

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

RULE REVIEW CHECKLIST

File No. 1381
DATE RECEIVED 7/22/87
REVIEW DATE 7/31/87
DUE DATE 8/4/87

APPROVED
DISAPPROVED
WITHDRAWN

Docket No. 05.0009.0476
ADOPTED W/O HEARING X
EMERGENCY RULE

REVISOR APPROVED
REVISOR DISAPPROVED
FIELD W/SEC.STATE 8/6/87
RETURNED TO AGENCY 8/11/87

X Rule as adopted (4 copies)

~~Notice to Solicit Outside Information/Opinion~~
- Date published in State Register
- Comments

~~Petition for Adoption of a Rule~~

~~Board's Authorizing Resolution~~

X Proposed rule

- yes — Revisor's Certificate

X Notice of Intent to Adopt Rule

- 21.118 — Statutory Authority
- no — Small Business Statement
- no — Expenditure of public money statement
- yes — Signature

X Statement of Need and Reasonableness

- yes — Small Business Statement
- no — Fees - § 16A.128

X Affidavit of Mailing Notice of Intent to Adopt Rule

- 6/10/87 — Date 30/25 days before adoption

X Publication in State Register

- 6/15/87 — Date 30/25 days before adoption

~~Resolution Adopting~~

X Findings of Fact, Conclusions & Order Adopting

- 7/16/87 — Date

~~Written requests, submissions or comments~~

X Declaration of attorney

- Paul Strandberg — Name of SAAG representing agency

~~Notice of Submission to Attorney General~~

~~Affidavit of Mailing Notice to Attorney General~~

SF-00006-05 (4/86)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : ATTORNEY GENERAL

DATE : August 4, 1987

TO : CAROL MILLIGAN
Management Analyst, Planning Division
Department of Agriculture

FROM : MIKE MILES
Assistant Attorney General

PHONE : 6-6555

SUBJECT : In the Matter of the Adopted Rules Relating to Seed Potato Production

The above-referenced rule has been approved as to its legality by the Attorney General on August 4, 1987.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth 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.

JMM:nah

Enclosures

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

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

Department of Agriculture

Adopted Permanent Rules Relating to Seed Potato Production

Rules as Adopted

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. [Unchanged.]

B. Primary Foundation or Pre-Nuclear, Nuclear, Generation One, Generation Two, Generation Three, and Generation Four certified seed potatoes shall be the only potatoes grown on the farm. Primary Foundation certified seed potatoes shall be grown from potatoes produced on a tuber unit seed plot.

C. to G. [Unchanged.]

1555.6851 REQUIREMENTS FOR PRE-NUCLEAR AND NUCLEAR CERTIFIED SEED POTATO PRODUCTION.

Subpart 1. **Pre-Nuclear certified seed potatoes.** Pre-Nuclear seed potatoes consist of potatoes that meet all the requirements of parts 1555.6750 to 1555.6850, as well as the additional requirements in this part.

A. A lot grown as and intended to be Pre-Nuclear must be grown from plants tested and shown to be free from the following pathogens:

(1) *Corynebacterium sepedonicum* (ring rot);

(2) *Erwinia carotovora* (blackleg);

(3) potato virus X;

(4) potato virus S;

(5) potato virus A;

(6) potato virus M;

(7) potato virus Y;

(8) potato spindle tuber viroid; and

(9) potato leafroll virus.

B. Pre-Nuclear seed potatoes must be produced in a greenhouse, under sanitary conditions, free from insects and weeds that can harbor or transmit potato diseases or other conditions of possible disease contamination. All facilities and equipment are subject to inspection as considered necessary by the commissioner to verify freedom from possible disease contamination.

C. A representative number of plants or tubers from each lot must be tested during the growing season to verify that the crop is free from potato virus X, potato virus Y, *C. sepedonicum*, and *E. carotovora*.

D. All plants must be inspected at least two times during the growing season. Additional inspections may be made if considered necessary by the commissioner.

E. A lot must be rejected if it contains any diseased plants or varietal mixture, unless the plants are removed by the grower before the next inspection.

F. If bacterial ring rot is found in any lot, the remaining crop is not eligible for certification planting.

G. Limited Generation and Primary Foundation must be the only classes of certified seed potatoes grown on the farm.

Subp. 2. **Nuclear certified seed potatoes.** Nuclear seed potatoes consist of potatoes that meet all the requirements of parts 1555.6750 to 1555.6850 as well as the additional requirements in this part.

A. The seed source must be either Pre-Nuclear tubers or plantlets which were produced in accordance with part 1555.6851, subpart 1.

B. Tubers or plantlets must be planted in identifiable family units.

C. Not more than 0.1 percent of virus diseases, excluding potato virus X, is allowed on any field inspection. No blackleg, spindle tuber, or varietal mixture is allowed.

D. Each field must be tested during the growing season for potato virus X. For a lot to be tagged "virus tested" no more than one percent of the plants tested may be

infected with potato virus X.

E. A sample of each lot must meet the same winter test requirements as prescribed for Primary Foundation certified seed potatoes in part 1555.6850, item E.

F. Each lot must be stored in an individual identifiable unit.

G. Limited Generation and Primary Foundation must be the only classes of certified seed potatoes grown on the farm.

H. If bacterial ring rot is found in any field or lot, the remaining crop is not eligible for certification planting.

1555.6852 REQUIREMENTS FOR GENERATION CERTIFIED SEED POTATO PRODUCTION.

Subpart 1. **Requirements.** Generation certified seed potatoes consist of potatoes that meet all the requirements of parts 1555.6750 to 1555.6850 as well as the additional requirements in this part.

A. A sample of each lot must meet the same winter test requirements as prescribed for Primary Foundation certified seed potatoes in part 1555.6850, item E.

B. No spindle tuber is allowed on any field inspection.

C. Each field may be tested during the growing season for potato virus X. For a lot to be tagged "virus tested" no more than three percent of the plants tested may be infected with potato virus X.

D. If bacterial ring rot is found in any field or lot, the remaining crop is not eligible for certification planting.

E. Each lot must be stored in an individual identifiable unit.

Subp. 2. **Generation One.** The seed source must be Nuclear class certified seed potatoes or the equivalent. No more than 0.2 percent of virus diseases or blackleg is allowed on any field inspection. No varietal mixture is allowed.

Subp. 3. **Generation Two.** The seed source must be Generation One class certified seed potatoes or the equivalent. Not more than 0.2 percent of virus disease or 0.5 percent blackleg is allowed on any field inspection. No varietal mixture is allowed.

Subp. 4. **Generation Three.** The seed source must be Generation Two class certified seed potatoes or the equivalent. No more than 0.3 percent of virus diseases or one percent blackleg is allowed on any field inspection. No more than 0.1 percent varietal mixture is allowed.

Subp. 5. **Generation Four.** The seed source must be Generation Three class certified seed potatoes or the equivalent. Not more than 0.3 percent of virus diseases or 0.1 percent varietal mixture is allowed on any field inspection.

Subp. 6. **Generation Five.** The seed source must be Generation Four class certified seed potatoes or the equivalent. Not more than 0.4 percent of virus diseases or 0.2 percent varietal mixture is allowed on any field inspection. Generation Five seed potatoes are not tested for potato virus X, winter tested, or eligible for certification planting the following year.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
AUG 6 1987
Joan Anderson Growe
Secretary of State

9:10 AM

APPROVED AS TO FORM AND LEGALITY
8/4 1987
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY
ASSISTANT ATTORNEY GENERAL

Department of Agriculture

Proposed Permanent Rules Relating to Seed Potato Production

Rules as Proposed

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. [Unchanged.]

B. Primary Foundation or Pre-Nuclear, Nuclear, Generation One, Generation Two, Generation Three, and Generation Four certified seed potatoes shall be the only potatoes grown on the farm. ~~They~~ Primary Foundation certified seed potatoes shall be grown from potatoes produced on a tuber unit seed plot.

C. to G. [Unchanged.]

Rules as Proposed (all new material)

1555.6851 REQUIREMENTS FOR PRE-NUCLEAR AND NUCLEAR CERTIFIED SEED POTATO PRODUCTION.

Subpart 1. **Pre-Nuclear certified seed potatoes.** Pre-Nuclear seed potatoes consist of potatoes that meet all the requirements of parts 1555.6750 to 1555.6850, as well as the additional requirements in this part.

A. A lot grown as and intended to be Pre-Nuclear must be grown from plants tested and shown to be free from the following pathogens:

(1) *Corynebacterium sepedonicum* (ring rot);

(2) *Erwinia carotovora* (blackleg);

(3) potato virus X;

(4) potato virus S;

(5) potato virus A;

(6) potato virus M;

(7) potato virus Y;

Approved by Revisor

(8) potato spindle tuber viroid; and

(9) potato leafroll virus.

B. Pre-Nuclear seed potatoes must be produced in a greenhouse, under sanitary conditions, free from insects and weeds that can harbor or transmit potato diseases or other conditions of possible disease contamination. All facilities and equipment are subject to inspection as considered necessary by the commissioner to verify freedom from possible disease contamination.

C. A representative number of plants or tubers from each lot must be tested during the growing season to verify that the crop is free from potato virus X, potato virus Y, *C. sepedonicum*, and *E. carotovora*.

D. All plants must be inspected at least two times during the growing season. Additional inspections may be made if considered necessary by the commissioner.

E. A lot must be rejected if it contains any diseased plants or varietal mixture, unless the plants are removed by the grower before the next inspection.

F. If bacterial ring rot is found in any lot, the remaining crop is not eligible for certification planting.

G. Limited Generation and Primary Foundation must be the only classes of certified seed potatoes grown on the farm.

Subp. 2. **Nuclear certified seed potatoes.** Nuclear seed potatoes consist of potatoes that meet all the requirements of parts 1555.6750 to 1555.6850 as well as the additional requirements in this part.

A. The seed source must be either Pre-Nuclear tubers or plantlets which were produced in accordance with part 1555.6851, subpart 1.

B. Tubers or plantlets must be planted in identifiable family units.

C. Not more than 0.1 percent of virus diseases, excluding potato virus X, is allowed on any field inspection. No blackleg, spindle tuber, or varietal mixture is allowed.

D. Each field must be tested during the growing

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by Revisor _____

season for potato virus X. For a lot to be tagged "virus tested" no more than one percent of the plants tested may be infected with potato virus X.

E. A sample of each lot must meet the same winter test requirements as prescribed for Primary Foundation certified seed potatoes in part 1555.6850, item E.

F. Each lot must be stored in an individual identifiable unit.

G. Limited Generation and Primary Foundation must be the only classes of certified seed potatoes grown on the farm.

H. If bacterial ring rot is found in any field or lot, the remaining crop is not eligible for certification planting.

1555.6852 REQUIREMENTS FOR GENERATION CERTIFIED SEED POTATO PRODUCTION.

Subpart 1. **Requirements.** Generation certified seed potatoes consist of potatoes that meet all the requirements of parts 1555.6750 to 1555.6850 as well as the additional requirements in this part.

A. A sample of each lot must meet the same winter test requirements as prescribed for Primary Foundation certified seed potatoes in part 1555.6850, item E.

B. No spindle tuber is allowed on any field inspection.

C. Each field may be tested during the growing season for potato virus X. For a lot to be tagged "virus tested" no more than three percent of the plants tested may be infected with potato virus X.

D. If bacterial ring rot is found in any field or lot, the remaining crop is not eligible for certification planting.

E. Each lot must be stored in an individual identifiable unit.

Subp. 2. **Generation One.** The seed source must be Nuclear class certified seed potatoes or the equivalent. No more than

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by Revisor _____

0.2 percent of virus diseases or blackleg is allowed on any field inspection. No varietal mixture is allowed.

Subp. 3. **Generation Two.** The seed source must be Generation One class certified seed potatoes or the equivalent. Not more than 0.2 percent of virus disease or 0.5 percent blackleg is allowed on any field inspection. No varietal mixture is allowed.

Subp. 4. **Generation Three.** The seed source must be Generation Two class certified seed potatoes or the equivalent. No more than 0.3 percent of virus diseases or one percent blackleg is allowed on any field inspection. No more than 0.1 percent varietal mixture is allowed.

Subp. 5. **Generation Four.** The seed source must be Generation Three class certified seed potatoes or the equivalent. Not more than 0.3 percent of virus diseases or 0.1 percent varietal mixture is allowed on any field inspection.

Subp. 6. **Generation Five.** The seed source must be Generation Four class certified seed potatoes or the equivalent. Not more than 0.4 percent of virus diseases or 0.2 percent varietal mixture is allowed on any field inspection. Generation Five seed potatoes are not tested for potato virus X, winter tested, or eligible for certification planting the following year.

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to
Seed Potato Production

AGENCY: Department of Agriculture

MINNESOTA RULES: Chapter 1555

The attached rules are approved for publication
in the State Register

Craig E. Lindeke
Senior Assistant Revisor

Department of Agriculture
Plant Industry Division

In the Matter of the Proposed Rules
of the Department of Agriculture
Governing Seed Potato Production

NOTICE OF INTENT TO
ADOPT RULES WITHOUT
A PUBLIC HEARING

Notice is hereby given that the Minnesota Department of Agriculture intends to adopt the above-entitled rules without a public hearing, following the procedures set forth in the Administrative Procedures Act for adopting rules without a public hearing in Minnesota Statutes, Sections 14.22-14.28. The statutory authority to adopt these rules is Minnesota Statutes, Section 21.118.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state their name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any proposed change. If a public hearing is required, the department will proceed according to Minnesota Statutes, Sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to: Carol Milligan, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, MN 55107, (612) 296-6906.

The proposed rules 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 rules as noticed.

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

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 Ms. Milligan.

The proposed rules would raise the standard and quality of Minnesota certified seed potatoes and place no additional economic restraints or demands on small business of the general industry. These rules would be a positive benefit to Minnesota certified seed potato producers and enhance their ability to compete in the marketplace.

If no hearing is required, upon adoption of the final rules, the rules and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 adopted rules must submit a written request to Ms. Milligan.

STATE OF MINNESOTA

Date: May 12, 1987

Jim Nichols
Commissioner, Department of Agriculture

STATE OF MINNESOTA
DEPARTMENT OF AGRICULTURE

IN THE MATTER OF PROPOSED RULES OF THE DEPARTMENT OF AGRICULTURE GOVERNING SEED POTATO PRODUCTION MINNESOTA RULES 1555.6850 - 1555.6852	))))	STATEMENT OF NEED AND REASONABLENESS

I. INTRODUCTION

The subject of this rulemaking is the proposed adoption by the Minnesota Department of Agriculture (MDA) of rules governing requirements for certification of seed potatoes. Minnesota Statutes, section 21.118, authorizes 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 rules are noncontroversial in nature because they are supported by the industry as acceptable, and will bring Minnesota's requirements for certified seed potato production into conformity with other states. Because of the noncontroversial nature of these rules, the department has directed that the rulemaking proceedings be conducted in accordance with the statutory provisions governing the adoption of noncontroversial rules, Minnesota Statutes, section 14.22 to 14.28. Accordingly, the rulemaking proceedings on the proposed rules are governed by that statute and no hearing will be conducted on the proposed rules unless, on or before July 15, 1987, 25 or more persons submit to the Department a written request for such hearing. In accordance with the requirements 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 1555.6720 to 1555.6950, standards for the inspection, certification, production, and marketing of certified seed potatoes in the state of Minnesota. While these rules have served the certified seed potato industry well over the years, recent technological developments require that additional rules be adopted. The present certification system is based on the tuber unit technique, where seed stocks start out classified as Primary Foundation described in Part 1555.6850. From this level, seed moves to the Foundation class described in Part 1555.6860. Seed usually remains in the Foundation class for two years depending on the incidence of disease. Following the Foundation class, seed drops to the Certified class described in Part 1555.6840. In the Certified class, the disease tolerances are the highest and seed lots are not winter tested or eligible for certification planting by other growers. Usually, seed in the Certified class is sold to a commercial producer or for consumption.

The tuber unit technique, while effective, does have several inherent weaknesses. First, due to the nature of the tuber unit method, the same seed is actually replanted year after year. Even though this is done in

small quantities, under strict sanitation and close observation, tuber-borne bacterial diseases can be perpetuated, specifically bacterial ring rot and blackleg. Second, because the process starts with less than five pounds of tubers, the increase time often exceeds five years before an adequate volume of seed is available for an economic sale. Third, during the long increase period, seed stocks often become contaminated by disease. As a result, in the present potato industry, with new varieties in demand each year, the tuber unit system is simply not adequate.

An alternative to the tuber unit system is the Limited Generation system. This new system has been used by the seed potato industry for over five years now and has become a major component of seed potato certification programs in the states of Maine, Colorado, Wisconsin, and New York with other states rapidly adopting it. Briefly, in a Limited Generation system, seed potatoes start out as disease-free plantlets in sterile culture. The plantlets are rapidly increased in culture, cuttings taken and rooted in sterile soil. The rooted cuttings are then transferred to a greenhouse and allowed to develop and produce tubers. By this technique, in one season over 5,000 tubers can be generated from a single disease-free plantlet. The disease-free tubers are then increased in the field by conventional methods, but only for a fixed number of years. In this way, seed is never recycled as in the tuber unit system. The proposed rules governing a Limited Generation system would not displace any of the present rules governing seed potato certification, but rather, give the certified seed potato grower the option to incorporate this new technology.

III. NEED FOR AND REASONABLENESS FOR THE PROPOSED RULES

1555.6850 Requirements for Primary Foundation Certified Seed Potato Production.

The proposed amendment is reasonable because it will not diminish the quality of Minnesota Primary Foundation class seed potatoes or place additional restrictions on producers. Paragraph B of the current rule requires that Primary Foundation certified seed potatoes shall be the only potatoes grown on the farm. The proposed amendment would allow Limited Generation certified seed potatoes to be grown in addition to Primary Foundation certified seed potatoes on the same farm. Under this amendment, the existing standards for Primary Foundation certified seed potatoes would still be imposed, however, the producer would have the option to diversify and incorporate superior technology.

1555.6851 Requirements for Pre-Nuclear and Nuclear Certified Seed Potato Production.

The proposed rule is reasonable because it will not diminish the quality of Minnesota certified seed potatoes. Furthermore, it will not place additional restrictions on the general industry since production of Pre-Nuclear or Nuclear class certified seed potatoes is optional. This rule would give certified seed potato growers an alternative to the present tuber unit technique and the ability to increase new varieties in a shorter period of time. Most important, seed potatoes produced in accordance with this amendment will be of a higher quality than seed produced in accordance with Part 1555.6850.

The proposed rule would require that a seed lot grown as and intended to be Pre-Nuclear must be grown from plants tested and shown to be free of all major seed-borne pathogens. Pre-Nuclear seed potatoes must be produced in a greenhouse free from conditions of possible disease contamination and the crop must be tested prior to harvest to verify that no disease contamination has occurred. All production facilities and plants shall be inspected at least two times during the production cycle. A lot found to contain any diseased plants or varietal mixture will be rejected unless such plants are removed by the grower before the next inspection.

The other class of certified seed potatoes covered under this rule is Nuclear. Nuclear class certified seed potatoes must be grown from potatoes which have met the requirements of Pre-Nuclear class certified seed potatoes. Nuclear class certified seed is field grown. At field inspection, not more than one-tenth percent of any or all virus disease, excluding potato virus X, no blackleg, spindle tuber or varietal mixture shall be allowed. Each field shall be tested during the growing season for potato virus X. For a lot to be tagged "virus tested" no more than one percent of the plants tested may be infected with potato virus X. On farms which produce Pre-Nuclear or Nuclear class certified seed potatoes, Limited Generation or Primary Foundation shall be the only classes of certified seed potatoes grown. In addition, if bacterial ring rot is found in any field or lot, none of the remaining crop is eligible for certification planting.

1555.6852 Requirements for Generation One Through Generation Five Certified Seed Potato Production.

The proposed rule is reasonable and needed because it is sequential and allows for the increase of seed potatoes produced under Part 1555.6851. Certified seed potatoes produced in accordance with this rule must meet all the requirements of 1555.6750 to 1555.6840, as well as the following. Each lot of Generation One, Generation Two, and Generation Three seed shall be tested for potato virus X. For a lot to be tagged "virus tested", no more than three precent of the plants tested may be infected with potato virus X. A lot to be certified as Generation One must be grown from Nuclear class certified seed potatoes and no more than two-tenths percent of any or all virus disease or blackleg and no varietal mixture is allowed at field inspection. Generation Two certified seed must be grown from Generation One class certified seed potatoes and no more than two-tenths percent of any or all virus disease, five-tenths percent blackleg and no varietal mixture will be allowed. Generation Three certified seed must be grown from Generation Two class certified seed and no more than three-tenths percent of any or all virus disease, one percent blackleg and one-tenth percent varietal mixture is allowed. Generation Four class certified seed potatoes must be grown from Generation Three seed potatoes and no more than three-tenths percent of any or all virus diseases or one-tenth varietal mixture is allowed. The final class, Generation Five seed potatoes must be grown from Generation Four certified seed potatoes. Not more than four-tenths percent of any or all virus disease or two-tenths varietal mixture is allowed on any field inspection. Generation Five seed is not winter tested and not eligible for certification planting the following year. This amendment insures high standards for certified seed potatoes and is consistent with standards for Limited Generation seed produced in neighboring states.

IV. SMALL BUSINESS IMPACT OF THE PROPOSED AMENDMENT

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

The department has determined that the proposed rules would raise the standards and quality of Minnesota certified seed potatoes and place no additional economic restraints or demands on the general industry. These rules would be a positive benefit to Minnesota certified seed potato producers and enhance their ability to compete in the marketplace.

In the Matter of the Proposed
Adoption of Rules of the
Department of Agriculture Governing
Seed Potato Production

AFFIDAVIT OF MAILING
THE NOTICE OF INTENT
TO ADOPT A RULE
WITHOUT A PUBLIC
HEARING AND
CERTIFICATE OF
MAILING LIST

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Carol Milligan, being sworn, says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minn. State § 14.14, subd. 1a, and 14.22 or 14.30, that their names be placed on the Minnesota Department of Agriculture rulemaking mailing list is accurate, complete and current as of this 10th day of June, 1987.

That on the 10th day of June, 1987, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed 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 a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

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

Carol Milligan
Carol Milligan
Management Analyst

Subscribed and sworn to before me
this 10th day of June, 1987.

Diane M. Windham

Rules as Proposed

1100.3600 FEES.

Subpart 1. **Application fees other than annual license fees.** Applications shall be accompanied by fees in the following amounts:

A. [Unchanged.]

B. Application for certified public accountant reexamination in failed subjects, ~~$27~~ $30 per subject but not in excess of $115. Accounting practice is considered to be two subjects. Part 1100.1400, subpart 4 provides that applicants must apply for reexamination in all failed subjects.

C. Application for reciprocal certificate and license for certified public accountant, ~~$75~~ $100.

D. Application for certificate and license for licensed public accountant, ~~$75~~ $100.

E. Application for reciprocal certificate and license for licensed public accountant, ~~$75~~ $100.

F. A nonrefundable $50 fee will be charged to proctor out-of-state exam candidates applying to sit in Minnesota.

Subp. 2. **Annual license fees.** Annual license fees shall be as follows:

A. application for initial certified public accountant license, $50;

B. active individuals, ~~$20, and~~ $30;

C. inactive individuals, $10;

D. partnerships, ~~$25~~ $35; and

E. in addition to the $25 annual reporting fee in part 1100.3200, corporations, $10.

Subp. 2a. to 4. [Unchanged.]

Department of Agriculture

Proposed Permanent Rules Relating to Seed Potato Production

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Department of Agriculture intends to adopt the above-entitled rules without a public hearing, following the procedures set forth in the Administrative Procedures Act for adopting rules without a public hearing in Minnesota Statutes, Sections 14.22-14.28. The statutory authority to adopt these rules is Minnesota Statutes, Section 21.118.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state their name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any proposed change. If a public hearing is required, the department will proceed according to Minnesota Statutes, Sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to: Carol Milligan, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, MN 55107, (612) 296-6906.

The proposed rules 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 rules as noticed.

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

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.

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 Ms. Milligan.

The proposed rules would raise the standard and quality of Minnesota certified seed potatoes and place no additional economic restraints or demands on small business of the general industry. These rules would be a positive benefit to Minnesota certified seed potato producers and enhance their ability to compete in the marketplace.

If no hearing is required, upon adoption of the final rules, the rules and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 adopted rules must submit a written request to Ms. Milligan.

Dated: 12 May 1987

Jim Nichols, Commissioner,
Department of Agriculture

Rules as Proposed

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. [Unchanged.]

B. Primary Foundation or Pre-Nuclear, Nuclear, Generation One, Generation Two, Generation Three, and Generation Four certified seed potatoes shall be the only potatoes grown on the farm. ~~They~~ Primary Foundation certified seed potatoes shall be grown from potatoes produced on a tuber unit seed plot.

C. to G. [Unchanged.]

Rules as Proposed (all new material)

1555.6851 REQUIREMENTS FOR PRE-NUCLEAR AND NUCLEAR CERTIFIED SEED POTATO PRODUCTION.

Subpart 1. **Pre-Nuclear certified seed potatoes.** Pre-Nuclear seed potatoes consist of potatoes that meet all the requirements of parts 1555.6750 to 1555.6850, as well as the additional requirements in this part.

A. A lot grown as and intended to be Pre-Nuclear must be grown from plants tested and shown to be free from the following pathogens:

(1) *Corynebacterium sepedonicum* (ring rot);

(2) *Erwinia carotovora* (blackleg);

(3) potato virus X;

(4) potato virus S;

(5) potato virus A;

(6) potato virus M;

(7) potato virus Y;

(8) potato spindle tuber viroid; and

(9) potato leafroll virus.

B. Pre-Nuclear seed potatoes must be produced in a greenhouse, under sanitary conditions, free from insects and weeds that can harbor or transmit potato diseases or other conditions of possible disease contamination. All facilities and equipment are subject to inspection as considered necessary by the commissioner to verify freedom from possible disease contamination.

C. A representative number of plants or tubers from each lot must be tested during the growing season to verify that the crop is free from potato virus X, potato virus Y, *C. sepedonicum*, and *E. carotovora*.

D. All plants must be inspected at least two times during the growing season. Additional inspections may be made if considered necessary by the commissioner.

E. A lot must be rejected if it contains any diseased plants or varietal mixture, unless the plants are removed by the grower before the next inspection.

F. If bacterial ring rot is found in any lot, the remaining crop is not eligible for certification planting.

G. Limited Generation and Primary Foundation must be the only classes of certified seed potatoes grown on the farm.

Subp. 2. **Nuclear certified seed potatoes.** Nuclear seed potatoes consist of potatoes that meet all the requirements of parts 1555.6750 to 1555.6850 as well as the additional requirements in this part.

A. The seed source must be either Pre-Nuclear tubers or plantlets which were produced in accordance with part 1555.6851, subpart 1.

B. Tubers or plantlets must be planted in identifiable family units.

C. Not more than 0.1 percent of virus diseases, excluding potato virus X, is allowed on any field inspection. No blackleg, spindle tuber, or varietal mixture is allowed.

D. Each field must be tested during the growing season for potato virus X. For a lot to be tagged "virus tested" no more than one percent of the plants tested may be infected with potato virus X.

E. A sample of each lot must meet the same winter test requirements as prescribed for Primary Foundation certified seed potatoes in part 1555.6850, item E.

F. Each lot must be stored in an individual identifiable unit.

G. Limited Generation and Primary Foundation must be the only classes of certified seed potatoes grown on the farm.

H. If bacterial ring rot is found in any field or lot, the remaining crop is not eligible for certification planting.

1555.6852 REQUIREMENTS FOR GENERATION CERTIFIED SEED POTATO PRODUCTION.

Subpart 1. **Requirements.** Generation certified seed potatoes consist of potatoes that meet all the requirements of parts 1555.6750 to 1555.6850 as well as the additional requirements in this part.

A. A sample of each lot must meet the same winter test requirements as prescribed for Primary Foundation certified seed potatoes in part 1555.6850, item E.

B. No spindle tuber is allowed on any field inspection.

C. Each field may be tested during the growing season for potato virus X. For a lot to be tagged "virus tested" no more than three percent of the plants tested may be infected with potato virus X.

D. If bacterial ring rot is found in any field or lot, the remaining crop is not eligible for certification planting.

E. Each lot must be stored in an individual identifiable unit.

Subp. 2. **Generation One.** The seed source must be Nuclear class certified seed potatoes or the equivalent. No more than 0.2 percent of virus diseases or blackleg is allowed on any field inspection. No varietal mixture is allowed.

Subp. 3. **Generation Two.** The seed source must be Generation One class certified seed potatoes or the equivalent. Not more than 0.2 percent of virus disease or 0.5 percent blackleg is allowed on any field inspection. No varietal mixture is allowed.

Subp. 4. **Generation Three.** The seed source must be Generation Two class certified seed potatoes or the equivalent. No more than 0.3 percent of virus diseases or one percent blackleg is allowed on any field inspection. No more than 0.1 percent varietal mixture is allowed.

Subp. 5. **Generation Four.** The seed source must be Generation Three class certified seed potatoes or the equivalent. Not more than 0.3 percent of virus diseases or 0.1 percent varietal mixture is allowed on any field inspection.

Subp. 6. **Generation Five.** The seed source must be Generation Four class certified seed potatoes or the equivalent. Not more than 0.4 percent of virus diseases or 0.2 percent varietal mixture is allowed on any field inspection. Generation Five seed potatoes are not tested for potato virus X, winter tested, or eligible for certification planting the following year.

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 THE PROPOSED ADOPTION OF RULES OF THE MINNESOTA DEPARTMENT OF AGRICULTURE GOVERNING SEED POTATO PRODUCTION

FINDINGS OF FACT, CONCLUSIONS AND ORDER ADOPTING RULE WITHOUT PUBLIC HEARING

Notice of the Commissioner's intent to adopt the above-entitled rule was published in the State Register on June 15, 1987, and was sent by United States mail to all persons on the list maintained by the department pursuant to Minnesota Statutes, section 14.14, subd. 1a and 14.22 on June 10, 1987. The Statement of Need and Reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking mailing list and published in the State Register and was available to the public.

All persons were given the opportunity to submit comments on the rule for 30 days after notice of proposed rulemaking. No requests for a public hearing on the rule were received by the department.

No submissions or comments on the rule were received by the department. No requests for notice of submission to the attorney general were received by the department.

The above-captioned rule is needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that these rules identified as the Rules Governing Seed Potato Production are adopted this 16th day of July 1987, pursuant to authority vested in me by Minnesota Statutes, section 21.118.

STATE OF MINNESOTA

Jim Nichols

JIM NICHOLS
COMMISSIONER OF AGRICULTURE

In the Matter of the Adoption of Amendments
to Rules of the Minnesota Department of
Agriculture Governing Seed Potato Production

DECLARATION
OF COUNSEL

I, Paul Strandberg, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, Chapter 2010 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is W234 0474.

Paul Strandberg
Special Assistant Attorney General

Date: 7/17/87

SF-00006-05 (4/86)

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT : OF AGRICULTURE

DATE : July 16, 1987

TO : Rita Desmond
Administration - Finance Division
Office of the Attorney General

FROM : Carol Milligan, Management Analyst
Planning Division

PHONE : 296-6909

SUBJECT : Review of Rules Governing Seed Potato Production

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 a Public Hearing.

The Department did not receive any written comments or requests for a public hearing.

If you have questions, please contact me.

CM:cb

Attachment

cc: Jim Nichols, Commissioner
Anne Kanten, Assistant Commissioner
Paul Strandberg, Special Assistant Attorney General
Craig Lindeke, Office of Revisor of Statutes
Gerald Heil, Director, Planning Division
Art Mason, Director, Plant Industry
Richard Zink, Supervisor, Seed Potato Certification

RECEIVED
ATTORNEY GENERAL'S OFFICE

JUL 22 1987

204 ADMINISTRATION BLDG
50 SHERBURNE AVENUE
ST. PAUL, MN 55155

PLANNING DIVISION
DEPARTMENT OF AGRICULTURE

LIST OF ATTACHED DOCUMENTS

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

B. Findings of Fact and Conclusions, and Order Adopting.

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

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

E. Rule as Proposed.

F. Statement of Need and Reasonableness.

G. Declaration of Counsel.

Rule

See Proposed - Not all new material

Notice of Intent

ok

Citation

21.118 ok