

RULE ADOPTIONS

AGRICULTURE

(a)

DIVISION OF PLANT INDUSTRY

Certification

Readoption: N.J.A.C. 2:16

Proposed: March 2, 2020, at 52 N.J.R. 369(a).

Adopted: December 16, 2021, by the State Board of Agriculture and Douglas H. Fisher, Secretary, Department of Agriculture.

Filed: December 16, 2021, as R.2022 d.020, **without change**.

Authority: N.J.S.A. 4:1-11.1, 4:1-21.2, 4:1-21.7, and 4:8-17.13 et seq.

Effective Date: December 16, 2021.

Expiration Date: December 16, 2028.

Summary of Public Comment and Agency Response:

No public comments were received.

Take notice that pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 2:16 were scheduled to expire on July 23, 2020. The Secretary of the Department of Agriculture timely filed a notice of proposal to readopt the chapter. Pursuant to Executive Order Nos. 127 (2020) and 244 (2021) and P.L. 2021, c. 103, any chapter of the New Jersey Administrative Code that would otherwise have expired during the Public Health Emergency originally declared in Executive Order No. 103 (2020) is extended through January 1, 2022. Therefore, this chapter has not yet expired pursuant to Executive Order No. 244 (2021), and P.L. 2021, c. 103.

Federal Standard Analysis

Federal Seed Act regulations at 7 CFR 201.1 through 201.78 establish minimum standards and procedures as conditions for certification of seed. According to those regulations, in order to qualify as a seed-certifying agency for purposes of the Federal Seed Act, an agency, such as the New Jersey Department of Agriculture, must enforce standards and procedures as conditions for its certification of seed that meet or exceed the standards and procedures specified in the Federal Seed Act regulations. The standards established at N.J.A.C. 2:16 exceed the Federal regulations at Subchapters 2, 3, 7, and 8 by imposing specific certification standards for seed, sod, turfgrass, and vegetative grasses.

New Jersey's standards, however, are consistent with those standards recommended by the Association of Seed Certifying Agencies (AOSCA). That organization's membership is composed of associations and agencies from 42 states and six countries that certify seed and are dedicated to establishing genetic standards and certification procedures, and promoting uniform standards, procedures, and policies among its members. Information about AOSCA can be found at www.aosca.org. Due to the wide acceptability of AOSCA's standards, local and national buyers have assurance that seed certified under their standards have met acceptable purity standards. In addition, since the majority of other states participate in AOSCA, the readopted rules are necessary for New Jersey feed providers to remain competitive in the marketplace. Using the higher AOSCA standards results in superior seed and sod, this brings higher prices to the farmers and growers and greater satisfaction by the consumers. As a result, the benefits to the consumer and farmer or grower of using AOSCA standards far outweigh the cost of meeting the additional requirements.

These rules are also consistent with the rulemaking requirements of the Department regarding the certification of agricultural seeds, tubers, grass sod, grass sod plugs, and grass stolons grown in this State, dictated at N.J.S.A. 4:1-21.7, and the requirements for seed labeling and distribution, found at N.J.S.A. 4:8-17.13 et seq.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 2:16.

COMMUNITY AFFAIRS

(b)

DIVISION OF CODES AND STANDARDS

Uniform Construction Code

Adopted Amendments: N.J.A.C. 5:23-7.19, 7.31, 11.2, and 11.4

Proposed: October 4, 2021, at 53 N.J.R. 1659(a).

Adopted: February 18, 2022, by Lt. Governor Sheila Y. Oliver, Commissioner, Department of Community Affairs.

Filed: March 9, 2022, as R.2022 d.047, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 52:27D-119 and 52:2D-123.10.

Effective Date: April 4, 2022.

Expiration Date: February 9, 2029.

Summary of Public Comments and Agency Responses:

Comments were received from Denise Lanza, Co-Chair, Public Policy Committee, New Jersey Recreation and Park Association; Mitchell Malec, a retired former employee of the Department of Community Affairs (Department); and the Honorable William Pikolycky, Mayor, Borough of Woodbine.

1. COMMENT: The New Jersey Recreation and Park Association (NJRPA) thanked the Department for working collaboratively with the NJRPA on these regulations and expressed appreciation for the fact that the proposed rulemaking allows developers to customize elements of the play space according to local and site restrictions and options.

RESPONSE: The Department thanks the commenter for the support.

2. COMMENT: The Honorable William Pikolycky, Mayor, Borough of Woodbine, stated that a strict interpretation of N.J.A.C. 5:23-11.4(e)2, which requires unitary surfacing in all areas of the playground, would require that unitary surface be provided in all areas of a playground, including internal pathways linking play areas. While the commenter recognized that internal pathways need to be barrier-free in accordance with the Americans with Disabilities Act of 1990 (ADA), the use of unitary surfacing for these pathways is not only unnecessary, but is cost-prohibitive. The commenter provided a conceptual plan for a completely inclusive playground that delineated the significant coverage areas for ADA accessibility both within the safety zones of the play equipment for proposed unitary surfacing and alternative materials for the internal pathways. The commenter recommended alternative language as follows: "Unitary surfacing shall be provided in the safety zone of all play equipment."

RESPONSE: Section 2b(2)(c) of P.L. 2018, c. 104 requires that, "the rules and regulations promulgated pursuant to this subsection shall also include but shall not be limited to...the use of unitary surfacing in all areas of the playground to allow the maximum possible access to the playground for people using wheeled mobility devices." The Department agrees that a strict interpretation of the proposed language could require an entire park to utilize unitary surfacing; that was not the intention of the rulemaking, nor P.L. 2018, c. 104. As such, upon adoption, to allow for flexibility while still ensuring the provisions set forth within Jake's Law (the Law) are met, the Department has added clarifying language to ensure that this subsection shall not be construed to require unitary surfacing in areas outside the immediate play areas and pathways to those play areas. Therefore, for the plans provided by the commenter, the play areas should be connected by a trail of unitary surfacing, but the concrete areas should be allowed to stay, as well.

The remainder of the comments were received from Mitchell Malec, a retired former employee of the Department. His comments are presented verbatim to ensure that no detail is lost through summation.

3. COMMENT: "Upon my initial review of these proposed amendments I was awed at how well the Department, with input from