

Minnesota Attorney General: Administrative Rules Proceedings

Copyright Notice:

This material may be protected by copyright law (U.S. Code, Title 17). Researchers are liable for any infringement. For more information, visit www.mnhs.org/copyright.

Version 3
August 20, 2018

Our File No. 711

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 7/20
DATE FOR REVIEW 7/28
DATE DUE 8/3

Adopted w/a hearing ____
Adopted w/o a hearing X
Temporary rule ____

Approved 8/3 Disapproved ____ Returned to Agency 8/5

Resubmitted 9/1 Due ____
Approved 9/17 Disapproved ____ Returned to Agency 9/17

Date filed w/Secretary of State 9/17 REVISOR ____

✓ Rule as Adopted

✓ Rule as Proposed See SR.

✓ Order Adopting 7.20.81

✓ Notice of Intent to Solicit Outside Opinion 3.3.80

✓ Order for rulemaking
____ Date of Hearing

N/A Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

✓ Affidavit of Mailing Notice of rulemaking
5.27.81 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
6.1.81 At least 30/20 days prior to ~~hearing~~/adoption

N/A Hearing Examiner's Report

N/A Chief Hearing Examiner's Report(s)
____ Approving H.E.'s Report
____ Approving agency action

✓ Agency's Findings of Fact

N/A LCRAR Report or agency Affidavit

N/A Certificate of Board's Resolution Adopting Rules

? Order Approving Incorporation by Reference Revisor has not approved

✓ Statement of Need and Reasonableness

N/A Petition for Adoption of a Rule

N/A Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

N/A Affidavit of Mailing Notice of Submission to Attorney General

N/A Notice of Submission to the Attorney General

see transmittal memo

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : MARK SEETIN, Commissioner
Department of Agriculture

DATE: September 17, 198

ATTN : Jon Murphy
Special Assistant Attorney General

FROM : H. Theodore Grindal
Special Assistant
Attorney General

PHONE: 296-1288

SUBJECT: Adopted Rules Governing Seed Potato Certification and Repeal of Existing Rules Agr 121-126

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Please note that they have not been filed with the State Register; this must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of stamps of the Attorney General and Secretary of State to the last page of the rules;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages to the rules in the approved set

If you have any questions in this regard, please contact me.

HTG/cae

Enc.

cc: Kathy Burek
Duane Harves

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

Office Memorandum

TO : Jerry Anderson
Special Assistant Attorney General
Office of the Attorney General

DATE: July 20, 1981

FROM : Gerald Heil, Director GH
Division of Planning

PHONE: 6-1486

SUBJECT: Review of Rules Adopted Without a Public Hearing

The Department of Agriculture has adopted rules governing Seed Potato Certification (3 MCAR Secs. 1.0127-1.0135) without a public hearing pursuant to Minn. Stat. 15.0412, subd. 4h.

Accompanying this memo you will find a number of documents which are being submitted for your review. A list of these documents is attached.

Since no person requested to be notified when these documents were submitted to the Office of the Attorney General, no Notice of Submission nor Affidavit of Mailing such Notice are part of this record. Furthermore, no written comments on these proposed rules were received at any time - neither during the solicitation of outside opinion nor during the 30 day comment period following the publication of the Notice of Intent to Adopt Rules Without a Public Hearing in the State Register. Thus no written comments from the public are included in this record. Also, no requests for a public hearing were received during the 30 day comment period.

No changes were made between the Rules as Proposed and Rules as Adopted.

A copy of the Rules as Adopted has been submitted to the Revisor of Statutes in order to obtain approval as to form as required by Minn. Stat. 15.0412, subd. 10.

If you have any questions, please call me.

GH:dw

Enclosure

RECEIVED
JUL 20 1981
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

cc: Robert Flaskerd, Plant Industry Division
Ronald Sushak, Plant Industry Division

LIST OF ATTACHED DOCUMENTS

A. Rule as Adopted (Original and 3 copies).

B. Order Adopting Rules (2 copies).

C. Notice of Intent to Solicit Outside Opinion (1 copy).

D. Order for Notice of Intent to Adopt a Rule Without Public Hearing (1 copy).

E. Notice of Intent to Adopt a Rule Without Public Hearing (1 copy).

F. Affidavit of Mailing Notice of Intent to Adopt a Rule Without Public Hearing (1 copy).

G. Mailing List Certificate (1 copy).

H. Rule as Proposed (1 copy).

I. Findings of Fact and Conclusions (1 copy).

J. Statement of Need and Reasonableness (1 copy).

K. Certificate of Compliance with Rulemaking Procedures (1 copy).

SF-00006-02

DEPARTMENT ATTORNEY GENERAL

STATE OF MINNESOTA

Office Memorandum

TO : Mark Seetin, Commissioner
Department of Agriculture

DATE: August 3, 1981

Attn : Jon Murphy
Special Assistant Attorney General

FROM : H. Theodore Grindal HTG
Special Assistant Attorney General

PHONE: 296-1288

SUBJECT: Adopted Rules Governing Seed Potato Certification and Repeal of Existing Rules Agr 121-126

The above-captioned rules have been rejected for the following reasons:

1. In 3 MCAR § 1.0130 A.2. reference is made in line 7 of that section to "special circumstances" under which the commissioner could "extend the deadline" for applications. This language confers undue discretion to the commissioner. The term "special circumstances" must be defined to enable citizens to determine more fully when the deadline may be, in fact, extended.

2. In 3 MCAR § 1.0130 A.5. there is reference to "sufficient acreage" to "warrant the expense of an inspection." Furthermore, the commissioner is given sole discretion to determine when there is or is not sufficient acreage. This term is vague and gives the commissioner unbridled discretion when and where an application may or may not be accepted.

3. 3 MCAR 1.0135 A.1.6. refers to "size 'B'" potatoes, but no where is there listed a size A potato nor is "size 'B'" defined. I would recommend further clarification on this point if possible. This problem occurs also in 3 MCAR § 1.0135 A.2.6.

After consideration of the above comments and agency action, if any, these rules may be resubmitted for review. Upon resubmission, please include two copies of a new or supplemental Order Adopting, and the original and two copies of the new Rule as Adopted. Also, please include a memorandum specifying that the rules are being resubmitted so that we may obtain our initial file in this matter.

Please be advised that pursuant to Minn. Stat. § 15.0412 subd. 4g effective July 1, 1981, "(n)o rule shall be filed with the secretary of state or published in the state register unless the revisor of statutes has endorsed on the rule that it is approved as to form." Therefore, at the time when you resubmit the new rule to this office, you must submit two copies of the same to the revisor of statutes.

If you have any questions concerning the issues raised in this memorandum, please do not hesitate to call me.

HTG:rjg
Enc.
cc:Duane Harves
Susan Robertson

Rules as Adopted

3 MCAR S 1.0127 Purpose and authority. Rules 3 MCAR SS 1.0127-1.0135 provide standards for the inspection, certification, production, and marketing of certified seed potatoes in the State of Minnesota. The authority to adopt these rules is contained in Minn. Stat. S 21.118 ~~(1980)~~.

3 MCAR S 1.0128 Definitions. As used in 3 MCAR SS 1.0127-1.0135, the following definitions apply unless the context clearly indicates otherwise.

A. "Commissioner" means the Commissioner of Agriculture or the commissioner's authorized representative.

B. "Department" means the Department of Agriculture.

C. "Seed potato certification inspector" means an employee of the department authorized by the commissioner to inspect seed potato plants and tubers entered for certification.

D. "Inspected" has the meaning given it in Minn. Stat. S 21.111, subd. 2 ~~(1980)~~.

E. "Seed potatoes" has the meaning given it in Minn. Stat. S 21.111, subd. 5 ~~(1980)~~.

F. "Certified" has the meaning given it in Minn. Stat. S 21.111, subd. 3 ~~(1980)~~.

G. "Certified seed potatoes" means potatoes which have been produced, graded, sacked or placed in bulk, and inspected and

certified in accordance with 3 MCAR SS 1.0127-1.0135.

H. "Farm" means a seed potato enterprise. It includes all land, equipment, storage facilities, and laborers used to produce certified seed potatoes.

I. "Field" means a plot of land on a farm on which potatoes are grown for certification. The potatoes shall be of one variety from one certified seed potato grower and shall be grown in physical separation from other fields.

J. "Lot" means a group of seed potatoes entered for certification that have passed the field inspection requirements. For the purposes of 3 MCAR SS 1.0127-1.0135, a lot of potatoes also means that the group is of one variety, from one or more fields, grown on the same farm, and stored in physical separation from other lots.

K. "Crop" means all lots produced on a farm in one year.

L. "Tolerance" means a specified allowance for variation from the standards provided for diseases and physical defects, as provided in 3 MCAR SS 1.0127-1.0135.

M. "Rejected" means that a field or lot fails to meet the standards provided for in 3 MCAR SS 1.0127-1.0135.

3 MCAR S 1.0129 General guidance. The provisions of this section govern the production of potatoes for use as certified seed potatoes.

A. Seed potato certification. In order to produce certified seed potatoes, a grower must comply with the following procedures:

1. Potatoes entered for certification shall be inspected while growing in the field and again after harvest at the time of shipment. Certification shall be based upon visual inspection by the commissioner of sample plants and tubers from each field and lot. Certificates shall be issued to show the varietal purity, freedom from disease, ~~and/or~~ and physical defects of the potatoes at the time of inspection.

2. Participation in the certified seed potato program shall be voluntary. The applicant may withdraw at any time.

Farming and sanitation practices are the responsibility of the applicant. Certification and inspection under 3 MCAR SS 1.0127-1.0135 shall be conducted by the commissioner. Failure of the applicant to comply with the requirements of 3 MCAR SS 1.0127-1.0135 shall be cause for rejection of any field or lot. Potatoes from rejected fields or lots cannot be sold as certified seed potatoes.

B. Winter testing. In order to detect certain virus diseases, samples from all Foundation certified and Approved certified seed potato lots shall be winter-tested. In the event of serious malfunctions of the winter test, classification of lots as Foundation certified or Approved certified shall be based on the previous summer field readings.

C. Certified seed potato classes. There are three classes of Minnesota certified seed potatoes, differentiated by their tolerances for virus diseases.

1. The first class, Foundation certified seed potatoes, has stricter tolerances for virus diseases than do the other classes. This class shall be winter-tested.

2. The Approved certified seed potato class is the second class. Virus disease tolerances for these seed potatoes are less strict than those for Foundation certified seed potatoes. Approved certified seed potatoes shall also be winter-tested.

3. The third class, the Certified seed potato class, is not winter-tested.

D. Certified seed potato grades. Grades of certified seed potatoes are established according to the physical defects of the tubers. There are three grades used for shipping Minnesota certified seed potatoes.

1. The blue tag certified seed potato grade, the first grade, has tolerances for physical defects of the tubers stricter than the other grades. This grade may be used by growers of Foundation certified, Approved certified, and Certified seed potatoes. The blue tag grade may be used for intrastate and interstate shipments of certified seed potatoes.

2. The red tag certified seed potato grade is the second

grade. This grade allows more physical defects of the tubers than the blue tag certified seed potato grade. It may be used by growers of Foundation certified, Approved certified, and Certified seed ~~potato growers~~ potatoes. The red tag grade may also be used for intrastate and interstate shipments of certified seed potatoes.

3. The white tag certified seed potato grade is the third grade. The tolerances for physical defects of the tubers are determined by agreement between purchaser and seller of the certified seed potatoes. This grade may only be used by growers of Foundation certified and Approved certified seed potatoes. It may only be used for intrastate shipments of certified seed potatoes.

E. Zero tolerance for bacterial ring rot. Certification rules make provisions to allow the presence of certain diseases at levels sufficiently low as to preclude significant effects on certified seed potato value. For bacterial ring rot, there is a zero tolerance and the discovery of a single plant in the field or a tuber in storage infected with bacterial ring rot shall cause the rejection of the field or lot. The absence of a finding shall not be construed to mean that the field or lot inspected is free from the disease.

F. Warranty. A certification does not represent a warranty of any kind, express or implied, including merchantability, as to the quality of the crop produced from the certified seed potatoes. A certification represents only that the seed potatoes were produced, graded, sacked or placed in bulk, and inspected in accordance with 3 MCAR SS 1.0127-1.0135.

3 MCAR S 1.0130 Application and eligibility for inspection and certification. The following procedures shall govern:

A. Application for inspection.

1. All potatoes planted on a farm shall be eligible and shall be entered for certification.

2. Application for inspection shall be made before June 16 each year on forms furnished by the commissioner or a seed

potato certification inspector. Applications postmarked after June 15 but before July 1 shall be charged a fifty cents per acre late registration fee. No applications shall be accepted that are postmarked later than June 30. The commissioner may extend the deadline due to special circumstances ~~affecting~~, such as natural disasters, which make it impractical or impossible for planting to be completed by the deadline and which affect an area or large number of growers.

3. An application for the inspection of a field planted with purchased certified seed potatoes shall include a copy of the shipping point certificates or bulk seed certificates for the total amount of purchased certified seed potatoes planted.

4. A separate application shall be completed for each field planted.

5. No application for inspection shall be accepted from a grower in any community or county in which there is not sufficient acreage ~~to warrant the expense of an inspection~~ for the total inspection fee charges to cover the cost of wages and expenses of the inspectors providing the inspection service. Determination of sufficient acreage shall be made by the commissioner.

B. Seed potatoes eligible for Minnesota certification planting. A field shall not be inspected for certification unless both the seed potato variety and the particular lot planted have the authorization of the commissioner. ~~Any well established, named, commercial variety shall be considered for certification if the variety has been described as to vine and tuber characteristics in a journal recognized by the commissioner and in accordance with the recommendations of the Potato Association of America~~ In considering seed potato varieties for authorization for certification planting, the commissioner shall consider scientific evidence and expert opinion. To be eligible for certification planting, seed potatoes shall be one of the following:

1. From Minnesota growers:

a. Foundation certified seed potatoes;

b. Approved certified seed potatoes; or

c. Certified seed potatoes. A grower may replant his own certified seed potatoes. The commissioner may authorize the planting of purchased certified seed potatoes if there is no source of Foundation certified or Approved certified seed potatoes available to the grower.

2. From non-Minnesota growers: Seed potatoes approved for certification planting by the certifying agency in another state or a Canadian province may be planted if tolerances for certification meet Minnesota tolerances for Approved or Foundation certified seed potatoes.

3. Seedling or numbered selections may be accepted for entrance into the certification system by special authorization of the commissioner. The applicant shall submit a written statement from the breeder or originator that the applicant has full and unrestricted rights to introduce the seedling or numbered selection into the commercial market, and that the seedling or numbered selection shall be named within a period of not more than three years from acceptance of application. If the seedling or numbered selection is not named at the end of three years from acceptance of the application, a two year waiting period shall pass before reentry into the certification program.

3 MCAR S 1.0131 Requirements for certified seed potato production. The following standards shall be met before potatoes may be classified as certified seed potatoes.

A. Field inspection. Certification shall be based upon information regarding the following: stand, general vigor, varietal purity, disease tolerances, and factors affecting field inspection. At least two field inspections shall be made of each field during the growing season. Additional inspections may be made if deemed necessary by the commissioner.

1. Stand. A field shall be rejected if there are a large number of plants missing due to disease.

2. General vigor. A field shall be rejected if it

contains a large number of weak plants.

3. Varietal purity. A field shall be rejected if it contains any varietal mixture at the time of inspection, unless all varietal mixtures are removed by the grower before the next inspection.

4. Disease tolerances (percentage of infected plants). A field shall be rejected if it contains percentages of diseased plants in excess of those listed in the following table. The disease percentages listed are based on symptoms which are visible in the sample being inspected.

Maximum Disease Tolerance Levels

Diseases	First Inspection	Second and Subsequent Inspections
Severe mosaic (rugose, crinkle and leafrolling)	0.5%	0.3%
Spindle tuber	0.1%	0.1%
Leafroll	0.5%	0.3%
Total of above diseases	1.0%	0.5%
Yellow dwarf	0.5%	0.5%
Calico	0.5%	0.5%
Haywire	0.5%	0.5%
Witches broom	0.5%	0.5%
Total of above 4 diseases	0.5%	0.5%
Mild mosaic	2.0%	1.0%
Bacterial ring rot, field rejected if found	0.0%	0.0%

5. Factors affecting field inspection.

a. A field shall be rejected if any of the following are present to such an extent that satisfactory inspection for diseases cannot be made:

(1) Early or late blight;

(2) Blackleg or wilt of any kind;

(3) Weeds;

(4) Insect injury;

(5) Chemical damage.

b. A field shall be rejected if any other conditions

are present to such an extent that satisfactory inspection for diseases cannot be made.

B. Roguing. If any of the diseases listed in A. 4. of this rule are present in a field in amounts less than the maximum disease tolerance level, the infected plants shall be removed before the final inspection. If roguing is done after tubers form, the tubers from the rogued plants shall also be removed and destroyed.

C. Storage.

1. Lots shall not be stored in any warehouse where other potatoes are stored, nor shall they be stored under conditions of possible disease contamination. If more than one grower stores lots in the same warehouse, each grower's lots shall be properly identified by labeling the bin with the grower's name, address, variety, and amount in the bin. If the lots are to be stored in a public warehouse or storage unit not directly under the control of the grower, a complete record giving location of the storage unit, number of the bin, variety, and the quantity stored shall be sent to the commissioner when the lots are put into storage. If it is available, a copy of the warehouse receipt shall also be sent to the commissioner.

2. Equipment used for grading and handling lots shall not be used for any other potatoes. If any equipment is used on other potatoes, the lots shall be rejected.

3. Any firm handling lots on contract shall label all bins containing lots with the name of the grower whose lots are being stored. Responsibility for proper labeling and subsequent handling rests with the firm. No certification tags or bulk certificates shall be issued until this is done.

4. Each grower shall submit a completed storage and yield report on each lot on forms furnished by the commissioner. Certification tags shall not be issued to growers who have not submitted the report.

D. Tags, bulk certificates, seals.

1. Official blue, red, or white tags, bearing the grower's name and address, variety, and the crop year, shall be

issued when the potatoes meet the certification requirements described in 3 MCAR S 1.0130 and 3 MCAR S 1.0131 A-C.

2. Tags shall be fastened onto sacks with a metal seal so as to constitute a seal at the time the lots are prepared for shipment. No metal seal is required when a tag is machine sewn onto the sack. A special seal shall be placed on the conveyance doors in case of bulk shipments identified by a bulk certificate.

3. Tags shall be issued only to growers, except when lots are stored in a public warehouse or in a storage unit not under direct control of the grower. They shall be issued to the owner or manager of the storage unit upon receipt of written authorization from the grower.

4. Responsibility for ordering tags shall rest entirely with each grower.

E. Grading. All lots shall be inspected at the loading point whenever possible. If inspection at the loading point is impossible, request for grading inspection in transit shall be made. Every bagged lot or shipment offered for sale and bearing official certification tags shall be in new even-weight sacks. Bulk shipments shall be identified with a bulk certificate. Both bagged and bulk lots or shipments must meet grade standards specified in 3 MCAR S 1.0135.

1. Lots or shipments that fail to meet grade standards when inspected shall be reconditioned or;

a. If the lot or shipment is in sacks, the tags shall be removed under the supervision of a state or federal/state inspector before the lot or shipment is allowed to proceed to its destination.

b. If the shipment is in bulk, no bulk certificate shall be issued.

2. All costs of reconditioning to meet grade shall be borne by the shipper.

3 MCAR S 1.0132 Requirements for Foundation certified seed potato production. Foundation certified seed potatoes shall consist of potatoes which meet all the requirements of 3 MCAR S

1.0130 and 3 MCAR S 1.0131 as well as the following additional requirements.

A. A lot grown as and intended to be Foundation certified seed potatoes must remain under direct control of the grower for three years prior to being certified as Foundation certified seed potatoes.

B. Foundation certified seed potatoes shall be the only potatoes grown on the farm. They shall be grown from potatoes produced on a tuber unit seed plot.

C. Not more than two-tenths percent of any or all virus diseases shall be allowed on any field inspection. No spindle tuber is allowed.

D. A lot shall be kept under direct control of the grower. Such lots shall not be stored in any warehouse in which other potatoes are stored, unless authorization is granted by the commissioner.

E. A sample of each lot meeting the requirements of this rule shall be submitted for winter testing. Seed potato lots with winter test readings more than one-half percent of any or all virus diseases shall be removed from the Foundation certified seed potato class. Presence of spindle tuber, bacterial ring rot, or chemical damage shall also remove the lot from the Foundation certified seed potato class.

F. If bacterial ring rot is found in any field or lot, the crop is not eligible for certification planting the following year. Potatoes from other fields or lots may be eligible for certification planting if the equipment used in the production of the crop was thoroughly disinfected after it was used on each field or lot. Proof of disinfection must be filed with the commissioner. Authorization for certification planting the following year shall then be granted only to the grower himself and only if the lots meet all other requirements for planting.

G. Blue, red, or white tags with the word "Foundation" stamped across the front of the tag shall be issued only after all requirements of 3 MCAR S 1.0132 are met. In addition, the crop shall be at least the third crop grown following the year

in which bacterial ring rot was found before becoming eligible to be tagged with Foundation tags.

3 MCAR S 1.0133 Requirements for Approved certified seed potato production. Approved certified seed potatoes shall consist of potatoes which meet all the requirements of 3 MCAR S 1.0130 and 3 MCAR S 1.0131 as well as the following additional requirements:

A. Not more than three-tenths percent of any or all virus diseases shall be allowed on the final field inspection, except that no spindle tuber is allowed and up to five-tenths percent is allowed for mild mosaic.

B. A sample of the lot must meet the same winter test requirements as prescribed for Foundation certified seed potatoes in 3 MCAR S 1.0132 E.

1. In selecting lots for winter testing, the commissioner shall consider factors such as lots more than two years removed from the Foundation certified seed potato class, amount of disease found during field inspections, amount of varietal mixture rogued, proximity to fields having excessive amounts of disease, and other conditions which may jeopardize the value of the lots for certification planting.

2. If bacterial ring rot is found on the farm, before becoming eligible to submit a sample from future crops for winter testing, the grower shall either:

a. Dispose of the crop from the year bacterial ring rot was found and purchase all new Foundation certified or Approved certified seed potatoes; or

b. Produce at least two crops free from bacterial ring rot.

3 MCAR S 1.0134 Fees.

A. Fees shall be set by the commissioner in amounts necessary to carry out the seed potato certification service. Fees shall be reviewed annually and notice of the current fee schedule sent to growers from time-to-time.

B. Field inspection fees shall be paid at time of application for entry into the certification program.

C. Winter testing fees shall be paid before results are sent to the grower.

D. Fees for other disease testing shall be paid before results are listed in the Minnesota Seed Potato Certification Directory.

3 MCAR S 1.0135 Minnesota certified seed potato grades and tolerances.

A. Minnesota certified seed potato grades. Before becoming eligible for grading as certified seed potatoes, the requirements of 3 MCAR SS 1.0130 and 1.0131 shall be met. In addition, Foundation certified seed potatoes shall meet the requirements of 3 MCAR S 1.0132. Approved certified seed potatoes shall meet the requirements of 3 MCAR S 1.0133. Grading and tagging or issuance of a bulk certificate are the final steps in the certification process.

1. Minnesota blue tag certified seed potato grade. To be graded as Minnesota blue tag certified seed potatoes, the potatoes shall meet the following requirements:

a. The potatoes shall be, at time of final inspection, one variety; fairly well-shaped; free from bacterial ring rot, powdery scab, freezing, black heart, and soft rot or wet breakdown; and free from injury by surface or pitted scab, and from damage caused by dirt or other foreign matter, second growth, growth cracks, air cracks, cuts, shriveling, sprouts, pitted scab, surface scab, russet scab, dry rot, other diseases, insects or worms, external discoloration caused from loss of skin, mechanical or other means, and from serious damage caused by sunburn, hollow heart, or internal discoloration (other than hollow heart).

b. Size. For round or intermediate shaped varieties, the maximum size shall be not more than 12 ounces and, unless otherwise specified, the minimum size shall be not less than 1-7/8 inches in diameter. For long varieties, the maximum size shall be not more than 14 ounces and, unless otherwise specified, the minimum size shall be not less than 1-3/4 inches

in diameter. For all varieties, size "B", the minimum diameter shall be not less than 1-1/2 inches and the maximum size shall be not more than 2-1/4 inches in diameter.

c. Lot tolerances. In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, are provided:

(1) For defects:

(a) 10% for potatoes seriously damaged by hollow heart;

(b) 10% for potatoes seriously damaged by sunburn;

(c) 5% for potatoes seriously damaged by internal discoloration (other than hollow heart);

(d) 8% for potatoes injured by (slight) scab;

(e) 10% for potatoes damaged by dirt or other foreign matter;

(f) 10% for potatoes damaged by sprouts; and

(g) 6% for potatoes which fail to meet the remaining requirements of the grade provided, that included in this amount not more than the following percentages shall be allowed for the following defects:

(i)	Soft rot, frozen, or wet breakdown	0.5%
(ii)	Damage by surface or pitted scab	2.0%
(iii)	Damage by dry ~~rots~~ rot	2.0%
(iv)	Late blight tuber rot	2.0%
(v)	Bacterial ring rot	0.0%
(vi)	Powdery scab	0.0%

(2) For offsize:

(a) 5% for potatoes which fail to meet the required or specified minimum size,

(b) 10% for potatoes which fail to meet the required maximum size.

2. Minnesota red tag certified seed potato grade. To be graded as Minnesota red tag certified seed potatoes, the potatoes must meet the following requirements.

a. The potatoes shall be, at time of final inspection,

of one variety; fairly well-shaped; and free from bacterial ring rot, powdery scab, freezing, black heart, and soft rot or wet breakdown, and from damage caused by second growth, growth cracks, air cracks, cuts, shriveling, sprouts, pitted scab, surface scab, dry rot, other diseases, insects or worms, external discoloration caused from loss of skin, mechanical or other means, and from serious damage caused by dirt or other foreign matter, russet scab, sunburn, hollow heart, or internal discoloration (other than hollow heart).

b. Size. For all varieties, the maximum size shall be not more than 14 ounces and unless otherwise specified, the minimum size shall be not less than 1-7/8 inches in diameter for round or intermediate shaped varieties and not less than 1-3/4 inches in diameter for long varieties. For all varieties, size "B", the minimum diameter shall be not less than 1-1/2 inches, and the maximum size shall be not more than 2-1/4 inches in diameter.

c. Lot tolerances. In order to allow for variations incident to proper grading and handling the following tolerances, by weight, are provided:

(1) For defects:

(a) 10% for potatoes seriously damaged by hollow heart;

(b) 10% for potatoes seriously damaged by sunburn;

(c) 5% for potatoes seriously damaged by internal discoloration (other than hollow heart);

(d) 20% for potatoes damaged by sprouts; and

(e) 20% for potatoes which fail to meet the remaining requirements of the grade provided, that included in this amount not more than the following percentages shall be allowed:

(i) 5% damage by surface or pitted scab

(ii) 2% damage by dry rot

(iii) 6% serious damage for other defects other than sunburn, hollow heart, internal discoloration (other than hollow heart) provided, that of this six percent not more

than the following percentages shall be allowed for the following defects:

(aa) Late blight tuber rot	2%
(bb) Soft rot, frozen, or wet breakdown	0.5%
(cc) Bacterial ring rot	0.0%
(dd) Powdery scab	0.0%

(2) For offsize:

(a) 5% for potatoes which fail to meet the required or specified minimum size;

(b) 10% for potatoes which fail to meet the required maximum size.

3. Minnesota white tag certified seed potato grade.

a. Minnesota white tag certified seed potato grade shall consist of Foundation certified or Approved certified seed potatoes which are graded according to agreement between seller and purchaser as to size and defects, except that not more than one-half percent of soft rot, frozen, or wet breakdown and two percent dry rot shall be allowed.

b. The use of the white tag certified seed potato grade shall be restricted to intrastate shipments.

B. Application of tolerance. The contents of individual containers, other than bulk conveyances, in the lot are subject to the following limitations provided that the averages for the entire lot are within the tolerances specified for the grade. An individual container in any lot may contain not more than double the tolerance specified except for sprouts and that at least one defective specimen, other than bacterial ring rot or powdery scab, and one offsize specimen may be permitted in any container.

C. Condition after transit. Deterioration developing in transit shall be considered as affecting condition and not grade.

D. Definitions. For the purpose of this rule, the following terms have the meanings given them unless the context clearly indicates otherwise:

1. "Mature" means that the outer skin (epidermis) does not loosen or "feather" readily during the ordinary methods of

handling.

2. "Well-shaped" means the normal shape for the variety.

3. "Fairly well-shaped" means that the individual potato is not materially pointed, dumbbell-shaped, or otherwise ill-formed.

4. "Fairly clean" means that the individual potato is reasonably free from dirt, staining, or other foreign matter.

5. "Slightly dirty" means that the appearance of the individual potato is not materially affected by dirt, staining, or other foreign matter.

6. "Diameter" means the greatest dimension at right angles to the longitudinal axis. The long axis shall be used without regard to the position of the stem (rhizome).

7. "Soft rot or wet breakdown" means any soft, mushy, or leaky condition of the tissues.

8. "Surface" or "pitted scab", individually or in combination, which cover an area of more than two percent of the surface of the potato in the aggregate, or which cannot be removed without a loss of more than two percent of the total weight of the potato including the peel covering the defective area shall be considered injury.

9. "Damage" means any defect or combination of defects which materially affects the appearance of the individual potato or which cannot be removed without a loss of more than five percent of the total weight of the potato including the peel covering the defective area. Any one of the following defects or any combination of defects, the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as damage:

a. Russet scab when it materially detracts from the appearance of the individual potato;

b. Second growth or growth cracks which have developed to such an extent as to materially affect the appearance of the individual potato;

c. Air cracks which are deep, or shallow air cracks which materially affect the appearance of the individual potato;

d. Shriveling when the potato is more than moderately shriveled, spongy, or flabby;

e. Sprouting when the individual potato has sprouts over one inch in length;

f. Surface or pitted scab, individually or in combination, which covers an area of more than five percent of the surface of the potato in the aggregate, or causes a loss of more than five percent of the total weight of the potato including peel covering defective area;

g. Dirt if the individual potato has more than 50 percent of its surface affected by lightly caked dirt which is scattered, or more than 15 percent of its surface badly caked with dirt.

10. "Serious damage" means any defect or combination of defects which seriously affects the appearance of the individual potato or which cannot be removed without a loss of more than ten percent of the total weight of the potato including the peel covering the defective area. Any one of the following defects or any combination of defects, the seriousness of which exceeds the maximum allowed for any one defect shall be considered as serious damage:

a. Russet scab when it seriously detracts from the appearance of the potato;

b. Dirt when the appearance of the individual potato is seriously affected by caked or smeared dirt or other foreign matter;

c. Cuts when both ends are clipped or when more than an estimated one-fourth of the potato is cut away from one end or when the remaining portion of the clipped potato weighs less than six ounces;

d. Other cuts which seriously affect the appearance of the individual potato or which cannot be removed without a loss of more than ten percent of the total weight of the potato including peel covering defective area;

e. Shriveling when the potato is excessively shriveled, spongy, or flabby;

f. Surface or pitted scab, individually or in combination, which covers an area of more than twenty-five percent of the surface of the potato in the aggregate, or causes a loss of more than ten percent of the total weight of the potato including peel covering defective area.

Agr. 121-126 are repealed.

September 1, 1981

OFFICE OF THE REVISOR OF STATUTES

Certificate of Approval of Adopted Rules

Agency: Department of Agriculture

Rule Numbers: 3 MCAR S 1.1027-1.0135

Rule Title: Adopted Rules Governing Seed Potato Certification and Repeal of Existing Rules AGR 121-126

Type of Rules: Permanent X

Temporary _____

Documents Incorporated by Reference: None

The attached Rules are approved as to form.

Steven C. Cross
Revisor of Statutes

APPROVED AS TO LEGALITY
Sept 17 19 81
WARREN SPANNAUS, ATTORNEY GENERAL
BY Theodore Tundel
SPECIAL ASSISTANT ATTORNEY GENERAL

Name: Ann L. Bateson
Ann L. Bateson
Title: Deputy Revisor

Phone: 296-1536

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
SEP 17 1981
Joan Anderson Growe
Secretary of State
10:00 a.m.

c. Attorney-licensees ~~CPAs~~. Persons occupying the dual status of Attorney at Law and Certified Public Accountant or Licensed Public Accountant are excepted from continuing education requirements only if they do not engage in the practice of public accounting under their accounting licenses.

d. [Unchanged.]

2. Qualifying programs-credit hours granted.

a. through h. [Unchanged.]

3. through 5. [Unchanged.]

6. Reciprocity. An individual who holds a valid and unrevoked certified public accountant or licensed public accountant certificate issued by any state or political subdivision of the United States or a comparable certificate or degree issued by any foreign country, and who receives a license to practice in this state under the appropriate provisions of the accountancy law, will be required to comply with the continuing education requirement on a pro rata basis when his license is next renewed and each succeeding three year period thereafter.

7. through 8. [Unchanged.]

E. All certified public accountant licensees holding a license on or before December 31, 1977, may use acceptable continuing education programs from May 31, 1977, to meet the required number of hours for the first reporting period. All licensed public accountant licensees having made application for license on or before July 1, 1980, may use acceptable continuing education programs from January 1, 1980, to meet the required number of hours for the first reporting period.

Chapter Seventeen: 4 MCAR §§ 6.170-6.179 [Unchanged.]

Chapter Eighteen: 4 MCAR §§ 6.180-6.189 [Unchanged.]

Chapter Nineteen: 4 MCAR §§ 6.190-6.199 [Unchanged.]

Chapter Twenty: Professional Corporations (§§ 6.200-6.209)

4 MCAR § 6.200 A corporation shall not include the words "Certified Public Accountant," "Licensed Public Accountant, or the initials CPA or LPA in its corporate name.

4 MCAR § 6.201 through 6.209 [Unchanged.]

Chapter Twenty One: Contested Cases

4 MCAR § 6.210 [Unchanged.]

Department of Agriculture
Plant Industry Division

Proposed Rules Governing Seed Potato Certification and Proposed Repeal of Existing Rules Agr 121-126

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Department of Agriculture proposes to adopt the above-entitled rules without a public hearing. The Commissioner of Agriculture has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, § 15.0412, subdivision 4h (1980).

Persons interested in these rules shall have 30 days to submit comment on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, § 15.0412, subdivisions 4-4f (1980).

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to: Gerald Heil, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, MN 55107, (612) 296-1486. If a public hearing is requested, identification of the particular objection, the suggested modifications to the proposed language, and the reasons or data relied on to support the suggested modification is desired.

Authority for the adoption of these rules is contained in the Seed Potato Certification Law, Minn. Stat. § 21.118 (1980). Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available upon request from: Gerald Heil, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, MN 55107, (612) 296-1486.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the Statement of Need and Reasonableness, all written comments received, and the final rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Gerald Heil, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, MN 55107, (612) 296-1486.

The new rules repeal the existing rules of the Department (AGR 121-126) and constitute an entirely new set of rules intended for the implementation, enforcement, and administration of the existing statute. Because the existing rules are difficult to read and understand, it is proposed that the entire set of rules be deleted. Thus, the proposed rules should be considered all new language. Most of the proposed new language, however, represents a reorganization and rewording of the present language for purposes of clarity. Due to the extent of the reorganization and rewriting it was felt that the proposed rules could be best presented by deleting the entire existing language and proposing the rules as all new language.

Please be advised that Minnesota Statutes, Chapter 10A, requires each lobbyist to register with the Ethical Practices Board within five days after he/she becomes a lobbyist. Lobbying includes attempting to influence rulemaking by communicating or using others to communicate with public officials. A lobbyist is generally any individual who spends more than $250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than $250 per year or five hours per month at lobbying. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, (612) 296-5615.

Copies of this notice and the proposed rules are available and may be obtained by contacting Gerald Heil, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, Minnesota 55107, (612) 296-1486.

May 15, 1981

Mark W. Seetin
Commissioner of Agriculture

Rules as Proposed for Repeal

AGR 121-126 [Proposed for repeal.]

Rules as Proposed (all new material)

3 MCAR § 1.0127 Purpose and authority. Rules 3 MCAR §§ 1.0127-1.0135 provide standards for the inspection, certification, production, and marketing of certified seed potatoes in the State of Minnesota. The authority to adopt these rules is contained in Minn. Stat. § 21.118 (1980).

3 MCAR § 1.0128 Definitions. As used in 3 MCAR §§ 1.0127-1.0135, the following definitions apply unless the context clearly indicates otherwise.

A. "Commissioner" means the Commissioner of Agriculture or the commissioner's authorized representative.

B. "Department" means the Department of Agriculture.

C. "Seed potato certification inspector" means an employee of the department authorized by the commissioner to inspect seed potato plants and tubers entered for certification.

D. "Inspected" has the meaning given it in Minn. Stat. § 21.111, subd. 2 (1980).

E. "Seed potatoes" has the meaning given it in Minn. Stat. § 21.111, subd. 5 (1980).

F. "Certified" has the meaning given it in Minn. Stat. § 21.111, subd. 3 (1980).

G. "Certified seed potatoes" means potatoes which have been produced, graded, sacked or placed in bulk, and inspected and certified in accordance with 3 MCAR §§ 1.0127-0135.

H. "Farm" means a seed potato enterprise. It includes all land, equipment, storage facilities, and laborers used to produce certified seed potatoes.

I. "Field" means a plot of land on a farm on which potatoes are grown for certification. The potatoes shall be of one variety from one certified seed potato grower and shall be grown in physical separation from other fields.

J. "Lot" means a group of seed potatoes entered for certification that have passed the field inspection requirements. For the purposes of 3 MCAR §§ 1.0127-1.0135, a lot of potatoes also means that the group is of one variety, from one or more fields, grown on the same farm, and stored in physical separation from other lots.

K. "Crop" means all lots produced on a farm in one year.

L. "Tolerance" means a specified allowance for variation from the standards provided for diseases and physical defects, as provided in 3 MCAR §§ 1.0127-1.0135.

M. "Rejected" means that a field or lot fails to meet the standards provided for in 3 MCAR §§ 1.0127-1.0135.

3 MCAR § 1.0129 General guidance. The provisions of this section govern the production of potatoes for use as certified seed potatoes.

A. Seed potato certification. In order to produce certified seed potatoes, a grower must comply with the following procedures:

1. Potatoes entered for certification shall be inspected while growing in the field and again after harvest at the time of shipment. Certification shall be based upon visual inspection by the commissioner of sample plants and tubers from each field and lot. Certificates shall be issued to show the varietal purity, freedom from disease, and/or physical defects of the potatoes at the time of inspection.

2. Participation in the certified seed potato program shall be voluntary. The applicant may withdraw at any time. Farming and sanitation practices are the responsibility of the applicant. Certification and inspection under 3 MCAR §§ 1.0127-1.0135 shall be conducted by the commissioner. Failure of the applicant to comply with the requirements of 3 MCAR §§ 1.0127-1.0135 shall be cause for rejection of any field or lot. Potatoes from rejected fields or lots cannot be sold as certified seed potatoes.

B. Winter testing. In order to detect certain virus diseases, samples from all Foundation certified and Approved certified seed potato lots shall be winter-tested. In the event of serious malfunctions of the winter test, classification of lots as Foundation certified or Approved certified shall be based on the previous summer field readings.

C. Certified seed potato classes. There are three classes of Minnesota certified seed potatoes, differentiated by their tolerances for virus diseases.

1. The first class, Foundation certified seed potatoes, has stricter tolerances for virus diseases than do the other classes. This class shall be winter-tested.

2. The Approved certified seed potato class is the second class. Virus disease tolerances for these seed potatoes are less strict than those for Foundation certified seed potatoes. Approved certified seed potatoes shall also be winter-tested.

3. The third class, the Certified seed potato class, is not winter-tested.

D. Certified seed potato grades. Grades of certified seed potatoes are established according to the physical defects of the tubers. There are three grades used for shipping Minnesota certified seed potatoes.

1. The blue tag certified seed potato grade, the first grade, has tolerances for physical defects of the tubers stricter than the other grades. This grade may be used by growers of Foundation certified, Approved certified, and Certified seed potatoes. The blue tag grade may be used for intrastate and interstate shipments of certified seed potatoes.

2. The red tag certified seed potato grade is the second grade. This grade allows more physical defects of the tubers than the blue tag certified seed potato grade. It may be used by growers of Foundation certified, Approved certified, and Certified seed potato growers. The red tag grade may also be used for intrastate and interstate shipments of certified seed potatoes.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

3. The white tag certified seed potato grade is the third grade. The tolerances for physical defects of the tubers are determined by agreement between purchaser and seller of the certified seed potatoes. This grade may only be used by growers of Foundation certified and Approved certified seed potatoes. It may only be used for intrastate shipments of certified seed potatoes.

E. Zero tolerance for bacterial ring rot. Certification rules make provisions to allow the presence of certain diseases at levels sufficiently low as to preclude significant effects on certified seed potato value. For bacterial ring rot, there is a zero tolerance and the discovery of a single plant in the field or a tuber in storage infected with bacterial ring rot shall cause the rejection of the field or lot. The absence of a finding shall not be construed to mean that the field or lot inspected is free from the disease.

F. Warranty. A certification does not represent a warranty of any kind, express or implied, including merchantability, as to the quality of the crop produced from the certified seed potatoes. A certification represents only that the seed potatoes were produced, graded, sacked or placed in bulk, and inspected in accordance with 3 MCAR §§ 1.0127-1.0135.

3 MCAR § 1.0130 Application and eligibility for inspection and certification. The following procedures shall govern:

A. Application for inspection.

1. All potatoes planted on a farm shall be eligible and shall be entered for certification.

2. Application for inspection shall be made before June 16 each year on forms furnished by the commissioner or a seed potato certification inspector. Applications postmarked after June 15 but before July 1 shall be charged a fifty cents per acre late registration fee. No applications shall be accepted that are postmarked later than June 30. The commissioner may extend the deadline due to special circumstances affecting an area or large number of growers.

3. An application for the inspection of a field planted with purchased certified seed potatoes shall include a copy of the shipping point certificates or bulk seed certificates for the total amount of purchased certified seed potatoes planted.

4. A separate application shall be completed for each field planted.

5. No application for inspection shall be accepted from a grower in any community or county in which there is not sufficient acreage to warrant the expense of an inspection. Determination of sufficient acreage shall be made by the commissioner.

B. Seed potatoes eligible for Minnesota certification planting. A field shall not be inspected for certification unless both the seed potato variety and the particular lot planted have the authorization of the commissioner. Any well established, named, commercial variety shall be considered for certification if the variety has been described as to vine and tuber characteristics in a journal recognized by the commissioner and in accordance with the recommendations of the Potato Association of America. To be eligible for certification planting, seed potatoes shall be one of the following:

1. From Minnesota growers:

a. Foundation certified seed potatoes;

b. Approved certified seed potatoes; or

c. Certified seed potatoes. A grower may replant his own certified seed potatoes. The commissioner may authorize the planting of purchased certified seed potatoes if there is no source of Foundation certified or Approved certified seed potatoes available to the grower.

2. From non-Minnesota growers: Seed potatoes approved for certification planting by the certifying agency in another state or a Canadian province may be planted if tolerances for certification meet Minnesota tolerances for Approved or Foundation certified seed potatoes.

3. Seedling or numbered selections may be accepted for entrance into the certification system by special authorization of the commissioner. The applicant shall submit a written statement from the breeder or originator that the applicant has full and unrestricted rights to introduce the seedling or numbered selection into the commercial market, and that the seedling or numbered selection shall be named within a period of not more than three years from acceptance of application. If the seedling or numbered selection is not named at the end of three years from acceptance of the application, a two year waiting period shall pass before reentry into the certification program.

3 MCAR § 1.0131 Requirements for certified seed potato production. The following standards shall be met before potatoes may be classified as certified seed potatoes.

A. Field inspection. Certification shall be based upon information regarding the following: stand, general vigor, varietal purity, disease tolerances, and factors affecting field inspection. At least two field inspections shall be made of each field during the growing season. Additional inspections may be made if deemed necessary by the commissioner.

1. Stand. A field shall be rejected if there are a large number of plants missing due to disease.

2. General vigor. A field shall be rejected if it contains a large number of weak plants.

3. Varietal purity. A field shall be rejected if it contains any varietal mixture at the time of inspection, unless all varietal mixtures are removed by the grower before the next inspection.

4. Disease tolerances (percentage of infected plants). A field shall be rejected if it contains percentages of diseased plants in excess of those listed in the following table. The disease percentages listed are based on symptoms which are visible in the sample being inspected.

Maximum Disease Tolerance Levels

Diseases	First Inspection	Second and Subsequent Inspections
Severe mosaic (rugose, crinkle and leafrolling)	0.5%	0.3%
Spindle tuber	0.1%	0.1%
Leafroll	0.5%	0.3%
Total of above diseases	1.0%	0.5%
Yellow dwarf	0.5%	0.5%
Calico	0.5%	0.5%
Haywire	0.5%	0.5%
Witches broom	0.5%	0.5%
Total of above 4 diseases	0.5%	0.5%
Mild mosaic	2.0%	1.0%
Bacterial ring rot, field rejected if found	0.0%	0.0%

5. Factors affecting field inspection.

a. A field shall be rejected if any of the following are present to such an extent that satisfactory inspection for diseases cannot be made:

(1) Early or late blight;

(2) Blackleg or wilt of any kind;

(3) Weeds;

(4) Insect injury;

(5) Chemical damage.

b. A field shall be rejected if any other conditions are present to such an extent that satisfactory inspection for diseases cannot be made.

B. Roguing. If any of the diseases listed in A. 4. of this rule are present in a field in amounts less than the maximum disease tolerance level, the infected plants shall be removed before the final inspection. If roguing is done after tubers form, the tubers from the rogued plants shall also be removed and destroyed.

C. Storage.

1. Lots shall not be stored in any warehouse where other potatoes are stored, nor shall they be stored under conditions of possible disease contamination. If more than one grower stores lots in the same warehouse, each grower's lots shall be properly identified by labeling the bin with the grower's name, address, variety, and amount in the bin. If the lots are to be stored in a public warehouse or storage unit not directly under the control of the grower, a complete record giving location of the storage unit, number of the bin, variety, and the quantity stored shall be sent to the commissioner when the lots are put into storage. If it is available, a copy of the warehouse receipt shall also be sent to the commissioner.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

2. Equipment used for grading and handling lots shall not be used for any other potatoes. If any equipment is used on other potatoes, the lots shall be rejected.

3. Any firm handling lots on contract shall label all bins containing lots with the name of the grower whose lots are being stored. Responsibility for proper labeling and subsequent handling rests with the firm. No certification tags or bulk certificates shall be issued until this is done.

4. Each grower shall submit a completed storage and yield report on each lot on forms furnished by the commissioner. Certification tags shall not be issued to growers who have not submitted the report.

D. Tags, bulk certificates, seals.

1. Official blue, red, or white tags, bearing the grower's name and address, variety, and the crop year, shall be issued when the potatoes meet the certification requirements described in 3 MCAR § 1.0130 and 3 MCAR § 1.0131A-C.

2. Tags shall be fastened onto sacks with a metal seal so as to constitute a seal at the time the lots are prepared for shipment. No metal seal is required when a tag is machine sewn onto the sack. A special seal shall be placed on the conveyance doors in case of bulk shipments identified by a bulk certificate.

3. Tags shall be issued only to growers, except when lots are stored in a public warehouse or in a storage unit not under direct control of the grower. They shall be issued to the owner or manager of the storage unit upon receipt of written authorization from the grower.

4. Responsibility for ordering tags shall rest entirely with each grower.

E. Grading. All lots shall be inspected at the loading point whenever possible. If inspection at the loading point is impossible, request for grading inspection in transit shall be made. Every bagged lot or shipment offered for sale and bearing official certification tags shall be in new even-weight sacks. Bulk shipments shall be identified with a bulk certificate. Both bagged and bulk lots or shipments must meet grade standards specified in 3 MCAR § 1.0135.

1. Lots or shipments that fail to meet grade standards when inspected shall be reconditioned or;

a. If the lot or shipment is in sacks, the tags shall be removed under the supervision of a state or federal/state inspector before the lot or shipment is allowed to proceed to its destination.

b. If the shipment is in bulk, no bulk certificate shall be issued.

2. All costs of reconditioning to meet grade shall be borne by the shipper.

3 MCAR § 1.0132 Requirements for Foundation certified seed potato production. Foundation certified seed potatoes shall consist of potatoes which meet all the requirements of 3 MCAR § 1.0130 and 3 MCAR § 1.0131 as well as the following additional requirements.

A. A lot grown as and intended to be Foundation certified seed potatoes must remain under direct control of the grower for three years prior to being certified as Foundation certified seed potatoes.

B. Foundation certified seed potatoes shall be the only potatoes grown on the farm. They shall be grown from potatoes produced on a tuber unit seed plot.

C. Not more than two-tenths percent of any or all virus diseases shall be allowed on any field inspection. No spindle tuber is allowed.

D. A lot shall be kept under direct control of the grower. Such lots shall not be stored in any warehouse in which other potatoes are stored, unless authorization is granted by the commissioner.

E. A sample of each lot meeting the requirements of this rule shall be submitted for winter testing. Seed potato lots with winter test readings more than one-half percent of any or all virus diseases shall be removed from the Foundation certified seed potato class. Presence of spindle tuber, bacterial ring rot, or chemical damage shall also remove the lot from the Foundation certified seed potato class.

F. If bacterial ring rot is found in any field or lot, the crop is not eligible for certification planting the following year. Potatoes from other fields or lots may be eligible for certification planting if the equipment used in the production of the crop was thoroughly disinfected after it was used on each field or lot. Proof of disinfection must be filed with the commissioner. Authorization for certification planting the following year shall then be granted only to the grower himself and only if the lots meet all other requirements for planting.

G. Blue, red, or white tags with the word "Foundation" stamped across the front of the tag shall be issued only after all requirements of 3 MCAR § 1.0132 are met. In addition, the crop shall be at least the third crop grown following the year in which bacterial ring rot was found before becoming eligible to be tagged with Foundation tags.

3 MCAR § 1.0133 Requirements for Approved certified seed potato production. Approved certified seed potatoes shall consist of potatoes which meet all requirements of 3 MCAR § 1.0130 and 3 MCAR § 1.0131 as well as the following additional requirements:

A. Not more than three-tenths percent of any or all virus diseases shall be allowed on the final field inspection, except that no spindle tuber is allowed and up to five-tenths percent is allowed for mild mosaic.

B. A sample of the lot must meet the same winter test requirements as prescribed for Foundation certified seed potatoes in 3 MCAR § 1.0132 E.

1. In selecting lots for winter testing, the commissioner shall consider factors such as lots more than two years removed from the Foundation certified seed potato class, amount of disease found during field inspections, amount of varietal mixture rogued, proximity to fields having excessive amounts of disease, and other conditions which may jeopardize the value of the lots for certification planting.

2. If bacterial ring rot is found on the farm, before becoming eligible to submit a sample from future crops for winter testing, the grower shall either:

a. Dispose of the crop from the year bacterial ring rot was found and purchase all new Foundation certified or Approved certified seed potatoes; or

b. Produce at least two crops free from bacterial ring rot.

3 MCAR § 1.0134 Fees.

A. Fees shall be set by the commissioner in amounts necessary to carry out the seed potato certification service. Fees shall be reviewed annually and notice of the current fee schedule sent to growers from time-to-time.

B. Field inspection fees shall be paid at time of application for entry into the certification program.

C. Winter testing fees shall be paid before results are sent to the grower.

D. Fees for other disease testing shall be paid before results are listed in the Minnesota Seed Potato Certification Directory.

3 MCAR § 1.0135 Minnesota certified seed potato grades and tolerances.

A. Minnesota certified seed potato grades. Before becoming eligible for grading as certified seed potatoes, the requirements of 3 MCAR §§ 1.0130 and 1.0131 shall be met. In addition, Foundation certified seed potatoes shall meet the requirements of 3 MCAR § 1.0132. Approved certified seed potatoes shall meet the requirements of 3 MCAR § 1.0133. Grading and tagging or issuance of a bulk certificate are the final steps in the certification process.

1. Minnesota blue tag certified seed potato grade. To be graded as Minnesota blue tag certified seed potatoes, the potatoes shall meet the following requirements:

a. The potatoes shall be, at time of final inspection, one variety; fairly well-shaped; free from bacterial ring rot, powdery scab, freezing, black heart, and soft rot or wet breakdown; and free from injury by surface or pitted scab, and from damage caused by dirt or other foreign matter, second growth, growth cracks, air cracks, cuts, shriveling, sprouts, pitted scab, surface scab, russet scab, dry rot, other diseases, insects or worms, external discoloration caused from loss of skin, mechanical or other means, and from serious damage caused by sunburn, hollow heart, or internal discoloration (other than hollow heart).

b. Size. For round or intermediate shaped varieties, the maximum size shall be not more than 12 ounces and, unless otherwise specified, the minimum size shall be not less than 1-⅞ inches in diameter. For long varieties, the maximum size shall be not more than 14 ounces and, unless otherwise specified, the minimum size shall be not less than 1-¾ inches in diameter. For all varieties, size "B", the minimum diameter shall be not less than 1-½ inches and the maximum size shall be not more than 2-¼ inches in diameter.

c. Lot tolerances. In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, are provided:

(1) For defects:

(a) 10% for potatoes seriously damaged by hollow heart;

(b) 10% for potatoes seriously damaged by sunburn;

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

(c) 5% for potatoes seriously damaged by internal discoloration (other than hollow heart);

(d) 8% for potatoes injured by (slight) scab;

(e) 10% for potatoes damaged by dirt or other foreign matter;

(f) 10% for potatoes damaged by sprouts; and

(g) 6% for potatoes which fail to meet the remaining requirements of the grade provided, that included in this amount not more than the following percentages shall be allowed for the following defects:

(i) Soft rot, frozen, or wet breakdown	0.5%
(ii) Damage by surface or pitted scab	2.0%
(iii) Damage by dry rots	2.0%
(iv) Late blight tuber rot	2.0%
(v) Bacterial ring rot	0.0%
(vi) Powdery scab	0.0%

(2) For offsize:

(a) 5% for potatoes which fail to meet the required or specified minimum size,

(b) 10% for potatoes which fail to meet the required maximum size.

2. Minnesota red tag certified seed potato grade. To be graded as Minnesota red tag certified seed potatoes, the potatoes must meet the following requirements.

a. The potatoes shall be, at time of final inspection, of one variety; fairly well-shaped; and free from bacterial ring rot, powdery scab, freezing, black heart, and soft rot or wet breakdown, and from damage caused by second growth, growth cracks, air cracks, cuts, shriveling, sprouts, pitted scab, surface scab, dry rot, other diseases, insects or worms, external discoloration caused from loss of skin, mechanical or other means, and from serious damage caused by dirt or other foreign matter, russet scab, sunburn, hollow heart, or internal discoloration (other than hollow heart).

b. Size. For all varieties, the maximum size shall be not more than 14 ounces and unless otherwise specified, the minimum size shall be not less than 1-⅞ inches in diameter for round or intermediate shaped varieties and not less than 1-¾ inches in diameter for long varieties. For all varieties, size "B," the minimum diameter shall be not less than 1-½ inches, and the maximum size shall be not more than 2-¼ inches in diameter.

c. Lot tolerances. In order to allow for variations incident to proper grading and handling the following tolerances, by weight, are provided:

(1) For defects:

(a) 10% for potatoes seriously damaged by hollow heart;

(b) 10% for potatoes seriously damaged by sunburn;

(c) 5% for potatoes seriously damaged by internal discoloration (other than hollow heart);

(d) 20% for potatoes damaged by sprouts; and

(e) 20% for potatoes which fail to meet the remaining requirements of the grade provided, that included in this amount not more than the following percentages shall be allowed:

(i) 5% damage by surface or pitted scab

(ii) 2% damage by dry rot

(iii) 6% serious damage for other defects other than sunburn, hollow heart, internal discoloration (other than hollow heart) provided, that of this six percent not more than the following percentages shall be allowed for the following defects:

(aa) Late blight tuber rot	2%
(bb) Soft rot, frozen, or wet breakdown	0.5%
(cc) Bacterial ring rot	0.0%
(dd) Powdery scab	0.0%

(2) For offsize:

(a) 5% for potatoes which fail to meet the required or specified minimum size;

(b) 10% for potatoes which fail to meet the required maximum size.

3. Minnesota white tag certified seed potato grade.

a. Minnesota white tag certified seed potato grade shall consist of Foundation certified or Approved certified seed potatoes which are graded according to agreement between seller and purchaser as to size and defects, except that not more than one-half percent of soft rot, frozen, or wet breakdown and two percent dry rot shall be allowed.

b. The use of the white tag certified seed potato grade shall be restricted to intrastate shipments.

B. Application of tolerance. The contents of individual containers, other than bulk conveyances, in the lot are subject to the following limitations provided that the averages for the entire lot are within the tolerances specified for the grade. An individual container in any lot may contain not more than double the tolerance specified except for sprouts and that at least one defective specimen, other than bacterial ring rot or powdery scab, and one offsize specimen may be permitted in any container.

C. Condition after transit. Deterioration developing in transit shall be considered as affecting condition and not grade.

D. Definitions. For the purpose of this rule, the following terms have the meaning given them unless the context clearly indicates otherwise:

1. "Mature" means that the outer skin (epidermis) does not loosen or "feather" readily during the ordinary methods of handling.

2. "Well-shaped" means the normal shape for the variety.

3. "Fairly well-shaped" means that the individual potato is not materially pointed, dumbbell-shaped, or otherwise ill-formed.

4. "Fairly clean" means that the individual potato is reasonably free from dirt, staining, or other foreign matter.

5. "Slightly dirty" means that the appearance of the individual potato is not materially affected by dirt, staining, or other foreign matter.

6. "Diameter" means the greatest dimension at right angles to the longitudinal axis. The long axis shall be used without regard to the position of the stem (rhizome).

7. "Soft rot or wet breakdown" means any soft, mushy, or leaky condition of the tissues.

8. "Surface" or "pitted scab", individually or in combination, which cover an area of more than two percent of the surface of the potato in the aggregate, or which cannot be removed without a loss of more than two percent of the total weight of the potato including the peel covering the defective area shall be considered injury.

9. "Damage" means any defect or combination of defects which materially affects the appearance of the individual potato or which cannot be removed without a loss of more than five percent of the total weight of the potato including the peel covering the defective area. Any one of the following defects or any combination of defects, the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as damage:

a. Russet scab when it materially detracts from the appearance of the individual potato;

b. Second growth or growth cracks which have developed to such an extent as to materially affect the appearance of the individual potato;

c. Air cracks which are deep, or shallow air cracks which materially affect the appearance of the individual potato;

d. Shriveling when the potato is more than moderately shriveled, spongy, or flabby;

e. Sprouting when the individual potato has sprouts over one inch in length;

f. Surface or pitted scab, individually or in combination, which covers an area of more than five percent of the surface of the potato in the aggregate, or causes a loss of more than five percent of the total weight of the potato including peel covering defective area;

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

g. Dirt if the individual potato has more than 50 percent of its surface affected by lightly caked dirt which is scattered, or more than 15 percent of its surface badly caked with dirt.

10. "Serious damage" means any defect or combination of defects which seriously affects the appearance of the individual potato or which cannot be removed without a loss of more than ten percent of the total weight of the potato including the peel covering the defective area. Any one of the following defects or any combination of defects, the seriousness of which exceeds the maximum allowed for any one defect shall be considered as serious damage:

a. Russet scab when it seriously detracts from the appearance of the potato;

b. Dirt when the appearance of the individual potato is seriously affected by caked or smeared dirt or other foreign matter;

c. Cuts when both ends are clipped or when more than an estimated one-fourth of the potato is cut away from one end or when the remaining portion of the clipped potato weighs less than six ounces;

d. Other cuts which seriously affect the appearance of the individual potato or which cannot be removed without a loss of more than ten percent of the total weight of the potato including peel covering defective area;

e. Shriveling when the potato is excessively shriveled, spongy, or flabby;

f. Surface or pitted scab, individually or in combination, which covers an area of more than twenty-five percent of the surface of the potato in the aggregate, or causes a loss of more than ten percent of the total weight of the potato including peel covering defective area.

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 15.0412, subd. 4, have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strike outs and new language will be underlined, and the rule's previous *State Register* publication will be cited.

A temporary rule becomes effective upon the approval of the Attorney General as specified in Minn. Stat. § 15.0412, subd. 5. Notice of his decision will be published as soon as practicable, and the adopted temporary rule will be published in the manner provided for adopted rules under subd. 4.

Department of Agriculture
Dairy Industries Division

Adopted Rules of the Department of Agriculture Governing Grade A Requirements for Milk, Milk Products, and Goat Milk (3 MCAR §§ 1.1149-1.1167)

The rules published and proposed at *State Register*, Volume 5, Number 38, pp. 1480-1482, March 23, 1981 (5 S.R. 1480) are now adopted, with the following amendment.

Amendment as Adopted

3 MCAR § 1.1151 **Egg nog flavored milk.** Egg nog flavored milk is a milk product consisting of a mixture of at least 3.25 per cent butterfat, at least 0.5 per cent egg yolk solids, sweetener, and flavoring. Emulsifier and a maximum of 0.5 per cent stabilizer may be added. Egg nog flavored milk shall be pasteurized in approved and properly operating equipment so that every particle is heated and continuously held for the following minimum specified times and temperatures:

150°F. and held at or above this temperature for at least 30 minutes.

166°F. and held at or above this temperature for at least ~~16~~ 15 seconds.

Department of Agriculture

Plant Industry Division

In the Matter of the Proposed Adoption of Rules of the Minnesota Department of Agriculture Governing Seed Potato Certification and Repealing the Existing Rules Governing Seed Potato Certification.

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the Minnesota Department of Agriculture proposes to adopt the above-entitled rules without a public hearing. The Commissioner of Agriculture has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes section 15.0412, subdivision 4h (1980).

Persons interested in these rules shall have 30 days to submit comment on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes section 15.0412, subdivisions 4-4f (1980).

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to: Gerald Heil, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, MN 55107, (612) 296-1486. If a public hearing is requested, identificaiton of the particular

objection, the suggested modifications to the proposed language, and the reasons or data relied on to support the suggested modification is desired.

Authority for the adoption of these rules is contained in the Seed Potato Certification Law, Minn. Stat., Sec. 21.118 (1980). Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available upon request from: Gerald Heil, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, MN 55107, (612) 296-1486.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Gerald Heil, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, MN 55107, (612) 296-1486.

The new rules repeal the existing rules of the Department (AGR 121-126) and constitute an entirely new set of rules intended for the implementation, enforcement, and administration of the existing statute. Because the existing rules are difficult to read and understand, it is proposed that the entire set of rules be deleted. Thus, the proposed rules should be considered all new language. Most of the proposed new language, however, represents a reorganization and rewording of the present language for purposes of clarity. Due to the extent of the reorganization and rewriting it was felt that the proposed rules could be best presented by deleting the entire existing language and proposing the rules as all new language.

Please be advised that Minnesota Statutes, Chapter 10A, requires each lobbyist to register with the Ethical Practices Board within five days after he/she becomes a lobbyist. Lobbying includes attempting to influence rulemaking by communicating or using others to communicate with public officials. A lobbyist is generally any individual who spends more than $250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than $250 per year or five hours per month at lobbying. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, (612) 296-5615.

Copies of this Notice and the proposed rules are available and may be obtained by contacting Gerald Heil, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, Minnesota 55107, (612) 296-1486.

STATE OF MINNESOTA

Dated: May 15, 1981

Mark W. Seetin

Commissioner of Agriculture

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

IN THE MATTER OF THE PROPOSED
ADOPTION OF RULES OF THE
DEPARTMENT OF AGRICULTURE
GOVERNING SEED POTATO
CERTIFICATION (AGR 121-126)

FINDINGS OF FACT
AND CONCLUSIONS

The non-controversial rule promulgation procedure of Minnesota Statutes section 15.0412, subdivision 4(h) has been followed in the above-entitled matter. Proper notice was served upon all persons, associations, and other interested groups registered with the Department of Agriculture and notice was also published in the State Register.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having afforded interested persons the opportunity to call for a public hearing, having heard all of the testimony, having considered all of the evidence adduced upon the records, files and preceedings herein, I find the following:

No comments or suggestions for amendments to the rules were received following publication of the Notice of Intent to Solicit Outside Opinion in the State Register. Following publication of the Notice of Intent to Adopt Rules Without a Public Hearing and the Rules as Proposed in the State Register, the department did not receive a request for a public hearing or written comments on the rules as proposed. Thus, no changes have been made between the Rules as Proposed and the Rules as Adopted.

I have concluded that the proposed adoption of these rules are necessary and reasonable and that they are in the long-term best interests of the State of Minnesota. Therefore, I order the adoption of these rules, as evidenced by the Order Adopting Rules submitted with this record.

STATE OF MINNESOTA

Mark W. Seetin

COMMISSIONER OF AGRICULTURE

DATE: July 20th, 1981

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

In the Matter of the Proposed Adopting of Rules of the Minnesota Department of Agriculture Governing Seed Potato Certification.	))))	STATEMENT OF NEED AND REASONABLENESS

The authority to adopt these rules arises from the Seed Potato Certification Law, which under Sec. 21.118 mandates the adoption of reasonable rules. The purpose of the Seed Potato Certification Law is to provide standards for inspection, certification, promotion of quality, and marketing of seed potatoes. Such standards are necessary to protect the economic interests of growers and purchasers of certified seed potatoes. Without such standards, no assurances as to the quality of the seed potatoes would exist. Minnesota growers would not be able to sell their product in interstate commerce. The spread of diseases that harm or destroy seed potatoes would not be inhibited. Since all potatoes grown for domestic consumption come from such seed potatoes, the consumer also has a economic interest in such standards. The standards are necessary, therefore, to protect the economic interests of the industry as well as the general welfare of the public.

The Commissioner of the Minnesota Department of Agriculture has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedure set forth in Minn. Stat. Sec. 15.0412, subdivision 4h (1980). This decision was reached after meeting with the Advisory Seed Potato Certification Committee and after conducting grower meetings throughout the state.

The proposed rules, to a large extent, represent a recodification and reassembling of the present rules. This reorganization and rewriting is required for reasons of clarity and understanding. The rules, originally adopted in 1945 and subsequently amended eleven times, were last amended in 1973. The Department concluded the proposed recodification was necessary

based upon recommendations of the Advisory Seed Potato Certification Committee and comments made by growers at grower meetings held throughout the State by the Department.

It is proposed that the entire present language of AGR 121-135 be deleted. Thus, the proposed rules should be considered as all "new" language. Most of the proposed "new" language, however, is a recodification and reassembling of the present language for purposes of clarity and understanding. Due to the extent of the reorganization and rewriting it was felt that, for the benefit of the reader, the proposed rules would be best presented by deleting the entire old language and proposing the rule as all "new" language. The sections of the rules that will be duplicated are identified.

Listed below are the titles of each section of the proposed rules followed by comments regarding the content of that section. Because most of the proposed "new" language is a recodification and reassembling of the present language, no attempt was made to discuss in detail the need or reasonableness of such rewording. However, if the recodified language contains a deletion, addition or change which would substantially change the intent of the present rule, reference was made to the change followed by a discussion of the need and reasonableness of the change. Other additions to the rule are cited and justified as to their need and reasonableness.

3MCAR Sec. 1.0127 Purpose and Authority

This section cites the authority under the provisions of the Seed Potato Certification Law through which these rules may be promulgated. The reason for these rules is stated for reference by authorities and readers of the rules.

3MCAR Sec. 1.0128 Definitions

The definitions contained in AGR 121 of the existing rule apply to seed potato grades only, rather than the entire seed potato certification program and thus, have been recodified under 3 MCAR 1.0135 D of the proposed rules (Minnesota Certified Seed Potato Grades and Tolerances). Some deletions, additions, and changes in these "grade definitions" have

been made, and the need and reasonableness of these changes are discussed under 3 MCAR Sec. 1.0135 of this document.

The definitions contained in 3 MCAR 1.028 of the proposed rule apply to the entire seed potato certification program. All of these definitions are "new" since none of them are contained in the present rule. Proposed definitions D, E, and F are contained in the Seed Potato Certification Law and are included in the proposed rule to refer the readers of the rules to the definitions contained in the statute. The definitions are necessary to clarify the understanding and operational portions of the rules.

3 MCAR Sec. 1.0129 General Guidance

Parts A and E of this section are primarly new language. Part A is added in recognition of current administrative practice. Part E is an explanation of a tolerance that is included elsewhere in the rule (3 MCAR Sec. 1.0131). Part F is derived from AGR 125 (f), but has been shortened to avoid redundancy with other parts of the rule. Parts A, E, and F are necessary to describe the responsibilities of the Commissioner, certified seed potato grower, and the buyer of certified seed potatoes.

Parts B, C, and D of this section are summaries of 3 MCAR Secs. 1.0131, 1.0132, 1.0133, and 1.0135. These parts are necessary to provide the reader with a general explanation of the requirements. Due to the length of the rules, a general explanation is helpful to readers who want a summary of requirements rather than detailed tolerances or requirements.

3 MCAR Sec. 1.0130 Application and Eligibility for Inspection and Certification

Part A of this section contains some new language but is mainly taken from AGR 122 and rewritten and reorganized for clarity. Part A is necessary since it presents the procedures to be followed in making application for certification inspection. The experience of the Department is that the procedures outlined are both necessary and reasonable in order to discharge its statutory responsbilities.

Part B also contains some new language but is mainly taken from AGR 122 and 124 and recodified and reassembled for clarity. Part B is necessary since it specifies the types of potatoes which are eligible for entry into the certification program. Part B. 1. c. is new language which is included to conform the rules with recognized and customary industry practices. The intent of Part B. 1. c. is to prevent undue financial hardship on growers by allowing them to replant their own certified seed without jeopardizing the certification program.

3 MCAR Sec. 1.0131 Requirements for Certified Seed Potato Production

This section deals with the production and handling of certified seed potatoes. Accept for those changes noted in the second and third paragraphs below, all parts of this section are taken from AGR 124 and 126. It is necessary to have established tolerances for field inspection as well as requirements for storage, grading, and tagging certified seed potatoes to prevent the spread of undesirable diseases, and to protect the quality of seed potatoes. This language is taken from AGR 124 and 126 with explanations below. These standards are based upon several decades of experience and research regarding National and State certification procedures.

The tolerances for black leg and wilt have been deleted from the disease tolerance table in AGR 124(f)(1) and are now included as factors affecting field inspection. This is reasonable and necessary because the detection of the incidence of these diseases, based on visual inspection, is dependent on the environment rather than the amount of these diseases in the field.

New language concerning bulk shipments and machine sewn tags is included in Parts D and E. This is necessary to provide requirements which respond to recent changes and improvements in handling methods used by the potato industry.

3 MCAR Sec. 1.0132 Requirements for Foundation Certified Seed Potato Production

This section provides additional requirements necessary for the production of Foundation certified seed potatoes. Since Foundation is the highest quality and the ultimate source of all the other certified classes, it must have special requirements so that Foundation seed will have less disease.

Most of this language is from AGR 122(d)(2) and is rewritten and reorganized for clarity. Part G is taken from ARG 125(d), 126(d), and 122(d)(2).

The last sentence of Part E is new language concerning presence of spindle tuber, bacterial ring rot, or chemical damage found during the winter test. This is necessary to clarify that rejection can result from detection of the above diseases and chemical damage in either the field or winter test. Such rejection has been part of past administrative practices and is accepted by the industry as a reasonable and necessary standard.

3 MCAR Sec. 1.0133 Requirements for Approved Certified Seed Potato Production

This section provides the additional requirements necessary for the production of Approved certified seed potatoes. Approved seed potatoes must have special requirements to maintain seed quality factors established for Foundation seed because this class is also a source for certified seed potato growers.

Most of this language is from AGR 122(d)(2) and is rewritten and reorginized for clarity.

Two parts of this section contains new language. Part A states that no spindle tuber shall be allowed. This is necessary because it is easily spread and difficult to detect and control. Part B. 2. a. is new and is necessary to provide flexibility to the grower in dealing with bacterial

ring rot being found in his operation. Such flexibility will prevent undue economic hardship upon growers whose fields or lots are infected by this disease.

3 MCAR Sec. 1.0134 Fees

The Seed Potato Inspection Fund, provided for in Minn. Stat. 21.115, requires the Commissioner to fix fees for all inspections and certifications in such amounts necessary to pay expenses of carrying out and enforcing the purposes of section 21.111-21.122 (Seed Potato Certification Law).

This section is new language and replaces AGR 123. AGR 123(a) and (b) have been deleted since by statute the Commissioner is directed to set the fees necessary to operate the program. AGR 123(c) is deleted since it does not pertain to the Seed Potato Certification Law.

The new language also specifies when fees are due.

3 MCAR Sec. 1.0135 Minnesota Certified Seed Potato Grades and Tolerance

This section deals with grading of certified seed potatoes. This section is necessary to provide requirements and tolerances for the grades. Most of the language is a rewriting and reorganization for clarity. Some changes and new language have been added as indicated below. Generally, the standards are based upon experience, requirements of other states that affect the interstate movement of potatoes and federal standards for table potatoes.

Part A of this section is mainly a rewriting of AGR 121 and 125 for clarity. Part A. 1. b. explains the U.S. standards and tolerances for size "B". This is necessary for clarity and completeness of definition of size "B".

Part A. 1. c.(1) contains changes in levels of tolerance from those in AGR 125(a)(4). Tolerance for sunburn is raised from five percent to ten percent. Tolerance for internal discoloration (other than hollow heart)

is raised from four percent to five percent. A tolerance for dirt or other foreign matter of ten percent is added. The tolerances for Rhizoctonia are deleted. These changes are made to reduce financial hardships on the growers without jeopardizing the orderly marketing or quality of certified seed potatoes. The changes in tolerances do not effect seed performance. The changes are necessary to bring the rule into conformity with recognized and accepted industry practices.

Part A. 2. is intended to replace AGR 125(b). This part contains a complete description of the Red Tag Certified Seed Potato Grade. This is necessary for clarity and completeness of requirements and tolerances. Part A. 2. b. explains U.S. standards and tolerances for size "B". This is necessary for clarity and completeness of definition of size "B".

Part A. 2. c.(1) contains changes in levels of tolerance from those in AGR 125(b)(1) and (4). Tolerance for sunburn is raised from five percent to ten percent. Tolerance for internal discoloration (other than hollow heart) is raised from four percent to five percent. Tolerance for sprouts is raised from ten percent to twenty percent. Tolerances for Rhizoctonia are deleted. These changes are made to reduce financial hardships on the growers without jeopardizing the orderly marketing or quality of certified seed potatoes. Since the Red Tag certified seed potato grade is the "second" grade, these changes now allow more physical defects of the tubers than the Blue Tag seed potato grade. The proposed changes in tolerance do not affect seed performance. Moreover, the changes are necessary to bring the rules into conformity with recognized and accepted industry practices.

Part A. 3. is rewritten from AGR 125(c) for clarity. Tolerance for soft or dry rot was changed from one percent to one half of a percent for soft rot and two percent for dry rot. These changes are made to reduce financial hardships on the grower without jeopardizing the orderly marketing or qualtiy of certified seed potatoes.

Part B is rewritten from AGR 125(a)(4)(dd)-(gg) for clarity.

Part C is identical to AGR 125(a)(4)(cc).

The language of Part D is mainly a rewriting and reorganization of AGR 121 for clarity. The "grade definitions" contained in AGR 121 were moved to this section (3 MCAR Sec. 1.0135) because they are definitions for grading purposes only, and do not apply to the entire certification process (refer to discussion under 3 MCAR Sec. 1.028 of this document).

In Part D the following changes in "grade definitions" have been made. AGR 121(2) has been deleted because it has never been nor is not now part of the grade. AGR 121(5) is deleted because it is now a part of 3 MCAR Sec. 1.035 D. 8. AGR 121(9)(ee) and (ff) are deleted since they are no longer a part of the grade. AGR 121(9)(cc) has been changed from three quarters of an inch to one inch and the ten percent tolerance has been inserted in the grade statement (3 MCAR Sec. 1.0135 A). AGR 121(9)(gg) has been changed to provide a more detailed definition. AGR 121(9)(cc) has become 3 MCAR Sec. 1.0135 D. 9. e. and AGR 121(9)(gg) has become 3 MCAR Sec. 1.0135 D. 9. g. 3 MCAR Sec. 1.0135 D. 5. has been added. This definition is necessary because it is used in the grade.

STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the Matter of the Proposed Adoption of Rules of the Minnesota Department of Agriculture Governing Seed Potato Certification.

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minnesota Statutes 15.0412, subdivision 4, that their names be placed on file with and maintained by the Minnesota Department of Agriculture for the purpose of receiving notice of the proposed adoption of rules by this Department is accurate and complete as of 10:00 A.m., this 27th day of May, 1981.

Gerald F Heil

In the Matter of the Proposed Adoption of

Rules of the Minnesota Department of Agriculture Governing Seed Potato Certification.

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)

) ss.

COUNTY OF RAMSEY)

Joyce Walkosz, being first duly sworn, deposes and says:

That on the 27th day of May, 19 81, at the City of St. Paul, County of Ramsey, State of Minnesota, he/she served the attached Notice of Intent to Adopt Rules Without Public Hearing by depositing in the Minnesota Central Mail System for first class mailing, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the Minnesota Department of Agriculture for the purpose of receiving notice of the proposed adoption of rules by this Department.

Joyce Walkosz

Subscribed and sworn to before me
this 27th day of May, 1981.

Janet E. Gruening

JANET E. GRUENING
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Commission Expires May 6, 1983.

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

In the Matter of the Proposed Adoption of	)	ORDER FOR NOTICE
Rules of the Minnesota Department of	)	OF INTENT TO ADOPT
Agriculture Governing Seed Potato	)	RULES WITHOUT
Certification.	)	PUBLIC HEARING

IT IS ORDERED this 15th day of May, 1981, that a Notice of Intent to Adopt Rules Without Public Hearing in the above-entitled matter be given to all persons who have registered their names with the Minnesota Department of Agriculture for that purpose and be published in the State Register.

STATE OF MINNESOTA

Mark W. Seetin

COMMISSIONER OF AGRICULTURE

Notice of Special Local Need Registration for Fargo Herbicide

Pursuant to Minn. Stat. § 18.A.23 and 3 MCAR § 1.0338 B., the Minnesota Department of Agriculture on February 21, 1980 issued a Special Local Need Registration for Fargo Herbicide, manufactured by Monsanto Company of St. Louis, Missouri.

The Commissioner of Agriculture, based upon information in the application, has deemed it in the public interest to issue such a registration, and has deemed that the information in the application indicates that the pesticide does not have the potential for unreasonable adverse environmental effects.

In addition to the uses prescribed on the product label, this Special Local Need Registration permits the use of this pesticide to be tank mixed with Treflan Herbicide for weed control in spring wheat.

The application and other data required under Minn. Stat. §§ 18A.22, subd. 2(a-d), 18A.23, and 40 CFR 162.150-162.158, subpart B relative to this registration (identified as SLN #MN 80-0003) is on file for inspection at:

Minnesota Department of Agriculture
Pesticide Control Section
90 West Plato Blvd.
Saint Paul, Minnesota 55107
(612) 296-8379

A federal or state agency, a local unit of government, or any person or group of persons filing with the commissioner a petition that contains the signatures and addresses of 500 or more individuals of legal voting age, has 30 days to file written objections with the Commissioner of Agriculture regarding the issuance of this Special Local Need Registration. Upon receipt of such objections and when it is deemed in the best interest of the environment or the health, welfare, and safety of the public, the Commissioner of Agriculture shall order a hearing pursuant to Minn. Stat. ch. 15, for the purpose of revoking, amending, or upholding this registration.

February 22, 1980

Mark W. Seetin, Commissioner
Department of Agriculture

Department of Agriculture Plant Industry Division

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing Seed Potato Certification

Notice is hereby given that the Minnesota Department of Agriculture has begun consideration of proposed amending rules governing the Seed Potato Certification program. Rules Agr 121-135 presently govern this matter.

In order to adequately determine the nature and utility of such rules, the Department of Agriculture hereby requests information and comments from all interested individuals or groups concerning the subject matter of the proposed amendments to the rules.

All interested or affected persons or groups are requested to participate. Statements of information and comment may be made orally or in writing.

Written statements of information and comment may be addressed to:

Robert Flaskerd, Director
Plant Industry Division
Minnesota Department of Agriculture
90 West Plato Boulevard
Saint Paul, Minnesota 55107

Oral statements of information and comment will be received during regular business hours over the phone at (612) 296-3347, and in person at the above address.

All statements of information and comment must be received by March 30, 1980. Any written material received by the department shall become part of the hearing record.

The proposed amendments, if adopted, would include a Red Tag grade on Foundation Seed classification; delete language no longer applicable; and clarify language for easier interpretation.

February 25, 1980

Mark W. Seetin
Commissioner

Department of Commerce Banking Division

Bulletin No. 2182: Maximum Lawful Rate of Interest for Mortgages for the month of March 1980

Notice is hereby given that the Banking Division, Department of Commerce, State of Minnesota, pursuant to House File No. 564, Chapter 279, 1979 Session Laws, as it amended Minn. Stat. § 47.20, subd. 4, effective May 31, 1979, hereby determines that the maximum lawful rate of interest for home mortgages for the month of March 1980 is fourteen and three quarters (14.75) percent.

February 21, 1980

Michael J. Pint
Commissioner of Banks

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

In the Matter of the Proposed
Adoption of Rules of the
Department of Agriculture
Governing Seed Potato
Certification (AGR 121-126)

ORDER ADOPTING
RULES

Notice of the Commissioner's intent to adopt the above-entitled rules without a public hearing was published in the State Register on June 1, 1981 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes section 15.0412, subdivision 4 on May 27, 1981. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving fewer than seven written requests for a public hearing within the 30-day comment period, reviewing and considering the comments, and determining the need for and reasonableness of the above-captioned rules,

NOW, THEREFORE, IT IS ORDERED that these rules identified as Rules of the Department of Agriculture Governing Seed Potato Certification (3 MCAR sections 1.0127-1.0135) are adopted this 20th day of July, 1981 pursuant to authority vested in me by Minnesota Statutes section 32.394, subdivision 4.

STATE OF MINNESOTA

Mark W. Seetin

COMMISSIONER OF AGRICULTURE

In the Matter of the Proposed Adoption of Rules of the Department of Agriculture Governing Seed Potato Certification (AGR 121-126)

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, Special Assistant Attorney General Jon K. Murphy, do hereby declare that I have examined the rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

Special Assistant Attorney General

Dated: 7/17/81

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

Office Memorandum

TO : H. Theodore Grindal
Special Assistant Attorney General

DATE: 08/27/81

FROM : Jon Murphy
Special Assistant Attorney General

PHONE: 296-9310

SUBJECT: Adopted Rules Governing Seed Potato Certification and Repeal of Existing Rules Agr. 121-126

The above captioned rules are being resubmitted for review pursuant to Minn. Stat. Sec. 15.0412, Subd. 4h. The Department has considered the comments contained in your August 3, 1981, memorandum and has amended 3 MCAR Sec. 1.0130 A.2 and 3 MCAR Sec. 1.0130 A.5. It is our judgement that the amendments will limit the discretionary authority of the Commissioner while yet not detracting from the original intent of those rules. The changes, in our judgement, are not substantial but only clarify the intent of the rules.

The Department did not amend the rules regarding the term size "B" potatoes. The definition of a size "B" potato is a potato that has a diameter not less than one and one-half inches nor greater than two and one-quarter inches. There is no additional definition of the term other than what is already contained in 3 MCAR Sec. 1.0135 A.1.b. and 3 MCAR Sec. 1.0135 A.2.b. Additionally, there is no size "A" potato. The term size "B" is well established in the trade, as is the absence of a size "A" potato.

Enclosed are two copies of the Supplemental Order adopting the rules as changed, as well as the original and two copies of the rules. Two copies of the rules are also being submitted to the Revisor of Statutes.

JM:ns

Enclosures

cc: Ann L. Bateson
Duane Harves
Susan Robertson

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

In the Matter of the Proposed
Adoption of Rules of the
Department of Agriculture
Governing Seed Potato
Certification (AGR 121-126)

SUPPLEMENTAL
ORDER ADOPTING
RULES

Notice of the Commissioner's intent to adopt the above-entitled rules without a public hearing was published in the State Register on June 1, 1981, and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes section 15.0412, subdivision 4 on May 27, 1981. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving fewer than seven written requests for a public hearing within the 30-day comment period, reviewing and considering the comments, and determining the need for and reasonableness of the above-captioned rules,

NOW, THEREFORE, IT IS ORDERED that these rules identified as Rules of the Department of Agriculture Governing Seed Potato Certification (3 MCAR sections 1.0127-1.0135) are adopted this 26th day of August, 1981 pursuant to authority vested in me by Minnesota Statutes section 21.118.

STATE OF MINNESOTA



COMMISSIONER OF AGRICULTURE

OFFICE OF THE REVISOR OF STATUTES

Certificate of Approval of Adopted Rules

Agency: Department of Agriculture, Division of Plant Industry

Rule Numbers: 3 MCAR SS 1.0127-1.0135
Repealing Agr 121-126

Rule Title: Adopted Rules Governing Seed Potato Certification and Repeal of Existing Rules Agr 121-126

Type of Rules: Permanent X

Temporary _____

Documents Incorporated by Reference:

Minnesota Statutes, Section 21.111, subdivisions 2, 3 and 5

The attached Rules are approved as to form.

Steven C. Cross
Revisor of Statutes

Name: Ann L Bateson
Ann L. Bateson

Title: Deputy Revisor

Phone: 296-1536

Rules as Adopted

3 MCAR S 1.0127 Purpose and authority. Rules 3 MCAR SS 1.0127-1.0135 provide standards for the inspection, certification, production, and marketing of certified seed potatoes in the State of Minnesota. The authority to adopt these rules is contained in Minn. Stat. S 21.118 ~~(1980)~~.

3 MCAR S 1.0128 Definitions. As used in 3 MCAR SS 1.0127-1.0135, the following definitions apply unless the context clearly indicates otherwise.

A. "Commissioner" means the Commissioner of Agriculture or the commissioner's authorized representative.

B. "Department" means the Department of Agriculture.

C. "Seed potato certification inspector" means an employee of the department authorized by the commissioner to inspect seed potato plants and tubers entered for certification.

D. "Inspected" has the meaning given it in Minn. Stat. S 21.111, subd. 2 ~~(1980)~~.

E. "Seed potatoes" has the meaning given it in Minn. Stat. S 21.111, subd. 5 ~~(1980)~~.

F. "Certified" has the meaning given it in Minn. Stat. S 21.111, subd. 3 ~~(1980)~~.

G. "Certified seed potatoes" means potatoes which have been produced, graded, sacked or placed in bulk, and inspected and

certified in accordance with 3 MCAR SS 1.0127-1.0135.

H. "Farm" means a seed potato enterprise. It includes all land, equipment, storage facilities, and laborers used to produce certified seed potatoes.

I. "Field" means a plot of land on a farm on which potatoes are grown for certification. The potatoes shall be of one variety from one certified seed potato grower and shall be grown in physical separation from other fields.

J. "Lot" means a group of seed potatoes entered for certification that have passed the field inspection requirements. For the purposes of 3 MCAR SS 1.0127-1.0135, a lot of potatoes also means that the group is of one variety, from one or more fields, grown on the same farm, and stored in physical separation from other lots.

K. "Crop" means all lots produced on a farm in one year.

L. "Tolerance" means a specified allowance for variation from the standards provided for diseases and physical defects, as provided in 3 MCAR SS 1.0127-1.0135.

M. "Rejected" means that a field or lot fails to meet the standards provided for in 3 MCAR SS 1.0127-1.0135.

3 MCAR S 1.0129 General guidance. The provisions of this section govern the production of potatoes for use as certified seed potatoes.

A. Seed potato certification. In order to produce certified seed potatoes, a grower must comply with the following procedures:

1. Potatoes entered for certification shall be inspected while growing in the field and again after harvest at the time of shipment. Certification shall be based upon visual inspection by the commissioner of sample plants and tubers from each field and lot. Certificates shall be issued to show the varietal purity, freedom from disease, ~~and/or~~ and physical defects of the potatoes at the time of inspection.

2. Participation in the certified seed potato program shall be voluntary. The applicant may withdraw at any time.

Farming and sanitation practices are the responsibility of the applicant. Certification and inspection under 3 MCAR SS 1.0127-1.0135 shall be conducted by the commissioner. Failure of the applicant to comply with the requirements of 3 MCAR SS 1.0127-1.0135 shall be cause for rejection of any field or lot. Potatoes from rejected fields or lots cannot be sold as certified seed potatoes.

B. Winter testing. In order to detect certain virus diseases, samples from all Foundation certified and Approved certified seed potato lots shall be winter-tested. In the event of serious malfunctions of the winter test, classification of lots as Foundation certified or Approved certified shall be based on the previous summer field readings.

C. Certified seed potato classes. There are three classes of Minnesota certified seed potatoes, differentiated by their tolerances for virus diseases.

1. The first class, Foundation certified seed potatoes, has stricter tolerances for virus diseases than do the other classes. This class shall be winter-tested.

2. The Approved certified seed potato class is the second class. Virus disease tolerances for these seed potatoes are less strict than those for Foundation certified seed potatoes. Approved certified seed potatoes shall also be winter-tested.

3. The third class, the Certified seed potato class, is not winter-tested.

D. Certified seed potato grades. Grades of certified seed potatoes are established according to the physical defects of the tubers. There are three grades used for shipping Minnesota certified seed potatoes.

1. The blue tag certified seed potato grade, the first grade, has tolerances for physical defects of the tubers stricter than the other grades. This grade may be used by growers of Foundation certified, Approved certified, and Certified seed potatoes. The blue tag grade may be used for intrastate and interstate shipments of certified seed potatoes.

2. The red tag certified seed potato grade is the second

grade. This grade allows more physical defects of the tubers than the blue tag certified seed potato grade. It may be used by growers of Foundation certified, Approved certified, and Certified seed ~~potato growers~~ potatoes. The red tag grade may also be used for intrastate and interstate shipments of certified seed potatoes.

3. The white tag certified seed potato grade is the third grade. The tolerances for physical defects of the tubers are determined by agreement between purchaser and seller of the certified seed potatoes. This grade may only be used by growers of Foundation certified and Approved certified seed potatoes. It may only be used for intrastate shipments of certified seed potatoes.

E. Zero tolerance for bacterial ring rot. Certification rules make provisions to allow the presence of certain diseases at levels sufficiently low as to preclude significant effects on certified seed potato value. For bacterial ring rot, there is a zero tolerance and the discovery of a single plant in the field or a tuber in storage infected with bacterial ring rot shall cause the rejection of the field or lot. The absence of a finding shall not be construed to mean that the field or lot inspected is free from the disease.

F. Warranty. A certification does not represent a warranty of any kind, express or implied, including merchantability, as to the quality of the crop produced from the certified seed potatoes. A certification represents only that the seed potatoes were produced, graded, sacked or placed in bulk, and inspected in accordance with 3 MCAR SS 1.0127-1.0135.

3 MCAR S 1.0130 Application and eligibility for inspection and certification. The following procedures shall govern:

A. Application for inspection.

1. All potatoes planted on a farm shall be eligible and shall be entered for certification.

2. Application for inspection shall be made before June 16 each year on forms furnished by the commissioner or a seed

potato certification inspector. Applications postmarked after June 15 but before July 1 shall be charged a fifty cents per acre late registration fee. No applications shall be accepted that are postmarked later than June 30. The commissioner may extend the deadline due to special circumstances affecting an area or large number of growers.

3. An application for the inspection of a field planted with purchased certified seed potatoes shall include a copy of the shipping point certificates or bulk seed certificates for the total amount of purchased certified seed potatoes planted.

4. A separate application shall be completed for each field planted.

5. No application for inspection shall be accepted from a grower in any community or county in which there is not sufficient acreage to warrant the expense of an inspection. Determination of sufficient acreage shall be made by the commissioner.

B. Seed potatoes eligible for Minnesota certification planting. A field shall not be inspected for certification unless both the seed potato variety and the particular lot planted have the authorization of the commissioner. ~~Any well established, named, commercial variety shall be considered for certification if the variety has been described as to vine and tuber characteristics in a journal recognized by the commissioner and in accordance with the recommendations of the Potato Association of America~~ In considering seed potato varieties for authorization for certification planting, the commissioner shall consider scientific evidence and expert opinion. To be eligible for certification planting, seed potatoes shall be one of the following:

1. From Minnesota growers:

a. Foundation certified seed potatoes;

b. Approved certified seed potatoes; or

c. Certified seed potatoes. A grower may replant his own certified seed potatoes. The commissioner may authorize the planting of purchased certified seed potatoes if there is no

source of Foundation certified or Approved certified seed potatoes available to the grower.

2. From non-Minnesota growers: Seed potatoes approved for certification planting by the certifying agency in another state or a Canadian province may be planted if tolerances for certification meet Minnesota tolerances for Approved or Foundation certified seed potatoes.

3. Seedling or numbered selections may be accepted for entrance into the certification system by special authorization of the commissioner. The applicant shall submit a written statement from the breeder or originator that the applicant has full and unrestricted rights to introduce the seedling or numbered selection into the commercial market, and that the seedling or numbered selection shall be named within a period of not more than three years from acceptance of application. If the seedling or numbered selection is not named at the end of three years from acceptance of the application, a two year waiting period shall pass before reentry into the certification program.

3 MCAR S 1.0131 Requirements for certified seed potato production. The following standards shall be met before potatoes may be classified as certified seed potatoes.

A. Field inspection. Certification shall be based upon information regarding the following: stand, general vigor, varietal purity, disease tolerances, and factors affecting field inspection. At least two field inspections shall be made of each field during the growing season. Additional inspections may be made if deemed necessary by the commissioner.

1. Stand. A field shall be rejected if there are a large number of plants missing due to disease.

2. General vigor. A field shall be rejected if it contains a large number of weak plants.

3. Varietal purity. A field shall be rejected if it contains any varietal mixture at the time of inspection, unless all varietal mixtures are removed by the grower before the next

inspection.

4. Disease tolerances (percentage of infected plants). A field shall be rejected if it contains percentages of diseased plants in excess of those listed in the following table. The disease percentages listed are based on symptoms which are visible in the sample being inspected.

Maximum Disease Tolerance Levels

Diseases	First Inspection	Second and Subsequent Inspections
Severe mosaic (rugose, crinkle and leafrolling)	0.5%	0.3%
Spindle tuber	0.1%	0.1%
Leafroll	0.5%	0.3%
Total of above diseases	1.0%	0.5%
Yellow dwarf	0.5%	0.5%
Calico	0.5%	0.5%
Haywire	0.5%	0.5%
Witches broom	0.5%	0.5%
Total of above 4 diseases	0.5%	0.5%
Mild mosaic	2.0%	1.0%
Bacterial ring rot, field rejected if found	0.0%	0.0%

5. Factors affecting field inspection.

a. A field shall be rejected if any of the following are present to such an extent that satisfactory inspection for diseases cannot be made:

(1) Early or late blight;

(2) Blackleg or wilt of any kind;

(3) Weeds;

(4) Insect injury;

(5) Chemical damage.

b. A field shall be rejected if any other conditions are present to such an extent that satisfactory inspection for diseases cannot be made.

B. Roguing. If any of the diseases listed in A. 4. of this rule are present in a field in amounts less than the maximum

disease tolerance level, the infected plants shall be removed before the final inspection. If roguing is done after tubers form, the tubers from the rogued plants shall also be removed and destroyed.

C. Storage.

1. Lots shall not be stored in any warehouse where other potatoes are stored, nor shall they be stored under conditions of possible disease contamination. If more than one grower stores lots in the same warehouse, each grower's lots shall be properly identified by labeling the bin with the grower's name, address, variety, and amount in the bin. If the lots are to be stored in a public warehouse or storage unit not directly under the control of the grower, a complete record giving location of the storage unit, number of the bin, variety, and the quantity stored shall be sent to the commissioner when the lots are put into storage. If it is available, a copy of the warehouse receipt shall also be sent to the commissioner.

2. Equipment used for grading and handling lots shall not be used for any other potatoes. If any equipment is used on other potatoes, the lots shall be rejected.

3. Any firm handling lots on contract shall label all bins containing lots with the name of the grower whose lots are being stored. Responsibility for proper labeling and subsequent handling rests with the firm. No certification tags or bulk certificates shall be issued until this is done.

4. Each grower shall submit a completed storage and yield report on each lot on forms furnished by the commissioner. Certification tags shall not be issued to growers who have not submitted the report.

D. Tags, bulk certificates, seals.

1. Official blue, red, or white tags, bearing the grower's name and address, variety, and the crop year, shall be issued when the potatoes meet the certification requirements described in 3 MCAR S 1.0130 and 3 MCAR S 1.0131 A-C.

2. Tags shall be fastened onto sacks with a metal seal so as to constitute a seal at the time the lots are prepared for

shipment. No metal seal is required when a tag is machine sewn onto the sack. A special seal shall be placed on the conveyance doors in case of bulk shipments identified by a bulk certificate.

3. Tags shall be issued only to growers, except when lots are stored in a public warehouse or in a storage unit not under direct control of the grower. They shall be issued to the owner or manager of the storage unit upon receipt of written authorization from the grower.

4. Responsibility for ordering tags shall rest entirely with each grower.

E. Grading. All lots shall be inspected at the loading point whenever possible. If inspection at the loading point is impossible, request for grading inspection in transit shall be made. Every bagged lot or shipment offered for sale and bearing official certification tags shall be in new even-weight sacks. Bulk shipments shall be identified with a bulk certificate. Both bagged and bulk lots or shipments must meet grade standards specified in 3 MCAR S 1.0135.

1. Lots or shipments that fail to meet grade standards when inspected shall be reconditioned or;

a. If the lot or shipment is in sacks, the tags shall be removed under the supervision of a state or federal/state inspector before the lot or shipment is allowed to proceed to its destination.

b. If the shipment is in bulk, no bulk certificate shall be issued.

2. All costs of reconditioning to meet grade shall be borne by the shipper.

3 MCAR S 1.0132 Requirements for Foundation certified seed potato production. Foundation certified seed potatoes shall consist of potatoes which meet all the requirements of 3 MCAR S 1.0130 and 3 MCAR S 1.0131 as well as the following additional requirements.

A. A lot grown as and intended to be Foundation certified seed potatoes must remain under direct control of the grower for

three years prior to being certified as Foundation certified seed potatoes.

B. Foundation certified seed potatoes shall be the only potatoes grown on the farm. They shall be grown from potatoes produced on a tuber unit seed plot.

C. Not more than two-tenths percent of any or all virus diseases shall be allowed on any field inspection. No spindle tuber is allowed.

D. A lot shall be kept under direct control of the grower. Such lots shall not be stored in any warehouse in which other potatoes are stored, unless authorization is granted by the commissioner.

E. A sample of each lot meeting the requirements of this rule shall be submitted for winter testing. Seed potato lots with winter test readings more than one-half percent of any or all virus diseases shall be removed from the Foundation certified seed potato class. Presence of spindle tuber, bacterial ring rot, or chemical damage shall also remove the lot from the Foundation certified seed potato class.

F. If bacterial ring rot is found in any field or lot, the crop is not eligible for certification planting the following year. Potatoes from other fields or lots may be eligible for certification planting if the equipment used in the production of the crop was thoroughly disinfected after it was used on each field or lot. Proof of disinfection must be filed with the commissioner. Authorization for certification planting the following year shall then be granted only to the grower himself and only if the lots meet all other requirements for planting.

G. Blue, red, or white tags with the word "Foundation" stamped across the front of the tag shall be issued only after all requirements of 3 MCAR S 1.0132 are met. In addition, the crop shall be at least the third crop grown following the year in which bacterial ring rot was found before becoming eligible to be tagged with Foundation tags.

3 MCAR S 1.0133 Requirements for Approved certified seed potato

production. Approved certified seed potatoes shall consist of potatoes which meet all the requirements of 3 MCAR S 1.0130 and 3 MCAR S 1.0131 as well as the following additional requirements:

A. Not more than three-tenths percent of any or all virus diseases shall be allowed on the final field inspection, except that no spindle tuber is allowed and up to five-tenths percent is allowed for mild mosaic.

B. A sample of the lot must meet the same winter test requirements as prescribed for Foundation certified seed potatoes in 3 MCAR S 1.0132 E.

1. In selecting lots for winter testing, the commissioner shall consider factors such as lots more than two years removed from the Foundation certified seed potato class, amount of disease found during field inspections, amount of varietal mixture rogued, proximity to fields having excessive amounts of disease, and other conditions which may jeopardize the value of the lots for certification planting.

2. If bacterial ring rot is found on the farm, before becoming eligible to submit a sample from future crops for winter testing, the grower shall either:

a. Dispose of the crop from the year bacterial ring rot was found and purchase all new Foundation certified or Approved certified seed potatoes; or

b. Produce at least two crops free from bacterial ring rot.

3 MCAR S 1.0134 Fees.

A. Fees shall be set by the commissioner in amounts necessary to carry out the seed potato certification service. Fees shall be reviewed annually and notice of the current fee schedule sent to growers from time-to-time.

B. Field inspection fees shall be paid at time of application for entry into the certification program.

C. Winter testing fees shall be paid before results are sent to the grower.

D. Fees for other disease testing shall be paid before

results are listed in the Minnesota Seed Potato Certification Directory.

3 MCAR S 1.0135 Minnesota certified seed potato grades and tolerances.

A. Minnesota certified seed potato grades. Before becoming eligible for grading as certified seed potatoes, the requirements of 3 MCAR SS 1.0130 and 1.0131 shall be met. In addition, Foundation certified seed potatoes shall meet the requirements of 3 MCAR S 1.0132. Approved certified seed potatoes shall meet the requirements of 3 MCAR S 1.0133. Grading and tagging or issuance of a bulk certificate are the final steps in the certification process.

1. Minnesota blue tag certified seed potato grade. To be graded as Minnesota blue tag certified seed potatoes, the potatoes shall meet the following requirements:

a. The potatoes shall be, at time of final inspection, one variety; fairly well-shaped; free from bacterial ring rot, powdery scab, freezing, black heart, and soft rot or wet breakdown; and free from injury by surface or pitted scab, and from damage caused by dirt or other foreign matter, second growth, growth cracks, air cracks, cuts, shriveling, sprouts, pitted scab, surface scab, russet scab, dry rot, other diseases, insects or worms, external discoloration caused from loss of skin, mechanical or other means, and from serious damage caused by sunburn, hollow heart, or internal discoloration (other than hollow heart).

b. Size. For round or intermediate shaped varieties, the maximum size shall be not more than 12 ounces and, unless otherwise specified, the minimum size shall be not less than 1-7/8 inches in diameter. For long varieties, the maximum size shall be not more than 14 ounces and, unless otherwise specified, the minimum size shall be not less than 1-3/4 inches in diameter. For all varieties, size "B", the minimum diameter shall be not less than 1-1/2 inches and the maximum size shall be not more than 2-1/4 inches in diameter.

c. Lot tolerances. In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, are provided:

(1) For defects:

(a) 10% for potatoes seriously damaged by hollow heart;

(b) 10% for potatoes seriously damaged by sunburn;

(c) 5% for potatoes seriously damaged by internal discoloration (other than hollow heart);

(d) 8% for potatoes injured by (slight) scab;

(e) 10% for potatoes damaged by dirt or other foreign matter;

(f) 10% for potatoes damaged by sprouts; and

(g) 6% for potatoes which fail to meet the remaining requirements of the grade provided, that included in this amount not more than the following percentages shall be allowed for the following defects:

(i)	Soft rot, frozen, or wet breakdown	0.5%
(ii)	Damage by surface or pitted scab	2.0%
(iii)	Damage by dry ~~rots~~ rot	2.0%
(iv)	Late blight tuber rot	2.0%
(v)	Bacterial ring rot	0.0%
(vi)	Powdery scab	0.0%

(2) For offsize:

(a) 5% for potatoes which fail to meet the required or specified minimum size,

(b) 10% for potatoes which fail to meet the required maximum size.

2. Minnesota red tag certified seed potato grade. To be graded as Minnesota red tag certified seed potatoes, the potatoes must meet the following requirements.

a. The potatoes shall be, at time of final inspection, of one variety; fairly well-shaped; and free from bacterial ring rot, powdery scab, freezing, black heart, and soft rot or wet breakdown, and from damage caused by second growth, growth

cracks, air cracks, cuts, shriveling, sprouts, pitted scab, surface scab, dry rot, other diseases, insects or worms, external discoloration caused from loss of skin, mechanical or other means, and from serious damage caused by dirt or other foreign matter, russet scab, sunburn, hollow heart, or internal discoloration (other than hollow heart).

b. Size. For all varieties, the maximum size shall be not more than 14 ounces and unless otherwise specified, the minimum size shall be not less than 1-7/8 inches in diameter for round or intermediate shaped varieties and not less than 1-3/4 inches in diameter for long varieties. For all varieties, size "B", the minimum diameter shall be not less than 1-1/2 inches, and the maximum size shall be not more than 2-1/4 inches in diameter.

c. Lot tolerances. In order to allow for variations incident to proper grading and handling the following tolerances, by weight, are provided:

(1) For defects:

(a) 10% for potatoes seriously damaged by hollow heart;

(b) 10% for potatoes seriously damaged by sunburn;

(c) 5% for potatoes seriously damaged by internal discoloration (other than hollow heart);

(d) 20% for potatoes damaged by sprouts; and

(e) 20% for potatoes which fail to meet the remaining requirements of the grade provided, that included in this amount not more than the following percentages shall be allowed:

(i) 5% damage by surface or pitted scab

(ii) 2% damage by dry rot

(iii) 6% serious damage for other defects other than sunburn, hollow heart, internal discoloration (other than hollow heart) provided, that of this six percent not more than the following percentages shall be allowed for the following defects:

(aa) Late blight tuber rot 2%

(bb) Soft rot, frozen, or wet breakdown 0.5%

(cc) Bacterial ring rot 0.0%

(dd) Powdery scab 0.0%

(2) For offsize:

(a) 5% for potatoes which fail to meet the required or specified minimum size;

(b) 10% for potatoes which fail to meet the required maximum size.

3. Minnesota white tag certified seed potato grade.

a. Minnesota white tag certified seed potato grade shall consist of Foundation certified or Approved certified seed potatoes which are graded according to agreement between seller and purchaser as to size and defects, except that not more than one-half percent of soft rot, frozen, or wet breakdown and two percent dry rot shall be allowed.

b. The use of the white tag certified seed potato grade shall be restricted to intrastate shipments.

B. Application of tolerance. The contents of individual containers, other than bulk conveyances, in the lot are subject to the following limitations provided that the averages for the entire lot are within the tolerances specified for the grade. An individual container in any lot may contain not more than double the tolerance specified except for sprouts and that at least one defective specimen, other than bacterial ring rot or powdery scab, and one offsize specimen may be permitted in any container.

C. Condition after transit. Deterioration developing in transit shall be considered as affecting condition and not grade.

D. Definitions. For the purpose of this rule, the following terms have the meanings given them unless the context clearly indicates otherwise:

1. "Mature" means that the outer skin (epidermis) does not loosen or "feather" readily during the ordinary methods of handling.

2. "Well-shaped" means the normal shape for the variety.

3. "Fairly well-shaped" means that the individual potato

is not materially pointed, dumbbell-shaped, or otherwise ill-formed.

4. "Fairly clean" means that the individual potato is reasonably free from dirt, staining, or other foreign matter.

5. "Slightly dirty" means that the appearance of the individual potato is not materially affected by dirt, staining, or other foreign matter.

6. "Diameter" means the greatest dimension at right angles to the longitudinal axis. The long axis shall be used without regard to the position of the stem (rhizome).

7. "Soft rot or wet breakdown" means any soft, mushy, or leaky condition of the tissues.

8. "Surface" or "pitted scab", individually or in combination, which cover an area of more than two percent of the surface of the potato in the aggregate, or which cannot be removed without a loss of more than two percent of the total weight of the potato including the peel covering the defective area shall be considered injury.

9. "Damage" means any defect or combination of defects which materially affects the appearance of the individual potato or which cannot be removed without a loss of more than five percent of the total weight of the potato including the peel covering the defective area. Any one of the following defects or any combination of defects, the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as damage:

a. Russet scab when it materially detracts from the appearance of the individual potato;

b. Second growth or growth cracks which have developed to such an extent as to materially affect the appearance of the individual potato;

c. Air cracks which are deep, or shallow air cracks which materially affect the appearance of the individual potato;

d. Shriveling when the potato is more than moderately shriveled, spongy, or flabby;

e. Sprouting when the individual potato has sprouts

over one inch in length;

f. Surface or pitted scab, individually or in combination, which covers an area of more than five percent of the surface of the potato in the aggregate, or causes a loss of more than five percent of the total weight of the potato including peel covering defective area;

g. Dirt if the individual potato has more than 50 percent of its surface affected by lightly caked dirt which is scattered, or more than 15 percent of its surface badly caked with dirt.

10. "Serious damage" means any defect or combination of defects which seriously affects the appearance of the individual potato or which cannot be removed without a loss of more than ten percent of the total weight of the potato including the peel covering the defective area. Any one of the following defects or any combination of defects, the seriousness of which exceeds the maximum allowed for any one defect shall be considered as serious damage:

a. Russet scab when it seriously detracts from the appearance of the potato;

b. Dirt when the appearance of the individual potato is seriously affected by caked or smeared dirt or other foreign matter;

c. Cuts when both ends are clipped or when more than an estimated one-fourth of the potato is cut away from one end or when the remaining portion of the clipped potato weighs less than six ounces;

d. Other cuts which seriously affect the appearance of the individual potato or which cannot be removed without a loss of more than ten percent of the total weight of the potato including peel covering defective area;

e. Shriveling when the potato is excessively shriveled, spongy, or flabby;

f. Surface or pitted scab, individually or in combination, which covers an area of more than twenty-five percent of the surface of the potato in the aggregate, or causes

a loss of more than ten percent of the total weight of the potato including peel covering defective area.

Agr. 121-126 are repealed.

OFFICE OF THE REVISOR OF STATUTES
Disapproval of Form of Rules

__/__ The form of the attached rules is not approved. The revisor requests the changes described below before the rules will be approved.

Page 1, line 11, strike"(1980)"

Page 1, line 21, strike "(1980)"

Page 1, line 23, strike "(1980)"

Page 2, line 2, strike "(1980)"

Page 3, line 5, strike "and/or" and insert the proper alternative.

Page 4, line 14, strike "potato growers" and insert "potatoes"

Page 6, lines 10 and 11, accurately identify by a complete citation, including a date, the journal recognized by the commissioner or the list of such journals and the recommendations of the Potato Association of America. Also, submit a list of where the documents may be found so the Revisor, in consultation with the chief hearing examiner, can determine if they are conveniently available to the public.

Steven C. Cross
Revisor of Statutes

Name: Ann L. Bateson
Ann L. Bateson
Title: Deputy Revisor of Rules
Phone: 296-1536

- - - -

Department of Agriculture

Division of Plant Industry

Adopted Rules of the Department of Agriculture Governing Seed Potato Certification (3 MCAR SS 1.0127 - 1.0135)

The rules published and proposed at State Register, Volume 5, Number 48, pp. 1913-1922, June 1, 1981 (5 S.R. 1913) are now adopted.

Rules as Adopted

3 MCAR Sec. 1.0127 Purpose and authority. Rules 3 MCAR Secs. 1.0127-1.0135 provide standards for the inspection, certification, production, and marketing of certified seed potatoes in the State of Minnesota. The authority to adopt these rules is contained in Minn. Stat. Sec. 21.118 ~~(1980)~~.

3 MCAR Sec. 1.0128 Definitions. As used in 3 MCAR Secs. 1.0127-1.0135, the following definitions apply unless the context clearly indicates otherwise.

A. "Commissioner" means the commissioner of Agriculture or the commissioner's authorized representative.

B. "Department" means the Department of Agriculture.

C. "Seed potato certification inspector" means an employee of the department authorized by the commissioner to inspect seed potato plants and tubers entered for certification.

D. "Inspected" has the meaning given it in Minn. Stat. Sec. 21.111, Subd. 2 ~~(1980)~~.

E. "Seed Potatoes" has the meaning given it in Minn. Stat. Sec. 21.111, Subd. 5 ~~(1980)~~.

F. "Certified" has the meaning given it in Minn. Stat. Sec. 21.111, Subd. 3 ~~(1980)~~.

G. "Certified seed potatoes" means potatoes which have been produced, graded, sacked or placed in bulk, and inspected and certified in accordance with 3 MCAR Secs. 1.0127-1.0135.

H. "Farm" means a seed potato enterprise. It includes all land, equipment, storage facilities, and laborers used to produce certified seed potatoes.

I. "Field" means a plot of land on a farm on which potatoes are grown for certification. The potatoes shall be of one variety from one certified seed potato grower and shall be grown in physical separation from other fields.

J. "Lot" means a group of seed potatoes entered for certification that have passed the field inspection requirements. For the purposes of 3 MCAR Secs. 1.0127-1.0135, a lot of potatoes also means that the group is of one variety, from one or more fields, grown on the same farm, and stored in physical separation from other lots.

K. "Crop" means all lots produced on a farm in one year.

L. "Tolerance" means a specified allowance for variation from the standards provided for diseases and physical defects, as provided in 3 MCAR Secs. 1.0127-1.0135.

M. "Rejected" means that a field or lot fails to meet the standards provided for in 3 MCAR Secs. 1.0127-1.0135.

3 MCAR Sec. 1.0129 General guidance. The provisions of this section govern the production of potatoes for use as certified seed potatoes.

A. Seed potato certification. In order to produce certified seed potatoes, a grower must comply with the following procedures:

1. Potatoes entered for certification shall be inspected while growing in the field and again after harvest at the time of shipment. Certification shall be based upon visual inspection by the commissioner of sample plants and tubers from each field and lot. Certificates shall be issued to show the varietal purity, freedom from disease, and/or physical defects of the potatoes at the time of inspection.

2. Participation in the certified seed potato program shall be voluntary. The applicant may withdraw at any time. Farming and sanitation practices are the responsibility of the applicant. Certification and inspection under 3 MCAR Secs. 1.0127-1.0135 shall be conducted by the commissioner. Failure of the applicant to comply with the requirements of 3 MCAR Secs. 1.0127-1.0135 shall be cause for rejection of any field or lot. Potatoes from rejected fields or lots cannot be sold as certified seed potatoes.

B. Winter testing. In order to detect certain virus diseases, samples from all Foundation certified and Approved certified seed potato lots shall be winter-tested. In the event of serious malfunctions of the winter test, classification of lots as Foundation certified or Approved certified shall be based on the previous summer field readings.

C. Certified seed potato classes. There are three classes of Minnesota certified seed potatoes, differentiated by their tolerances for virus diseases.

1. The first class, Foundation certified seed potatoes, has stricter tolerances for virus diseases than do the other classes. This class shall be winter-tested.

2. The Approved certified seed potato class is the second class. Virus disease tolerances for these seed potatoes are less strict than those for Foundation certified seed potatoes. Approved certified seed potatoes shall also be winter-tested.

3. The third class, the Certified seed potato class, is not winter-tested.

D. Certified seed potato grades. Grades of certified seed potatoes are established according to the physical defects of the tubers. There are three grades used for shipping Minnesota certified seed potatoes.

1. The blue tag certified seed potato grade, the first grade, has tolerances for physical defects of the tubers stricter than the other grades. This grade may be used by growers of Foundation certified, Approved certified, and Certified seed potatoes. The blue tag grade may be used for intrastate and interstate shipments of certified seed potatoes.

2. The red tag certified seed potato grade is the second grade. This grade allows more physical defects of the tubers than the blue tag certified seed potato grade. It may be used by growers of Foundation certified, Approved certified, and Certified seed ~~potato growers~~ potatoes. The red tag grade may also be used for intrastate and interstate shipments of certified seed potatoes.

3. The white tag certified seed potato grade is the third grade. The tolerances for physical defects of the tubers are determined by agreement between purchaser and seller of the certified seed potatoes. This grade may only be used by growers of Foundation certified and Approved certified seed potatoes. It may only be used for intrastate shipments of certified seed potatoes.

E. Zero tolerance for bacterial ring rot. Certification rules make provisions to allow the presence of certain diseases at levels sufficiently low as to preclude significant effects on certified seed potato value. For bacterial ring rot, there is a zero tolerance and the discovery of a single plant in the field or a tuber in storage infected with bacterial ring rot

shall cause the rejection of the field or lot. The absence of a finding shall not be construed to mean that the field or lot inspected is free from the disease.

F. Warranty. A certification does not represent a warranty of any kind, express or implied, including merchantability, as to the quality of the crop produced from the certified seed potatoes. A certification represents only that the seed potatoes were produced, graded, sacked or placed in bulk, and inspected in accordance with 3 MCAR Secs. 1.0127-1.0135.

3 MCAR Sec. 1.0130 Application and eligibility for inspection and certification. The following procedures shall govern:

A. Application for Inspection.

1. All potatoes planted on a farm shall be eligible and shall be entered for certification.

2. Application for inspection shall be made before June 16 each year on forms furnished by the commissioner or a seed potato certification inspector. Applications postmarked after June 15 but before July 1 shall be charged a fifty cents per acre late registration fee. No applications shall be accepted that are postmarked later than June 30. The commissioner may extend the deadline due to special circumstances affecting an area or large number of growers.

3. An application for the inspection of a field planted with purchased certified seed potatoes shall include a copy of the shipping point certificates or bulk seed certificates for the total amount of purchased certified seed potatoes planted.

4. A separate application shall be completed for each field planted.

5. No application for inspection shall be accepted from a grower in any community or county in which there is not sufficient acreage to warrant the expense of an inspection. Determination of sufficient acreage shall be made by the commissioner.

B. Seed potatoes eligible for Minnesota certification planting. A field shall not be inspected for certification unless both the seed potato variety and the particular lot planted have the authorization of the commissioner. Any well established, named, commercial variety shall be considered for certification if the variety has been described as to vine and tuber characteristics in a journal recognized by the commissioner and in accordance with the recommendations of the Potato Association of America.

To be eligible for certification planting, seed potatoes shall be one of the following:

1. From Minnesota growers:

a. Foundation certified seed potatoes;

b. Approved certified seed potatoes; or

c. Certified seed potatoes. A grower may replant his own certified seed potatoes. The commissioner may authorize the planting of purchased certified seed potatoes if there is no source of Foundation certified or Approved certified seed potatoes available to the grower.

2. From non-Minnesota growers: Seed potatoes approved for certification planting by the certifying agency in another state or a Canadian province may be planted if tolerances for certification meet Minnesota tolerances for Approved or Foundation certified seed potatoes.

3. Seedling or numbered selections may be accepted for entrance into the certification system by special authorization of the commissioner. The applicant shall submit a written statement from the breeder or originator that

the applicant has full and unrestricted rights to introduce the seedling or numbered selection into the commercial market, and that the seedling or numbered selection shall be named within a period of not more than three years from acceptance of application. If the seedling or numbered selection is not named at the end of three years from acceptance of the application, a two year waiting period shall pass before reentry into the certification program.

3 MCAR Sec. 1.0131 Requirements for certified seed potato production. The following standards shall be met before potatoes may be classified as certified seed potatoes.

A. Field inspection. Certification shall be based upon information regarding the following: stand, general vigor, varietal purity, disease tolerances, and factors affecting field inspection. At least two field inspections shall be made of each field during the growing season. Additional inspections may be made if deemed necessary by the commissioner.

1. Stand. A field shall be rejected if there are a large number of plants missing due to disease.

2. General vigor. A field shall be rejected if it contains a large number of weak plants.

3. Varietal purity. A field shall be rejected if it contains any varietal mixture at the time of inspection, unless all varietal mixtures are removed by the grower before the next inspection.

4. Disease tolerances (percentage of infected plants). A field shall be rejected if it contains percentages of diseased plants in excess of those listed in the following table. The disease percentages listed are based on symptoms which are visible in the sample being inspected.

Maximum Disease Tolerance Levels

Diseases	First Inspection	Second and Subsequent Inspections
Severe mosaic (rugose, crinkle and leafrolling)	0.5%	0.3%
Spindle tuber	0.1%	0.1%
Leafroll	0.5%	0.3%
Total of above diseases	1.0%	0.5%
Yellow dwarf	0.5%	0.5%
Calico	0.5%	0.5%
Haywire	0.5%	0.5%
Witches broom	0.5%	0.5%
Total of above 4 diseases	0.5%	0.5%
Mild mosaic	2.0%	1.0%
Bacterial ring rot, field rejected if found	0.0%	0.0%

5. Factors affecting field inspection.

a. A field shall be rejected if any of the following are present to such an extent that satisfactory inspection for diseases cannot be made:

(1) Early or late blight;

(2) Blackleg or wilt of any kind;

(3) Weeds;

(4) Insect injury;

(5) Chemical damage.

b. A field shall be rejected if any other conditions are present to such an extent that satisfactory inspection for diseases cannot be made.

B. Roguing. If any of the diseases listed in A. 4 of this rule are present in a field in amounts less than the maximum disease tolerance level, the infected plants shall be removed before the final inspection. If roguing is done after tubers form, the tubers from the rogued plants shall also be removed and destroyed.

C. Storage.

1. Lots shall not be stored in any warehouse where other potatoes are stored, nor shall they be stored under conditions of possible disease contamination. If more than one grower stores lots in the same warehouse, each grower's lots shall be properly identified by labeling the bin with the grower's name, address, variety, and amount in the bin. If the lots are to be stored in a public warehouse or storage unit not directly under the control of the grower, a complete record giving location of the storage unit, number of the bin, variety, and the quantity stored shall be sent to the commissioner when the lots are put into storage. If it is available, a copy of the warehouse receipt shall also be sent to the commissioner.

2. Equipment used for grading and handling lots shall not be used for any other potatoes. If any equipment is used on other potatoes, the lots shall be rejected.

3. Any firm handling lots on contract shall label all bins containing lots with the name of the grower whose lots are being stored. Responsibility for proper labeling and subsequent handling rests with the firm. No certification tags or bulk certificates shall be issued until this is done.

4. Each grower shall submit a completed storage and yield report on each lot on forms furnished by the commissioner. Certification tags shall not be issued to growers who have not submitted the report.

D. Tags, bulk certificates, seals.

1. Official blue, red, or white tags, bearing the grower's name and address, variety, and the crop year, shall be issued when the potatoes meet the certification requirements described in 3 MCAR Sec. 1.0130 and 3 MCAR Sec. 1.0131A-C.

2. Tags shall be fastened onto sacks with a metal seal so as to constitute a seal at the time the lots are prepared for shipment. No metal seal is required when a tag is machine sewn onto the sack. A special seal shall be placed on the conveyance doors in case of bulk shipments identified by a bulk certificate.

3. Tags shall be issued only to growers, except when lots are stored in a public warehouse or in a storage unit not under direct control of the grower. They shall be issued to the owner or manager of the storage unit upon receipt of written authorization from the grower.

4. Responsibility for ordering tags shall rest entirely with each grower.

E. Grading. All lots shall be inspected at the loading point whenever possible. If inspection at the loading point is impossible, request for grading inspection in transit shall be made. Every bagged lot or shipment offered for sale and bearing official certification tags shall be in new even-weight sacks. Bulk shipments shall be identified with a bulk certificate. Both bagged and bulk lots or shipments must meet grade standards specified in 3 MCAR Sec. 1.0135.

1. Lots or shipments that fail to meet grade standards when inspected shall be reconditioned or;

a. If the lot or shipment is in sacks, the tags shall be removed under the supervision of a state or federal/state inspector before the lot or shipment is allowed to proceed to its destination.

b. If the shipment is in bulk, no bulk certificate shall be issued.

2. All costs of reconditioning to meet grade shall be borne by the shipper.

3 MCAR Sec. 1.0132 Requirements for Foundation certified seed potato production. Foundation certified seed potatoes shall consist of potatoes which meet all the requirements of 3 MCAR Sec. 1.0130 and 3 MCAR Sec. 1.0131 as well as the following additional requirements.

A. A lot grown as and intended to be Foundation certified seed potatoes must remain under direct control of the grower for three years prior to being certified as Foundation certified seed potatoes.

B. Foundation certified seed potatoes shall be the only potatoes grown on the farm. They shall be grown from potatoes produced on a tuber unit seed plot.

C. Not more than two-tenths percent of any or all virus diseases shall be allowed on any field inspection. No spindle tuber is allowed.

D. A lot shall be kept under direct control of the grower. Such lots shall not be stored in any warehouse in which other potatoes are stored, unless authorization is granted by the commissioner.

E. A sample of each lot meeting the requirements of this rule shall be submitted for winter testing. Seed potato lots with winter test readings more than one-half percent of any or all virus diseases shall be removed from the Foundation certified seed potato class. Presence of spindle tuber, bacterial ring rot, or chemical damage shall also remove the lot from the Foundation certified seed potato class.

F. If bacterial ring rot is found in any field or lot, the crop is not eligible for certification planting the following year. Potatoes from other fields or lots may be eligible for certification planting if the equipment used in the production of the crop was thoroughly disinfected after it was used on each field or lot. Proof of disinfection must be filed with the commissioner. Authorization for certification planting the following year shall then be granted only to the grower himself and only if the lots meet all other requirements for planting.

G. Blue, red, or white tags with the word "Foundation" stamped across the front of the tag shall be issued only after all requirements of 3 MCAR 1.0132 are met. In addition, the crop shall be at least the third crop grown following the year in which bacterial ring rot was found before becoming eligible to be tagged with Foundation tags.

3 MCAR Sec. 1.0133 Requirements for Approved certified seed potato production. Approved certified seed potatoes shall consist of potatoes which meet all the requirements of 3 MCAR Sec. 1.0130 and 3 MCAR Sec. 1.0131 as well as the following additional requirements:

A. Not more than three-tenths percent of any or all virus diseases shall be allowed on the final field inspection, except that no spindle tuber is allowed and up to five-tenths percent is allowed for mild mosaic.

B. A sample of the lot must meet the same winter test requirements as prescribed for Foundation certified seed potatoes in 3 MCAR Sec. 1.0132 E.

1. In selecting lots for winter testing, the commissioner shall consider factors such as lots more than two years removed from the Foundation certified seed potato class, amount of disease found during field inspections,

amount of varietal mixture rogued, proximity to fields having excessive amounts of disease, and other conditions which may jeopardize the value of the lots for certification planting.

2. If bacterial ring rot is found on the farm, before becoming eligible to submit a sample from future crops for winter testing, the grower shall either:

a. Dispose of the crop from the year bacterial ring rot was found and purchase all new Foundation certified or Approved certified seed potatoes; or

b. Produce at least two crops free from bacterial ring rot.

3 MCAR Sec. 1.0134 Fees.

A. Fees shall be set by the commissioner in amounts necessary to carry out the seed potato certification service. Fees shall be reviewed annually and notice of the current fee schedule sent to growers from time-to-time.

B. Field inspection fees shall be paid at time of application for entry into the certification program.

C. Winter testing fees shall be paid before results are sent to the grower.

D. Fees for other disease testing shall be paid before results are listed in the Minnesota Seed Potato Certification Directory.

3 MCAR Sec. 1.0135 Minnesota certified seed potato grades and tolerances.

A. Minnesota certified seed potato grades. Before becoming eligible for grading as certified seed potatoes, the requirements of 3 MCAR Secs. 1.0130 and 1.0131 shall be met. In addition, Foundation certified seed potatoes

shall meet the requirements of 3 MCAR Sec. 1.0132. Approved certified seed potatoes shall meet the requirements of 3 MCAR Sec. 1.0133. Grading and tagging or issuance of a bulk certificate are the final steps in the certification process.

1. Minnesota blue tag certified seed potato grade. To be graded as Minnesota blue tag certified seed potatoes, the potatoes shall meet the following requirements:

a. The potatoes shall be, at time of final inspection, one variety; fairly well-shaped; free from bacterial ring rot, powdery scab, freezing, black heart, and soft rot or wet breakdown; and free from injury by surface or pitted scab, and from damage caused by dirt or other foreign matter, second growth, growth cracks, air cracks, cuts, shriveling, sprouts, pitted scab, surface scab, russet scab, dry rot, other diseases, insects or worms, external discoloration caused from loss of skin, mechanical or other means, and from serious damage caused by sunburn, hollow heart, or internal discoloration (other than hollow heart).

b. Size. For round or intermediate shaped varieties, the maximum size shall be not more than 12 ounces and, unless otherwise specified, the minimum size shall be not less than 1-7/8 inches in diameter. For long varieties, the maximum size shall be not more than 14 ounces and, unless otherwise specified, the minimum size shall be not less than 1-3/4 inches in diameter. For all varieties, size "B", the minimum diameter shall be not less than 1-1/2 inches and the maximum size shall be not more than 2-1/4 inches in diameter.

c. Lot tolerances. In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, are provided:

(1) For defects:

(a) 10% for potatoes seriously damaged by hollow heart;

(b) 10% for potatoes seriously damaged by sunburn;

(c) 5% for potatoes seriously damaged by internal discoloration (other than hollow heart);

(d) 8% for potatoes injured by (slight) scab;

(e) 10% for potatoes damaged by dirt or other foreign matter;

(f) 10% for potatoes damaged by sprouts; and

(g) 6% for potatoes which fail to meet the remaining requirements of the grade provided, that included in this amount not more than the following percentages shall be allowed for the following defects:

(i)	Soft rot, frozen, or wet breakdown	0.5%
(ii)	Damage by surface or pitted scab	2.0%
(iii)	Damage by dry rots	2.0%
(iv)	Late blight tuber rot	2.0%
(v)	Bacterial ring rot	0.0%
(vi)	Powdery scab	0.0%

(2) For offsize:

(a) 5% for potatoes which fail to meet the required or specified minimum size,

(b) 10% for potatoes which fail to meet the required maximum size.

2. Minnesota red tag certified seed potato grade. To be graded as Minnesota red tag certified seed potatoes, the potatoes must meet the following requirements.

a. The potatoes shall be, at time of final inspection, of one variety; fairly well-shaped; and free from bacterial ring rot, powdery scab, freezing, black heart, and soft rot or wet breakdown, and from damage caused by second growth, growth cracks, air cracks, cuts, shriveling, sprouts, pitted scab, surface scab, dry rot, other diseases, insects or worms, external discoloration caused from loss of skin, mechanical or other means, and from serious damage caused by dirt or other foreign matter, russet scab, sunburn, hollow heart, or internal discoloration (other than hollow heart).

b. Size. For all varieties, the maximum size shall be not more than 14 ounces, and unless otherwise specified, the minimum size shall be not less than 1-7/8 inches in diameter for round or intermediate shaped varieties and not less than 1-3/4 inches in diameter for long varieties. For all varieties, size "B," the minimum diameter shall be not less than 1-1/2 inches, and the maximum size shall be not more than 2-1/4 inches in diameter.

c. Lot tolerances. In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, are provided:

(1) For defects:

(a) 10% for potatoes seriously damaged by hollow heart;

(b) 10% for potatoes seriously damaged by sunburn;

(c) 5% for potatoes seriously damaged by internal discoloration (other than hollow heart);

(d) 20% for potatoes damaged by sprouts; and

(e) 20% for potatoes which fail to meet the remaining requirements of the grade provided, that included in this amount not more than the following percentages shall be allowed:

(i) 5% damage by surface or pitted scab

(ii) 2% damage by dry rot

(iii) 6% serious damage for other defects other than sunburn, hollow heart, internal discoloration (other than hollow heart) provided, that of this six percent not more than the following percentages shall be allowed for the following defects:

(aa) Late blight tuber rot	2%
(bb) Soft rot, frozen, or wet breakdown	0.5%
(cc) Bacterial ring rot	0.0%
(dd) Powdery scab	0.0%

(2) For offsize:

(a) 5% for potatoes which fail to meet the required or specified minimum size;

(b) 10% for potatoes which fail to meet the required maximum size.

3. Minnesota white tag certified seed potato grade.

a. Minnesota white tag certified seed potato grade shall consist of Foundation certified or Approved certified seed potatoes which are graded according to agreement between seller and purchaser as to size and defects, except that not more than one-half percent of soft rot, frozen, or wet breakdown and two percent dry rot shall be allowed.

b. The use of the white tag certified seed potato grade shall be restricted to intrastate shipments.

B. Application of tolerance. The contents of individual containers, other than bulk conveyances, in the lot are subject to the following limitations provided that the averages for the entire lot are within the tolerances specified for the grade. An individual container in any lot may contain not more than double the tolerance specified except for sprouts and that at least one defective specimen, other than bacterial ring rot or powdery scab, and one offsize specimen may be permitted in any container.

C. Condition after transit: Deterioration developing in transit shall be considered as affecting condition and not grade.

D. Definitions: For the purpose of this rule, the following terms have the meanings given them unless the context clearly indicates otherwise:

1. "Mature" means that the outer skin (epidermis) does not loosen or "feather" readily during the ordinary methods of handling.

2. "Well-shaped" means the normal shape for the variety.

3. "Fairly well-shaped" means that the individual potato is not materially pointed, dumbbell-shaped, or otherwise ill-formed.

4. "Fairly clean" means that the individual potato is reasonably free from dirt, staining, or other foreign matter.

5. "Slightly dirty" means that the appearance of the individual potato is not materially affected by dirt, staining, or other foreign matter.

6. "Diameter" means the greatest dimension at right angles to the longitudinal axis. The long axis shall be used without regard to the position of the stem (rhizome).

7. "Soft rot or wet breakdown" means any soft, mushy, or leaky condition of the tissues.

8. "Surface" or "pitted scab", individually or in combination, which cover an area of more than two percent of the surface of the potato in the aggregate, or which cannot be removed without a loss of more than two percent of the total weight of the potato including the peel covering the defective area shall be considered injury.

9. "Damage" means any defect or combination of defects which materially affects the appearance of the individual potato or which cannot be removed without a loss of more than five percent of the total weight of the potato including the peel covering the defective area. Any one of the

following defects or any combination of defects, the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as damage:

a. Russet scab when it materially detracts from the appearance of the individual potato;

b. Second growth or growth cracks which have developed to such an extent as to materially affect the appearance of the individual potato;

c. Air cracks which are deep, or shallow air cracks which materially affect the appearance of the individual potato;

d. Shriveling when the potato is more than moderately shriveled, spongy, or flabby;

e. Sprouting when the individual potato has sprouts over one inch in length;

f. Surface or pitted scab, individually or in combination, which covers an area of more than five percent of the surface of the potato in the aggregate, or causes a loss of more than five percent of the total weight of the potato including peel covering defective area;

g. Dirt if the individual potato has more than 50 percent of its surface affected by lightly caked dirt which is scattered, or more than 15 percent of its surface badly caked with dirt.

10. "Serious damage" means any defect or combination of defects which seriously affects the appearance of the individual potato or which cannot be removed without a loss of more than ten percent of the total weight of the potato including the peel covering the defective area. Any one of the following defects or any combination of defects, the seriousness of which exceeds the maximum allowed for any one defect shall be considered as serious damage:

a. Russet scab when it seriously detracts from the appearance of the potato;

b. Dirt when the appearance of the individual potato is seriously affected by caked or smeared dirt or other foreign matter;

c. Cuts when both ends are clipped or when more than an estimated one-fourth of the potato is cut away from one end or when the remaining portion of the clipped potato weighs less than six ounces;

d. Other cuts which seriously affect the appearance of the individual potato or which cannot be removed without a loss of more than ten percent of the total weight of the potato including peel covering defective area;

e. Shriveling when the potato is excessively shriveled, spongy, or flabby;

f. Surface or pitted scab, individually or in combination, which covers an area of more than twenty-five percent of the surface of the potato in the aggregate, or causes a loss of more than ten percent of the total weight of the potato including peel covering defective area.

Agr. 121-126 are repealed.

OFFICE OF THE REVISOR OF STATUTES

Certificate of Approval of Adopted Rules

Agency: **Department of Agriculture, Division of Plant Industry**

Rule Numbers: **3 MCAR SS 1.0127-1.0135**
Repealing Agr 121-126

Rule Title: **Adopted Rules Governing Seed Potato Certification and Repeal of Existing Rules Agr 121-126**

Type of Rules: Permanent X

Temporary _____

Documents Incorporated by Reference:

Minnesota Statutes, Section 21.111, subdivisions 2, 3 and 5

The attached Rules are approved as to form.

Steven C. Cross
Revisor of Statutes

Name: Ann L. Bateson
Ann L. Bateson

Title: **Deputy Revisor**

Phone: **296-1536**

Rules as Adopted

3 MCAR S 1.0127 Purpose and authority. Rules 3 MCAR SS 1.0127-1.0135 provide standards for the inspection, certification, production, and marketing of certified seed potatoes in the State of Minnesota. The authority to adopt these rules is contained in Minn. Stat. S 21.118 ~~(1980)~~.

3 MCAR S 1.0128 Definitions. As used in 3 MCAR SS 1.0127-1.0135, the following definitions apply unless the context clearly indicates otherwise.

A. "Commissioner" means the Commissioner of Agriculture or the commissioner's authorized representative.

B. "Department" means the Department of Agriculture.

C. "Seed potato certification inspector" means an employee of the department authorized by the commissioner to inspect seed potato plants and tubers entered for certification.

D. "Inspected" has the meaning given it in Minn. Stat. S 21.111, subd. 2 ~~(1980)~~.

E. "Seed potatoes" has the meaning given it in Minn. Stat. S 21.111, subd. 5 ~~(1980)~~.

F. "Certified" has the meaning given it in Minn. Stat. S 21.111, subd. 3 ~~(1980)~~.

G. "Certified seed potatoes" means potatoes which have been produced, graded, sacked or placed in bulk, and inspected and

certified in accordance with 3 MCAR SS 1.0127-1.0135.

H. "Farm" means a seed potato enterprise. It includes all land, equipment, storage facilities, and laborers used to produce certified seed potatoes.

I. "Field" means a plot of land on a farm on which potatoes are grown for certification. The potatoes shall be of one variety from one certified seed potato grower and shall be grown in physical separation from other fields.

J. "Lot" means a group of seed potatoes entered for certification that have passed the field inspection requirements. For the purposes of 3 MCAR SS 1.0127-1.0135, a lot of potatoes also means that the group is of one variety, from one or more fields, grown on the same farm, and stored in physical separation from other lots.

K. "Crop" means all lots produced on a farm in one year.

L. "Tolerance" means a specified allowance for variation from the standards provided for diseases and physical defects, as provided in 3 MCAR SS 1.0127-1.0135.

M. "Rejected" means that a field or lot fails to meet the standards provided for in 3 MCAR SS 1.0127-1.0135.

3 MCAR S 1.0129 General guidance. The provisions of this section govern the production of potatoes for use as certified seed potatoes.

A. Seed potato certification. In order to produce certified seed potatoes, a grower must comply with the following procedures:

1. Potatoes entered for certification shall be inspected while growing in the field and again after harvest at the time of shipment. Certification shall be based upon visual inspection by the commissioner of sample plants and tubers from each field and lot. Certificates shall be issued to show the varietal purity, freedom from disease, ~~and/or~~ and physical defects of the potatoes at the time of inspection.

2. Participation in the certified seed potato program shall be voluntary. The applicant may withdraw at any time.

Farming and sanitation practices are the responsibility of the applicant. Certification and inspection under 3 MCAR SS 1.0127-1.0135 shall be conducted by the commissioner. Failure of the applicant to comply with the requirements of 3 MCAR SS 1.0127-1.0135 shall be cause for rejection of any field or lot. Potatoes from rejected fields or lots cannot be sold as certified seed potatoes.

B. Winter testing. In order to detect certain virus diseases, samples from all Foundation certified and Approved certified seed potato lots shall be winter-tested. In the event of serious malfunctions of the winter test, classification of lots as Foundation certified or Approved certified shall be based on the previous summer field readings.

C. Certified seed potato classes. There are three classes of Minnesota certified seed potatoes, differentiated by their tolerances for virus diseases.

1. The first class, Foundation certified seed potatoes, has stricter tolerances for virus diseases than do the other classes. This class shall be winter-tested.

2. The Approved certified seed potato class is the second class. Virus disease tolerances for these seed potatoes are less strict than those for Foundation certified seed potatoes. Approved certified seed potatoes shall also be winter-tested.

3. The third class, the Certified seed potato class, is not winter-tested.

D. Certified seed potato grades. Grades of certified seed potatoes are established according to the physical defects of the tubers. There are three grades used for shipping Minnesota certified seed potatoes.

1. The blue tag certified seed potato grade, the first grade, has tolerances for physical defects of the tubers stricter than the other grades. This grade may be used by growers of Foundation certified, Approved certified, and Certified seed potatoes. The blue tag grade may be used for intrastate and interstate shipments of certified seed potatoes.

2. The red tag certified seed potato grade is the second

grade. This grade allows more physical defects of the tubers than the blue tag certified seed potato grade. It may be used by growers of Foundation certified, Approved certified, and Certified seed ~~potato growers~~ potatoes. The red tag grade may also be used for intrastate and interstate shipments of certified seed potatoes.

3. The white tag certified seed potato grade is the third grade. The tolerances for physical defects of the tubers are determined by agreement between purchaser and seller of the certified seed potatoes. This grade may only be used by growers of Foundation certified and Approved certified seed potatoes. It may only be used for intrastate shipments of certified seed potatoes.

E. Zero tolerance for bacterial ring rot. Certification rules make provisions to allow the presence of certain diseases at levels sufficiently low as to preclude significant effects on certified seed potato value. For bacterial ring rot, there is a zero tolerance and the discovery of a single plant in the field or a tuber in storage infected with bacterial ring rot shall cause the rejection of the field or lot. The absence of a finding shall not be construed to mean that the field or lot inspected is free from the disease.

F. Warranty. A certification does not represent a warranty of any kind, express or implied, including merchantability, as to the quality of the crop produced from the certified seed potatoes. A certification represents only that the seed potatoes were produced, graded, sacked or placed in bulk, and inspected in accordance with 3 MCAR SS 1.0127-1.0135.

3 MCAR S 1.0130 Application and eligibility for inspection and certification. The following procedures shall govern:

A. Application for inspection.

1. All potatoes planted on a farm shall be eligible and shall be entered for certification.

2. Application for inspection shall be made before June 16 each year on forms furnished by the commissioner or a seed

potato certification inspector. Applications postmarked after June 15 but before July 1 shall be charged a fifty cents per acre late registration fee. No applications shall be accepted that are postmarked later than June 30. The commissioner may extend the deadline due to special circumstances affecting an area or large number of growers.

3. An application for the inspection of a field planted with purchased certified seed potatoes shall include a copy of the shipping point certificates or bulk seed certificates for the total amount of purchased certified seed potatoes planted.

4. A separate application shall be completed for each field planted.

5. No application for inspection shall be accepted from a grower in any community or county in which there is not sufficient acreage to warrant the expense of an inspection. Determination of sufficient acreage shall be made by the commissioner.

B. Seed potatoes eligible for Minnesota certification planting. A field shall not be inspected for certification unless both the seed potato variety and the particular lot planted have the authorization of the commissioner. ~~Any well established, named, commercial variety shall be considered for certification if the variety has been described as to vine and tuber characteristics in a journal recognized by the commissioner and in accordance with the recommendations of the Potato Association of America~~ In considering seed potato varieties for authorization for certification planting, the commissioner shall consider scientific evidence and expert opinion. To be eligible for certification planting, seed potatoes shall be one of the following:

1. From Minnesota growers:

a. Foundation certified seed potatoes;

b. Approved certified seed potatoes; or

c. Certified seed potatoes. A grower may replant his own certified seed potatoes. The commissioner may authorize the planting of purchased certified seed potatoes if there is no

source of Foundation certified or Approved certified seed potatoes available to the grower.

2. From non-Minnesota growers: Seed potatoes approved for certification planting by the certifying agency in another state or a Canadian province may be planted if tolerances for certification meet Minnesota tolerances for Approved or Foundation certified seed potatoes.

3. Seedling or numbered selections may be accepted for entrance into the certification system by special authorization of the commissioner. The applicant shall submit a written statement from the breeder or originator that the applicant has full and unrestricted rights to introduce the seedling or numbered selection into the commercial market, and that the seedling or numbered selection shall be named within a period of not more than three years from acceptance of application. If the seedling or numbered selection is not named at the end of three years from acceptance of the application, a two year waiting period shall pass before reentry into the certification program.

3 MCAR S 1.0131 Requirements for certified seed potato production. The following standards shall be met before potatoes may be classified as certified seed potatoes.

A. Field inspection. Certification shall be based upon information regarding the following: stand, general vigor, varietal purity, disease tolerances, and factors affecting field inspection. At least two field inspections shall be made of each field during the growing season. Additional inspections may be made if deemed necessary by the commissioner.

1. Stand. A field shall be rejected if there are a large number of plants missing due to disease.

2. General vigor. A field shall be rejected if it contains a large number of weak plants.

3. Varietal purity. A field shall be rejected if it contains any varietal mixture at the time of inspection, unless all varietal mixtures are removed by the grower before the next

inspection.

4. Disease tolerances (percentage of infected plants). A field shall be rejected if it contains percentages of diseased plants in excess of those listed in the following table. The disease percentages listed are based on symptoms which are visible in the sample being inspected.

Maximum Disease Tolerance Levels

Diseases	First Inspection	Second and Subsequent Inspections
Severe mosaic (rugose, crinkle and leafrolling)	0.5%	0.3%
Spindle tuber	0.1%	0.1%
Leafroll	0.5%	0.3%
Total of above diseases	1.0%	0.5%
Yellow dwarf	0.5%	0.5%
Calico	0.5%	0.5%
Haywire	0.5%	0.5%
Witches broom	0.5%	0.5%
Total of above 4 diseases	0.5%	0.5%
Mild mosaic	2.0%	1.0%
Bacterial ring rot, field rejected if found	0.0%	0.0%

5. Factors affecting field inspection.

a. A field shall be rejected if any of the following are present to such an extent that satisfactory inspection for diseases cannot be made:

(1) Early or late blight;

(2) Blackleg or wilt of any kind;

(3) Weeds;

(4) Insect injury;

(5) Chemical damage.

b. A field shall be rejected if any other conditions are present to such an extent that satisfactory inspection for diseases cannot be made.

B. Roguing. If any of the diseases listed in A. 4. of this rule are present in a field in amounts less than the maximum

disease tolerance level, the infected plants shall be removed before the final inspection. If roguing is done after tubers form, the tubers from the rogued plants shall also be removed and destroyed.

C. Storage.

1. Lots shall not be stored in any warehouse where other potatoes are stored, nor shall they be stored under conditions of possible disease contamination. If more than one grower stores lots in the same warehouse, each grower's lots shall be properly identified by labeling the bin with the grower's name, address, variety, and amount in the bin. If the lots are to be stored in a public warehouse or storage unit not directly under the control of the grower, a complete record giving location of the storage unit, number of the bin, variety, and the quantity stored shall be sent to the commissioner when the lots are put into storage. If it is available, a copy of the warehouse receipt shall also be sent to the commissioner.

2. Equipment used for grading and handling lots shall not be used for any other potatoes. If any equipment is used on other potatoes, the lots shall be rejected.

3. Any firm handling lots on contract shall label all bins containing lots with the name of the grower whose lots are being stored. Responsibility for proper labeling and subsequent handling rests with the firm. No certification tags or bulk certificates shall be issued until this is done.

4. Each grower shall submit a completed storage and yield report on each lot on forms furnished by the commissioner. Certification tags shall not be issued to growers who have not submitted the report.

D. Tags, bulk certificates, seals.

1. Official blue, red, or white tags, bearing the grower's name and address, variety, and the crop year, shall be issued when the potatoes meet the certification requirements described in 3 MCAR S 1.0130 and 3 MCAR S 1.0131 A-C.

2. Tags shall be fastened onto sacks with a metal seal so as to constitute a seal at the time the lots are prepared for

shipment. No metal seal is required when a tag is machine sewn onto the sack. A special seal shall be placed on the conveyance doors in case of bulk shipments identified by a bulk certificate.

3. Tags shall be issued only to growers, except when lots are stored in a public warehouse or in a storage unit not under direct control of the grower. They shall be issued to the owner or manager of the storage unit upon receipt of written authorization from the grower.

4. Responsibility for ordering tags shall rest entirely with each grower.

E. Grading. All lots shall be inspected at the loading point whenever possible. If inspection at the loading point is impossible, request for grading inspection in transit shall be made. Every bagged lot or shipment offered for sale and bearing official certification tags shall be in new even-weight sacks. Bulk shipments shall be identified with a bulk certificate. Both bagged and bulk lots or shipments must meet grade standards specified in 3 MCAR S 1.0135.

1. Lots or shipments that fail to meet grade standards when inspected shall be reconditioned or;

a. If the lot or shipment is in sacks, the tags shall be removed under the supervision of a state or federal/state inspector before the lot or shipment is allowed to proceed to its destination.

b. If the shipment is in bulk, no bulk certificate shall be issued.

2. All costs of reconditioning to meet grade shall be borne by the shipper.

3 MCAR S 1.0132 Requirements for Foundation certified seed potato production. Foundation certified seed potatoes shall consist of potatoes which meet all the requirements of 3 MCAR S 1.0130 and 3 MCAR S 1.0131 as well as the following additional requirements.

A. A lot grown as and intended to be Foundation certified seed potatoes must remain under direct control of the grower for

three years prior to being certified as Foundation certified seed potatoes.

B. Foundation certified seed potatoes shall be the only potatoes grown on the farm. They shall be grown from potatoes produced on a tuber unit seed plot.

C. Not more than two-tenths percent of any or all virus diseases shall be allowed on any field inspection. No spindle tuber is allowed.

D. A lot shall be kept under direct control of the grower. Such lots shall not be stored in any warehouse in which other potatoes are stored, unless authorization is granted by the commissioner.

E. A sample of each lot meeting the requirements of this rule shall be submitted for winter testing. Seed potato lots with winter test readings more than one-half percent of any or all virus diseases shall be removed from the Foundation certified seed potato class. Presence of spindle tuber, bacterial ring rot, or chemical damage shall also remove the lot from the Foundation certified seed potato class.

F. If bacterial ring rot is found in any field or lot, the crop is not eligible for certification planting the following year. Potatoes from other fields or lots may be eligible for certification planting if the equipment used in the production of the crop was thoroughly disinfected after it was used on each field or lot. Proof of disinfection must be filed with the commissioner. Authorization for certification planting the following year shall then be granted only to the grower himself and only if the lots meet all other requirements for planting.

G. Blue, red, or white tags with the word "Foundation" stamped across the front of the tag shall be issued only after all requirements of 3 MCAR S 1.0132 are met. In addition, the crop shall be at least the third crop grown following the year in which bacterial ring rot was found before becoming eligible to be tagged with Foundation tags.

3 MCAR S 1.0133 Requirements for Approved certified seed potato

production. Approved certified seed potatoes shall consist of potatoes which meet all the requirements of 3 MCAR S 1.0130 and 3 MCAR S 1.0131 as well as the following additional requirements:

A. Not more than three-tenths percent of any or all virus diseases shall be allowed on the final field inspection, except that no spindle tuber is allowed and up to five-tenths percent is allowed for mild mosaic.

B. A sample of the lot must meet the same winter test requirements as prescribed for Foundation certified seed potatoes in 3 MCAR S 1.0132 E.

1. In selecting lots for winter testing, the commissioner shall consider factors such as lots more than two years removed from the Foundation certified seed potato class, amount of disease found during field inspections, amount of varietal mixture rogued, proximity to fields having excessive amounts of disease, and other conditions which may jeopardize the value of the lots for certification planting.

2. If bacterial ring rot is found on the farm, before becoming eligible to submit a sample from future crops for winter testing, the grower shall either:

a. Dispose of the crop from the year bacterial ring rot was found and purchase all new Foundation certified or Approved certified seed potatoes; or

b. Produce at least two crops free from bacterial ring rot.

3 MCAR S 1.0134 Fees.

A. Fees shall be set by the commissioner in amounts necessary to carry out the seed potato certification service. Fees shall be reviewed annually and notice of the current fee schedule sent to growers from time-to-time.

B. Field inspection fees shall be paid at time of application for entry into the certification program.

C. Winter testing fees shall be paid before results are sent to the grower.

D. Fees for other disease testing shall be paid before

results are listed in the Minnesota Seed Potato Certification Directory.

3 MCAR S 1.0135 Minnesota certified seed potato grades and tolerances.

A. Minnesota certified seed potato grades. Before becoming eligible for grading as certified seed potatoes, the requirements of 3 MCAR SS 1.0130 and 1.0131 shall be met. In addition, Foundation certified seed potatoes shall meet the requirements of 3 MCAR S 1.0132. Approved certified seed potatoes shall meet the requirements of 3 MCAR S 1.0133. Grading and tagging or issuance of a bulk certificate are the final steps in the certification process.

1. Minnesota blue tag certified seed potato grade. To be graded as Minnesota blue tag certified seed potatoes, the potatoes shall meet the following requirements:

a. The potatoes shall be, at time of final inspection, one variety; fairly well-shaped; free from bacterial ring rot, powdery scab, freezing, black heart, and soft rot or wet breakdown; and free from injury by surface or pitted scab, and from damage caused by dirt or other foreign matter, second growth, growth cracks, air cracks, cuts, shriveling, sprouts, pitted scab, surface scab, russet scab, dry rot, other diseases, insects or worms, external discoloration caused from loss of skin, mechanical or other means, and from serious damage caused by sunburn, hollow heart, or internal discoloration (other than hollow heart).

b. Size. For round or intermediate shaped varieties, the maximum size shall be not more than 12 ounces and, unless otherwise specified, the minimum size shall be not less than 1-7/8 inches in diameter. For long varieties, the maximum size shall be not more than 14 ounces and, unless otherwise specified, the minimum size shall be not less than 1-3/4 inches in diameter. For all varieties, size "B", the minimum diameter shall be not less than 1-1/2 inches and the maximum size shall be not more than 2-1/4 inches in diameter.

c. Lot tolerances. In order to allow for variations incident to proper grading and handling, the following tolerances, by weight, are provided:

(1) For defects:

(a) 10% for potatoes seriously damaged by hollow heart;

(b) 10% for potatoes seriously damaged by sunburn;

(c) 5% for potatoes seriously damaged by internal discoloration (other than hollow heart);

(d) 8% for potatoes injured by (slight) scab;

(e) 10% for potatoes damaged by dirt or other foreign matter;

(f) 10% for potatoes damaged by sprouts; and

(g) 6% for potatoes which fail to meet the remaining requirements of the grade provided, that included in this amount not more than the following percentages shall be allowed for the following defects:

(i)	Soft rot, frozen, or wet breakdown	0.5%
(ii)	Damage by surface or pitted scab	2.0%
(iii)	Damage by dry ~~rots~~ rot	2.0%
(iv)	Late blight tuber rot	2.0%
(v)	Bacterial ring rot	0.0%
(vi)	Powdery scab	0.0%

(2) For offsize:

(a) 5% for potatoes which fail to meet the required or specified minimum size,

(b) 10% for potatoes which fail to meet the required maximum size.

2. Minnesota red tag certified seed potato grade. To be graded as Minnesota red tag certified seed potatoes, the potatoes must meet the following requirements.

a. The potatoes shall be, at time of final inspection, of one variety; fairly well-shaped; and free from bacterial ring rot, powdery scab, freezing, black heart, and soft rot or wet breakdown, and from damage caused by second growth, growth

cracks, air cracks, cuts, shriveling, sprouts, pitted scab, surface scab, dry rot, other diseases, insects or worms, external discoloration caused from loss of skin, mechanical or other means, and from serious damage caused by dirt or other foreign matter, russet scab, sunburn, hollow heart, or internal discoloration (other than hollow heart).

b. Size. For all varieties, the maximum size shall be not more than 14 ounces and unless otherwise specified, the minimum size shall be not less than 1-7/8 inches in diameter for round or intermediate shaped varieties and not less than 1-3/4 inches in diameter for long varieties. For all varieties, size "B", the minimum diameter shall be not less than 1-1/2 inches, and the maximum size shall be not more than 2-1/4 inches in diameter.

c. Lot tolerances. In order to allow for variations incident to proper grading and handling the following tolerances, by weight, are provided:

(1) For defects:

(a) 10% for potatoes seriously damaged by hollow heart;

(b) 10% for potatoes seriously damaged by sunburn;

(c) 5% for potatoes seriously damaged by internal discoloration (other than hollow heart);

(d) 20% for potatoes damaged by sprouts; and

(e) 20% for potatoes which fail to meet the remaining requirements of the grade provided, that included in this amount not more than the following percentages shall be allowed:

(i) 5% damage by surface or pitted scab

(ii) 2% damage by dry rot

(iii) 6% serious damage for other defects other than sunburn, hollow heart, internal discoloration (other than hollow heart) provided, that of this six percent not more than the following percentages shall be allowed for the following defects:

(aa) Late blight tuber rot 2%

(bb) Soft rot, frozen, or wet breakdown 0.5%

(cc) Bacterial ring rot 0.0%

(dd) Powdery scab 0.0%

(2) For offsize:

(a) 5% for potatoes which fail to meet the required or specified minimum size;

(b) 10% for potatoes which fail to meet the required maximum size.

3. Minnesota white tag certified seed potato grade.

a. Minnesota white tag certified seed potato grade shall consist of Foundation certified or Approved certified seed potatoes which are graded according to agreement between seller and purchaser as to size and defects, except that not more than one-half percent of soft rot, frozen, or wet breakdown and two percent dry rot shall be allowed.

b. The use of the white tag certified seed potato grade shall be restricted to intrastate shipments.

B. Application of tolerance. The contents of individual containers, other than bulk conveyances, in the lot are subject to the following limitations provided that the averages for the entire lot are within the tolerances specified for the grade. An individual container in any lot may contain not more than double the tolerance specified except for sprouts and that at least one defective specimen, other than bacterial ring rot or powdery scab, and one offsize specimen may be permitted in any container.

C. Condition after transit. Deterioration developing in transit shall be considered as affecting condition and not grade.

D. Definitions. For the purpose of this rule, the following terms have the meanings given them unless the context clearly indicates otherwise:

1. "Mature" means that the outer skin (epidermis) does not loosen or "feather" readily during the ordinary methods of handling.

2. "Well-shaped" means the normal shape for the variety.

3. "Fairly well-shaped" means that the individual potato

is not materially pointed, dumbbell-shaped, or otherwise ill-formed.

4. "Fairly clean" means that the individual potato is reasonably free from dirt, staining, or other foreign matter.

5. "Slightly dirty" means that the appearance of the individual potato is not materially affected by dirt, staining, or other foreign matter.

6. "Diameter" means the greatest dimension at right angles to the longitudinal axis. The long axis shall be used without regard to the position of the stem (rhizome).

7. "Soft rot or wet breakdown" means any soft, mushy, or leaky condition of the tissues.

8. "Surface" or "pitted scab", individually or in combination, which cover an area of more than two percent of the surface of the potato in the aggregate, or which cannot be removed without a loss of more than two percent of the total weight of the potato including the peel covering the defective area shall be considered injury.

9. "Damage" means any defect or combination of defects which materially affects the appearance of the individual potato or which cannot be removed without a loss of more than five percent of the total weight of the potato including the peel covering the defective area. Any one of the following defects or any combination of defects, the seriousness of which exceeds the maximum allowed for any one defect, shall be considered as damage:

a. Russet scab when it materially detracts from the appearance of the individual potato;

b. Second growth or growth cracks which have developed to such an extent as to materially affect the appearance of the individual potato;

c. Air cracks which are deep, or shallow air cracks which materially affect the appearance of the individual potato;

d. Shriveling when the potato is more than moderately shriveled, spongy, or flabby;

e. Sprouting when the individual potato has sprouts

over one inch in length;

f. Surface or pitted scab, individually or in combination, which covers an area of more than five percent of the surface of the potato in the aggregate, or causes a loss of more than five percent of the total weight of the potato including peel covering defective area;

g. Dirt if the individual potato has more than 50 percent of its surface affected by lightly caked dirt which is scattered, or more than 15 percent of its surface badly caked with dirt.

10. "Serious damage" means any defect or combination of defects which seriously affects the appearance of the individual potato or which cannot be removed without a loss of more than ten percent of the total weight of the potato including the peel covering the defective area. Any one of the following defects or any combination of defects, the seriousness of which exceeds the maximum allowed for any one defect shall be considered as serious damage:

a. Russet scab when it seriously detracts from the appearance of the potato;

b. Dirt when the appearance of the individual potato is seriously affected by caked or smeared dirt or other foreign matter;

c. Cuts when both ends are clipped or when more than an estimated one-fourth of the potato is cut away from one end or when the remaining portion of the clipped potato weighs less than six ounces;

d. Other cuts which seriously affect the appearance of the individual potato or which cannot be removed without a loss of more than ten percent of the total weight of the potato including peel covering defective area;

e. Shriveling when the potato is excessively shriveled, spongy, or flabby;

f. Surface or pitted scab, individually or in combination, which covers an area of more than twenty-five percent of the surface of the potato in the aggregate, or causes

a loss of more than ten percent of the total weight of the potato including peel covering defective area.

Agr. 121-126 are repealed.