

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. ~~1291~~ 05.0001.0075

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 7-24-86
DATE FOR REVIEW 8-12-86
DATE DUE 8-7-86

Adopted w/a hearing _____
Adopted w/o hearing _____
Temporary rule _____

Approved 8-4-86 mjc Disapproved _____ Returned to Agency _____

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State ~~8-4-86~~ Revisor approved _____ disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 7-24-86 Date

NA Notice of Intent to Solicit Outside Opinion

✓ Order for rulemaking
NA date of Hearing

NA Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking modification statement?
? Sufficiency small biz statement

✓ Affidavit of Mailing Notice or rulemaking
6-18-86 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
6-23-86 At least (30)/20 days prior to ~~hearing~~/adoption

NA Hearing Examiner's Report

✓ Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ Approving agency action

✓ Agency's Findings of Fact

_____ LCRAR Report or agency Affidavit

_____ Certificate of Board's Resolution Adopting Rules

✓ Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

NA Petition for Adoption of a Rule

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

✓ Certificate of Compliance w/Rulemaking Procedures

NA Affidavit of Mailing Notice of Submission to Attorney General

✓ Notice of Submission to the Attorney General

SF-00006-03

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT ATTORNEY GENERAL

TO: JIM NICHOLS
Commissioner of Agriculture

ATTN: JON MURPHY
Special Assistant Attorney General

DATE: 8/4/86

FROM: MARTHA J. CASSERLY MJC
Special Assistant Attorney General

PHONE: 296-4692

SUBJECT: In the Matter of the Proposed Adoption of Rules of the Department of Agriculture Governing Seed Potato Certification

The above-referenced rule has been approved as to its legality by the Attorney General on August 4, 1986.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies of the approved rule with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth copy is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submission or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must publish a notice of adoption in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

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

MJC:pmf

Enclosures

cc: Maryanne Hruby
Executive Director
Legislative Commission to Review
Administrative Rules

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

RR1291

Department of Agriculture

Adopted Rules Relating to Seed Potato Certification

Rules as Adopted

1555.6840 REQUIREMENTS FOR CERTIFIED SEED POTATO PRODUCTION.

Subpart 1. [Unchanged.]

Subp. 2. **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.

A. and B. [Unchanged.]

C. Varietal purity. A field must be rejected if it contains more than two-tenths percent varietal mixture at the time of inspection.

D. and E. [Unchanged.]

Subp. 3. to 6. [Unchanged.]

1555.6850 REQUIREMENTS FOR PRIMARY FOUNDATION CERTIFIED SEED POTATO PRODUCTION.

Primary Foundation certified seed potatoes consist of potatoes which meet all the requirements of parts 1555.6750 to 1555.6840 as well as the additional requirements in this part:

A. and B. [Unchanged.]

C. Not more than two-tenths percent of any or all virus disease is allowed on any field inspection. No spindle tuber or varietal mixture is allowed.

D. to G. [Unchanged.]

1555.6870 VIRUS DISEASES AND VARIETAL PURITY.

Not more than three-tenths percent of any or all virus diseases, not including mild mosaic, is allowed on final field inspection. Not more than five-tenths percent mild mosaic or one-tenth percent varietal mixture is allowed. No spindle tuber

is allowed.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
AUG 4 1986
Joan Anderson Growe
Secretary of State
9:14AM

APPROVED AS TO FORM AND LEGALITY
August 4 1986
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY M J Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

Department of Agriculture

Proposed Rules Relating to Seed Potato Certification

Rules as Proposed

1555.6840 REQUIREMENTS FOR CERTIFIED SEED POTATO PRODUCTION.

Subpart 1. [Unchanged.]

Subp. 2. **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.

A. and B. [Unchanged.]

C. Varietal purity. A field ~~shall~~ must be rejected if it contains ~~any~~ more than two-tenths percent varietal mixture at the time of inspection~~,-unless-all-varietal-mixtures-are removed-by-the-grower-before-the-next-inspection~~.

D. and E. [Unchanged.]

Subp. 3. to 6. [Unchanged.]

1555.6850 REQUIREMENTS FOR PRIMARY FOUNDATION CERTIFIED SEED POTATO PRODUCTION.

Primary Foundation certified seed potatoes consist of potatoes which meet all the requirements of parts 1555.6750 to 1555.6840 as well as the additional requirements in this part:

A. and B. [Unchanged.]

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

D. to G. [Unchanged.]

1555.6870 VIRUS DISEASES AND VARIETAL PURITY.

Not more than three-tenths percent of any or all virus diseases ~~shall-be~~, not including mild mosaic, is allowed on ~~the~~ final field inspection~~,-except-that-no-spindle-tuber-is-allowed~~

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

~~and-up-to-five-tenths-percent-is-allowed-for-mild-mosaic~~. Not more than five-tenths percent mild mosaic or one-tenth percent varietal mixture is allowed. No spindle tuber is allowed.

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD957

Agency: Department of Agriculture

Division: Planning Division

Agency Contact: Carol Milligan ph. 296-6906

Minnesota Rules: Parts 1555.6840, 1555.6850, and 1555.6870

Title: Proposed Rules Relating to Seed Potato Certification

Type of Rules: Permanent

Incorporations by Reference: None

Steven C. Cross
Revisor of Statutes

Craig E. Lindeke
Senior Assistant Revisor
Phone: 296-0946
Date: May 15, 1986

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

In the Matter of the Proposed Rules
of the Department of Agriculture
Governing Seed Potato Certification
(Minnesota Rules Pts. 1555.6840, 1555.6850 and 1555.6870

ORDER ADOPTING
RULES

Notice of the Commissioner's intent to adopt the above-entitled rule without a public hearing was published in the State Register on April 14, 1986, and was sent by United States mail to all persons on the list maintained by the department pursuant to Minnesota Statutes, Section 14.22 on June 23, 1986. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving fewer than 25 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 rule,

NOW, THEREFORE, IT IS ORDERED that this rule identified as the Rule Governing Seed Potato Certification adopted this 24th day of July, 1986, pursuant to authority vested in me by Minnesota Statutes, sections 21.113 and 21.118.

STATE OF MINNESOTA

Jim Nichols

JIM NICHOLS
COMMISSIONER OF AGRICULTURE

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

In the Matter of the Proposed Amendments to the Rules Governing Seed Potato Certification (Minnesota Rules pts. 1555.6840, 1555.6850, and 1555.6870)

ORDER FOR NOTICE OF INTENT TO ADOPT RULES WITHOUT PUBLIC HEARING

IT IS ORDERED this 4th day of June, 1986, 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

Jim Nichols

Commissioner, Department of Agriculture

Department of Agriculture
Plant Industry Division

In the Matter of the Proposed Amendments to the
Rules Governing Seed Potato Certification
(Minnesota Rules pts. 1555.6840, 1555.6850, and 1555.6870).

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

Notice is hereby given that the Minnesota Department of Agriculture proposes to amend the above-entitled rules without a public hearing. The Commissioner of Agriculture has determined that the proposed amendments will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, Sections 14.22-14.28.

Persons interested in these rules are encouraged to submit comment in support of or in opposition to the proposed amendments, and shall have 30 days to do so. Each comment should identify the portion of the proposed amendments addressed, the reason for the comment, and any change proposed. The proposed amendments may be modified if the modifications are supported by the data and views submitted to the department and do not result in a substantial change in the proposed language.

Unless 25 or more persons submit written requests for a public hearing on the proposed amendments within the 30-day comment period, a public hearing will not be held. Persons requesting a public hearing should state their name and address, and are encouraged to identify the portion of the proposed amendments addressed, the reason for the request, and any proposed change. In the event a public hearing is required, the department will proceed according to the provisions of Minnesota Statutes, Sections 14.11-14.20.

Persons who wish to submit comments or a written request for a public hearing should submit them to: Carol Milligan, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, MN 55107, (612) 296-6906.

Authority to adopt these rules is contained in Minnesota Statutes, Sections 21.113 amd 21.118. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed amendments and identifies the data and information relied upon to support the proposed amendments has been prepared and is available upon request from Ms. Milligan.

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 adopted, should submit a written statement of such request to Ms. Milligan.

The proposed amendments will not have a negative impact upon small business as defined in Minnesota Statutes, Section 14.115, because these rules will place no additional economic restraints or demands on producers or any other businesses.

A copy of the proposed rules is attached to this Notice.

Copies of this Notice and the proposed rule are available and may be obtained by contacting Ms. Milligan.

STATE OF MINNESOTA

Date: June 4, 1986

Jim Nichols
Commissioner, Department of Agriculture

In the Matter of the Proposed Adoption of Amendments to
Rules of the Department of Agriculture
Governing Seed Potato Certification
(Minnesota Rules pts. 1555.6840, 1555.6850,
and 1555.6870)

AFFIDAVIT OF
MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Marie Skerbitz, being first duly sworn, deposes and says:

That on the 18th day of June, 1986, at the City of St. Paul, County of Ramsey, State of Minnesota, he/she served the attached Notice of Intent to Adopt Rules Without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, 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.

Marie Skerbitz

Subscribed and sworn to before me
this 18th day of June, 1986.

Diane M. Windham

DIANE M. WINDHAM
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES NOVEMBER 1, 1990

STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the Matter of the Proposed Adoption of
Amendments to Rules of the Department of Agriculture
Governing Seed Potato Certification
(Minnesota Rules pts. 1555.6840, 1555.6850, and 1555.6870)

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minn. Stat. § 14.14, subd. 1, 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 18th day of June, 1986.

Carol Milligan

MINNESOTA RULES AMENDMENTS AND ADDITIONS

9200.8100-.9100 (proposed) 2411
9200.8100 s.21; 9200.8700 s.1; 9200.8800; 9200.9000 s.1-.3; 9200.9100 s.5-.6 9200.9200 (proposed repealer) 2411

HUMAN SERVICES DEPARTMENT

9500.0010; .0020; .0030; .0040; .0050; .0060; .0070; .0080; .0090; .0100; .0110; .0120; .0130; .0140; .0150; .0160; .0170; .0180; .0190; .0200; .0210; .0220; .0230; .0240; .0250; .0260; .0270; .0280; .0290; .0300; .0310; .0320; .0330; .0340; .0350; .0360; .0361; .0370 (proposed repealer) 2107
9500.0750; .0760; .0770; .0780; .0790; .0800; .0810; .0820; .0830; .0840; .0850; .0860; .0910; .0920; .0930 s.1-3; .0940; .0950; 9505.0211 (proposed repealer) 2583
9500.1200; .1206; .1258; .1260; .1262; .1264; .1266; .1268; .1270; .1300; .1302; .1304; .1306; .1308; .1310; .1312; .1314; .1316; .1318 (proposed) 2211
9500.1204; .1206; s.7,10,28, .1208; .1234; .1236; .1244; .1249 (adopted repealer) 2322
9500.1205; .1209; .1214-.1232 (adopted) 2322
9500.1450-.1474 [Emer] (extended) 2293
9500.2000-.2880 (proposed) 2107
9505.0010-.0150 (proposed) 2556
9505.0211; .0212 (proposed repealer) 2583
9505.0211 (adopted) 2320
9505.0212 (adopted) 2320
9525.1220 (adopted) 2417
9530.6600-.6655 (proposed) 2545
9549.0050-.0059 (proposed temporary) 2016
9550.6200-.6240 (adopted) 2005

PROPOSED RULES

Pursuant to Minn. Stat. of 1982, §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Agriculture

Proposed Rules Relating to 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 amend the above-entitled rules without a public hearing. The Commissioner of Agriculture has determined that the proposed amendments will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, Sections 14.22-14.28.

Persons interested in these rules are encouraged to submit comment in support of or in opposition to the proposed amendments, and shall have 30 days to do so. Each comment should identify the portion of the proposed amendments addressed, the reason for the comment, and any change proposed. The proposed amendments may be modified if the modifications are supported by the data and views submitted to the department and do not result in a substantial change in the proposed language.

Unless 25 or more persons submit written requests for a public hearing on the proposed amendments within the 30-day comment period, a public hearing will not be held. Persons requesting a public hearing should state their name and address, and are encouraged to identify the portion of the proposed amendments addressed, the reason for the request, and any proposed change. In the event a public hearing is required, the department will proceed according to the provisions of Minnesota Statutes, Sections 14.11-14.20.

Persons who wish to submit comments or a written request for a public hearing should submit them to: Carol Milligan, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, MN 55107, (612) 296-6906.

Authority to adopt these rules is contained in Minnesota Statutes, Sections 21.113 and 21.118. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed amendments and iden-

tifies the data and information relied upon to support the proposed amendments has been prepared and is available upon request from Ms. Milligan.

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 adopted, should submit a written statement of such request to Ms. Milligan.

The proposed amendments will not have a negative impact upon small business as defined in Minnesota Statutes, Section 14.115, because these rules will place no additional economic restraints or demands on producers or any other businesses.

A copy of the proposed rules is attached to this Notice.

Copies of this Notice and the proposed rule are available and may be obtained by contacting Ms. Milligan.

4 June 1986

Jim Nichols, Commissioner
Department of Agriculture

Rules as Proposed

1555.6840 REQUIREMENTS FOR CERTIFIED SEED POTATO PRODUCTION.

Subpart 1. [Unchanged.]

Subp. 2. **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.

A. and B. [Unchanged.]

C. Varietal purity. A field ~~shall~~ must be rejected if it contains ~~any~~ more than two-tenths percent varietal mixture at the time of inspection~~, unless all varietal mixtures are removed by the grower before the next inspection~~.

D. and E. [Unchanged.]

Subp. 3. to 6. [Unchanged.]

1555.6850 REQUIREMENTS FOR PRIMARY FOUNDATION CERTIFIED SEED POTATO PRODUCTION.

Primary Foundation certified seed potatoes consist of potatoes which meet all the requirements of parts 1555.6750 to 1555.6840 as well as the additional requirements in this part:

A. and B. [Unchanged.]

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

D. to G. [Unchanged.]

1555.6870 VIRUS DISEASES AND VARIETAL PURITY.

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

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.

STATE OF MINNESOTA
DEPARTMENT OF AGRICULTURE

IN THE MATTER OF PROPOSED AMENDMENTS TO THE RULES OF THE DEPARTMENT OF AGRICULTURE GOVERNING SEED POTATO CERTIFICATION (MINNESOTA RULES 1555.6840, 1555.6850 AND 1555.6870)

STATEMENT OF NEED AND REASONABLENESS

I. INTRODUCTION

The subject of this rulemaking is the proposed adoption by the Minnesota Department of Agriculture (MDA) of amendments to the rules governing requirements for certification of seed potatoes. Minnesota Statutes, sections 21.113 to 21.118, authorize the Minnesota Department of Agriculture to adopt rules for the efficient administration and enforcement of the Minnesota Seed Potato Certification Law.

The department has determined that the proposed amendments are non-controversial in nature because they are supported by the industry as an acceptable tolerance, and will bring Minnesota's requirements for certified seed potato production into conformity with other states. Because of the noncontroversial nature of these amendments, the department has directed that the rulemaking proceedings be conducted in accordance with the statutory provisions governing the adoption of noncontroversial rules, Minnesota Statutes, sections 14.22 to 14.28. Accordingly, the rulemaking proceedings on the proposed amendments are governed by that statute and no hearing will be conducted on the proposed amendments unless, on or before July 23, 1986, 25 or more persons submit to the department a written request for such hearing. In accordance with the requirement of Minnesota Statutes, section 14.23, this Statement of Need and Reasonableness was prepared and completed prior to the date that the proposed rule was published by the State Register.

II. GENERAL OVERVIEW

In 1951, the State of Minnesota adopted rules 1555.6840, Requirements for Certified Seed Potato Production and subsequent rules 1555.6850 and 1555.6870 which address Primary Foundation and Foundation certified seed potato production respectively and site 1555.6840 as a requirement.

The current rule, 1555.6840 Subpart 1.C., states that 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. This rule is ambiguous, inconsistent with other states and difficult to enforce. First, all seed potato certification agencies in other states allow some degree of varietal mixture. Second, due to the nature of large scale seed potato production, seldom, if ever, is a potato field 100 percent one variety. Third, because the percent of varietal mixture is a given seed lot does not increase disproportionately during subsequent generations, it does not pose a problem if the tolerances are set at the proper levels.

The proposed changes in the rule would allow for varietal mixture to exist in certified seed potato fields. The proposed tolerances would be set at 0.2 percent varietal mixture in seed potato fields classified as Certified, 0.1 percent varietal mixture in seed potato fields classified as Foundation,, and 0.0 percent varietal mixture in seed potato fields classified as Primary Foundation. These tolerances for varietal mixture conform with tolerances in North Dakota and Wisconsin which have stood the test of time. Minnesota's lack of a tolerance for varietal mixture in seed potato fields places unrealistic limitations on producers and reduces their ability to compete with neighboring states.

III. NEED FOR AND REASONABLENESS OF THE PROPOSED AMENDMENT TO THE RULES 1555.6840 Requirements For Certified Seed Potato Production

The amendment to the rules is reasonable because it will not jeopardize the quality of Minnesota Certified class seed potatoes or place additional restrictions on producers. The current rule prohibits the presence of varietal mixture in all certified seed potato fields. Conversely, the existence of tolerances for varietal mixture in other states which certify seed potatoes demonstrates their necessity. The tolerance of 0.2 percent, proposed in this amendment is equal to or more stringent than the tolerance in other states. Due to the nature and scale of current seed potato production, some degree of varietal mixture is inevitable. This amendment would still impose varietal purity standards yet allow for the occasional varietal mixture to occur.

IV. NEED FOR AND REASONABLENESS OF THE PROPOSED AMENDMENT TO THE RULES 1555.6850 Requirements For Primary Foundation Certified Seed Potato Production

The proposed amendment to the rules is reasonable because it will not effect the quality of Minnesota Primary Foundation class seed potatoes or place additional restrictions on producers. The current rule prohibits the presence of varietal mixture in seed potato fields. The proposed amendment will serve to clarify and reinforce the existing rule as it now applies to Primary Foundation class certified seed potatoes.

V. NEED FOR AND REASONABLENESS OF THE PROPOSED AMENDMENT TO THE RULES 1555.6870 Virus Diseases

Rule 1555.6870 is actually a requirement of rule 1555.6860 Requirements For Foundation Certified Seed Potato Production. The proposed amendment is reasonable because it will not lower the quality of Minnesota Foundation class certified seed potatoes or place additional restrictions on seed growers. The current rule prohibits the presence of any varietal mixture in Foundation seed potato fields, even though other states which certify seed potatoes do allow some degree of varietal mixture. The tolerance of 0.1 percent proposed in this amendment is proportionate to tolerances imposed by other states. This amendment would still maintain a high standard for varietal purity but yet allow for an occasional mixture to occur.

VI. SMALL BUSINESS IMPACT OF THE PROPOSED AMENDMENT

As prescribed by Minnesota Statutes, section 14.115, subdivisions 1 and 2, the Department of Agriculture has considered the degree of impact the proposed rule will have on the certified seed potato industry.

The department has determined that the proposed rule essentially clarifies the present rule regarding varietal mixture and places no additional economic restraints or demands on producers. This amendment would be a positive benefit to Minnesota certified seed potato producers.

In the Matter of the Proposed Adoption of Rules of the Department of Agriculture Governing Seed Potato Certification (Minnesota Rules Pts. 1555,6840, 1555.6850, and 1555.6870

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, Jon Murphy, do hereby declare that I have examined the rule 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.

Jon Murphy
Special Assistant Attorney General

Date: 7/24/81

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

Office Memorandum

TO: Judith Wehrwein
Administration - Finance Division
Office of the Attorney General

DATE: 07/24/86

FROM: Carol Milligan, Management Analyst
Planning Division

PHONE: 296-6909

SUBJECT: Review of Rules Governing Seed Potato Certification
(Minnesota Rules 1555.6840, 1555.6850, and 1555.6870

The Department of Agriculture adopted the above-mentioned rules pursuant to Minnesota Statutes, sections 14.22-14.28. Enclosed with this memorandum are the documents which are required to be submitted to the Attorney General for review prior to final approval of the rule. A list of the documents is attached for your convenience.

The Department has fulfilled the requirements of Minnesota Statutes, section 14.115, subd. 4, by notifying small businesses of the expected impact of the rule in the Notice of Intent to Adopt Rules Without Public Hearing. The requirements of subd. 2 are dealt with in the Statement of Need and Reasonableness.

The Department did not receive any comments, requests for a public hearing or requests for notification when these documents were submitted to the Attorney General.

If you have questions, please contact me.

CM:cb

Attachment

cc: Jim Nichols, Commissioner
Anne Kanten, Assistant Commissioner
Jon Murphy, Special Assistant Attorney General
Craig Lindeke, Office of Revisor of Statutes
Gerald Heil, Director, Planning Division
Art Mason, Director, Plant Industry Division

RECEIVED
JUL 24 1986
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

PLANNING DIVISION
DEPARTMENT OF AGRICULTURE

LIST OF ATTACHED DOCUMENTS

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

B. Order Adopting the Rule (two copies).

C. Order for Notice of Intent to Adopt Rule Without Public Hearing.

D. Notice of Intent to Adopt a Rule Without Public Hearing.

E. Affidavit of Mailing Notice of Intent to Adopt a Rule Without Public Hearing.

F. Mailing List Certificate.

G. Rule as Proposed.

H. Statement of Need and Reasonableness.

I. Certificate of Compliance with Rulemaking Procedures.