, tree expert, tree specialist, or tree surgeon.

7:3-3.5 Advertising by tree experts

(a) A tree expert who has received a certificate from the Board shall represent himself or herself as a Certified Tree Expert in all forms of advertising relating to tree care, subject to the following:

1. The Certified Tree Expert shall list his or her name and certificate number in the advertisement;

2. The listing of the Certified Tree Expert's name and certificate number in the advertisement shall be worded as follows, except that the instructions in parentheses are to be replaced with the relevant information and the parentheses deleted:
 - i. (Name of Certified Tree Expert), Certified Tree Expert No. (or #) (certificate number); or
 - ii. (Name of Certified Tree Expert), C.T.E. No. (or #) (certificate number);
 - iii. At the Certified Tree Expert's option, any one of the following terms may be inserted before the term "Certified Tree Expert" in (a)2i above or "C.T.E." in (a)2ii above: N.J., New Jersey, State, N.J. State, or New Jersey State.

3. A Certified Tree Expert shall not advertise in a manner which implies that the name of the business with which he or she is associated bears certification; and

4. All existing forms of advertising shall be changed to conform with the requirements of this section within one year of the effective date of this subchapter, or at the time of renewal for the advertisement, whichever is sooner.

(b) A tree expert who has received a certificate from the Board shall not continue to practice as a Certified Tree Expert, or use such title or any other words, letters, or abbreviations tending to indicate that such person is a Certified Tree Expert, if the Board has suspended or revoked his or her certificate.

1. All existing forms of advertising shall be changed to remove any reference to certification by the Board immediately following the suspension or revocation of a certificate by the Board, and continuing through the period of suspension or revocation.

(c) A tree expert shall not represent himself or herself to the public as having received a certificate from the Board, or assume to practice as a Certified Tree Expert, or use such title or any other words, letters, or abbreviations tending to indicate that such person is a Certified Tree Expert, without having received such certificate.

7:3-3.6 Violations; penalties

(a) The Board may suspend, for a period not to exceed two years, the certificate of a Certified Tree Expert who violates any of the rules in this subchapter, subject to the following:

1. The Board shall mail notice of the cause for the contemplated suspension and the date of hearing thereon to the violator at his or her registered address at least 20 days before the hearing;

2. The Board shall not suspend 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 suspension; and

3. By majority vote, the Board may reinstate a certificate suspended under this section.

(b) The Board may revoke the certificate of a Certified Tree Expert who violates more than one, or on more than one occasion, any of the rules in this subchapter. More than one violation of any of the rules in this subchapter shall be deemed wrongful conduct in the practice of professional tree care and shall constitute grounds for revocation of the certificate, subject to the following:

1. The Board shall mail notice of the cause for the contemplated revocation and the date of hearing thereon to the violator at his or her registered address at least 20 days before said hearing;

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; and

3. By majority vote, the Board may reissue a certificate revoked under this section.

(c) If any person violates any of the rules in this subchapter, the Department may institute a civil action in a court of competent jurisdiction for injunctive relief to prohibit and prevent the violation.

(d) A person violating the provisions of N.J.A.C. 7:3-3.5(c) shall be subject to any penalties prescribed at N.J.S.A. 45:15C-1 et seq.