

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

RULE REVIEW CHECKLIST

File No. 1445
DATE RECEIVED 1/20/88
REVIEW DATE 1/29/88
DUE DATE 2/3/88

APPROVED ✓ 1/29/88 JH2
DISAPPROVED
WITHDRAWN

Docket No. 05.0009.0986
ADOPTED W/O HEARING X
EMERGENCY RULE

REVISOR APPROVED ✓
REVISOR DISAPPROVED
FIELD W/SEC.STATE
RETURNED TO AGENCY

✓ Rule as adopted (4 copies) Waiting for 2
— Notice to Solicit Outside Information/Opinion
— Date published in State Register
— Comments
— Petition for Adoption of a Rule
— Board's Authorizing Resolution
✓ Proposed rule
✓ Revisor's Certificate
✓ Notice of Intent to Adopt Rule
21.113, 21.118 Statutory Authority
✓ Small Business Statement
— Expenditure of public money statement
✓ Signature
✓ Statement of Need and Reasonableness
✓ Small Business Statement
— Fees - § 16A.128
✓ Affidavit of Mailing Notice of Intent to Adopt Rule
12/2/87 Date (30)/25 days before adoption
✓ Publication in State Register
12/7/87 Date (30)/25 days before adoption
— Resolution Adopting
✓ Findings of Fact, Conclusions & Order Adopting
1/15/88 Date
— Written requests, submissions or comments
✓ Declaration of attorney
Paul Strandberg Name of SAAG representing agency
— Notice of Submission to Attorney General
— Affidavit of Mailing Notice to Attorney General

ATTORNEY GENERAL

February 9, 1988

CAROL MILLIGAN
Management Analyst
Planning Division

JULIE A. LEPPINK
Special Assistant
Attorney General

6-9422

In the Matter of the Adopted Rule Relating to
Certified Seed Potato Grades

The above-referenced rule has been approved as to its legality by the Attorney General on January 29, 1988.

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, submissions 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;nah
Enclosures

cc: Maryanne Hruby
Duane Harves

AD Copy

Department of Agriculture

Adopted Emergency Amendments to Permanent Rules Relating to Certified Seed Potato Grades

Rule as Adopted

1555.6950 MINNESOTA CERTIFIED SEED POTATO GRADES AND TOLERANCES.

Subpart 1. **Minnesota certified seed potato grades.** Before potatoes are eligible for grading as certified seed potatoes, the requirements of parts 1555.6750 to 1555.6840 must be met. In addition, Primary Foundation certified seed potatoes must meet the requirements of part 1555.6850, Foundation certified seed potatoes must meet the requirements of parts 1555.6860 to 1555.6900, and Generation certified seed potatoes must meet the requirements of parts 1555.6851 to 1555.6852.

Subp. 2. **Minnesota blue tag certified seed potato grade.** To be graded as Minnesota blue tag certified seed potatoes, the potatoes must meet the following requirements:

A. The potatoes must be, at the time of final inspection, of one variety, unwashed, fairly well-shaped, free from bacterial ring rot, powdery scab, late blight, freezing, black heart, and soft rot or wet breakdown, and free from injury by surface or pitted scab, and from damage caused by soil 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, mechanical or other means, flattened or depressed areas with underlying flesh discoloration, and from serious damage caused by hollow heart or internal discoloration other than hollow heart. Sunburn is not a factor.

B. Size. For round or intermediate shaped varieties, the maximum size shall be not more than 12 ounces (340.2 grams) and, unless otherwise specified, the minimum size shall be not less than 1-7/8 inches (47.6 millimeters) in diameter. For long varieties, the maximum size shall be not more than 14 ounces

(396.9 grams) and, unless otherwise specified, the minimum size shall be not less than 1-3/4 inches (44.5 millimeters) in diameter. For all varieties, size "B," the minimum diameter shall be not less than 1-1/2 inches (38.1 millimeters) and the maximum size shall be not more than 2-1/4 inches (57.1 millimeters) 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) ten percent for potatoes seriously damaged by hollow heart;

(b) five percent for potatoes seriously damaged by internal discoloration (other than hollow heart);

(c) eight percent for potatoes injured by (slight) scab;

(d) ten percent for potatoes damaged by soil or other foreign matter;

(e) 20 percent for potatoes damaged by sprouts; and

(f) six percent for potatoes which fail to meet the remaining requirements of the grade, provided that included in that amount not more than the following percentages are allowed for the following defects:

i. soft rot, frozen, or wet breakdown, 0.5 percent;

ii. damage by surface or pitted scab, 2.0 percent;

iii. damage by dry rot, 2.0 percent;

iv. bacterial ring rot, 0.0 percent;

v. powdery scab, 0.0 percent; and

vi. late blight tuber rot, 1.0 percent; and

(g) the following do not affect seed quality and must not be scored aginst the grade:

i. brown discoloration following

skinning;

ii. dried stems;

iii. flattened or depressed areas showing no underlying flesh discoloration;

iv. greening;

v. sunburn; and

vi. skin checks.

(2) For offsize:

(a) five percent for potatoes which fail to meet the required or specified minimum size; and

(b) ten percent for potatoes which fail to meet the required maximum size.

Subp. 3. **Minnesota yellow tag certified seed potato grade.** To be graded as Minnesota yellow tag certified seed potatoes, the potatoes must meet the requirements of blue tag with the exceptions in items A and B.

A. Lot tolerances:

(1) For defects:

(a) 20 percent for potatoes seriously damaged by hollow heart; and

(b) 20 percent for potatoes that fail to meet the remaining requirements of the grade, with not more than six percent serious damage.

(2) The following do not affect seed quality and must not be scored against the grade:

(a) sprouts;

(b) injury by slight scab; and

(c) flattened or depressed areas with or without underlying flesh discoloration.

B. Size. For all varieties, the maximum size must be not more than 14 ounces (396.9 grams).

Subp. 4. **Minnesota white tag certified seed potato grade.** Minnesota white tag certified seed potato grade consists of Primary Foundation certified, Foundation certified, or Generation certified seed potatoes that meet blue tag requirements, but are graded according to agreement between the

seller and the 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 is allowed.

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

Subp. 5. **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 except that at least one defective specimen, other than bacterial ring rot or powdery scab, and one offsize specimen may be permitted in any container.

Subp. 6. [Unchanged.]

Subp. 7. **Definitions.** For the purpose of part 1555.6950, the following terms have the meanings given them unless the context clearly indicates otherwise:

A. to H. [Unchanged.]

I. "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:

(1) to (6) [Unchanged.]

(7) soil if the individual potato has more than 50 percent of its surface affected by lightly caked soil which is scattered, or more than 15 percent of its surface badly caked with soil.

J. [Unchanged.]

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

FEB 9 1988

Joan Anderson Growe
Secretary of State

2:45 pm

APPROVED AS TO FORM AND LEGALITY
January 29 19 88
HUBERT H. HUMPHREY III
ATTORNEY GENERAL
BY Julie A. Zipperer
SPECIAL ASSISTANT ATTORNEY GENERAL

Department of Agriculture

Proposed Emergency Amendments to Permanent Rules Relating to Certified Seed Potato Grades

Rule as Proposed

1555.6950 MINNESOTA CERTIFIED SEED POTATO GRADES AND TOLERANCES.

Subpart 1. **Minnesota certified seed potato grades.** Before potatoes are eligible for grading as certified seed potatoes, the requirements of parts 1555.6750 to 1555.6840 must be met. In addition, Primary Foundation certified seed potatoes must meet the requirements of part 1555.6850~~.~~, Foundation certified seed potatoes must meet the requirements of parts 1555.6860 to 1555.6900, and Generation certified seed potatoes must meet the requirements of parts 1555.6851 to 1555.6852. ~~Grading and tagging or issuance of a bulk certificate are the final steps in the certification process.~~

Subp. 2. **Minnesota blue tag certified seed potato grade.** To be graded as Minnesota blue tag certified seed potatoes, the potatoes must meet the following requirements:

A. The potatoes must be, at the time of final inspection, of one variety, unwashed, fairly well-shaped, free from bacterial ring rot, powdery scab, late blight, freezing, black heart, and soft rot or wet breakdown, and free from injury by surface or pitted scab, and from damage caused by ~~dirt~~ soil 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, flattened or depressed areas with underlying flesh discoloration, and from serious damage caused by hollow heart or internal discoloration other than hollow heart. Sunburn is not a factor.

B. Size. For round or intermediate shaped varieties, the maximum size shall be not more than 12 ounces (340.2 grams)

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and, unless otherwise specified, the minimum size shall be not less than 1-7/8 inches (47.6 millimeters) in diameter. For long varieties, the maximum size shall be not more than 14 ounces (396.9 grams) and, unless otherwise specified, the minimum size shall be not less than 1-3/4 inches (44.5 millimeters) in diameter. For all varieties, size "B," the minimum diameter shall be not less than 1-1/2 inches (38.1 millimeters) and the maximum size shall be not more than 2-1/4 inches (57.1 millimeters) 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~~ ten percent for potatoes seriously damaged by hollow heart;

(b) ~~5~~ five percent for potatoes seriously damaged by internal discoloration (other than hollow heart);

(c) ~~8~~ eight percent for potatoes injured by (slight) scab;

(d) ~~10~~ ten percent for potatoes damaged by ~~dirt~~ soil or other foreign matter;

(e) ~~10~~ 20 percent for potatoes damaged by sprouts; and

(f) ~~6~~ six percent for potatoes which fail to meet the remaining requirements of the grade, provided that included in that amount not more than the following percentages are allowed for the following defects:

i. soft rot, frozen, or wet breakdown, 0.5 percent;

ii. damage by surface or pitted scab, 2.0 percent;

iii. damage by dry rot, 2.0 percent;

iv. bacterial ring rot, 0.0 percent;

~~and~~

v. powdery scab, 0.0 percent; and

vi. late blight tuber rot, 1.0

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percent; and

(g) the following do not affect seed quality and must not be scored aginst the grade:

i. brown discoloration following skinning;

ii. dried stems;

iii. flattened or depressed areas showing no underlying flesh discoloration;

iv. greening;

v. sunburn; and

vi. skin checks.

(2) For offsize:

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

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

Subp. 3. **Minnesota yellow tag certified seed potato grade.** To be graded as Minnesota yellow tag certified seed potatoes, the potatoes must meet the ~~following~~ requirements of blue tag with the exceptions in items A and B.

~~A. The potatoes must be, at the time of final inspection, of one variety, fairly well shaped, and free from bacterial ring rot, powdery scab, late blight, freezing, black heart, and soft rot or wet breakdown, and from damage caused by second growth, growth cracks, air cracks, cuts, shriveling, sprouts (after April 15, sprouts are not a factor), 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, hollow heart, or internal discoloration other than hollow heart. Pressure bruising, or flattened or depressed areas with or without underlying flesh discoloration, and sunburn are not factors.~~ Lot tolerances:

(1) For defects:

(a) 20 percent for potatoes seriously damaged by hollow heart; and

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(b) 20 percent for potatoes that fail to meet the remaining requirements of the grade, with not more than six percent serious damage.

(2) The following do not affect seed quality and must not be scored against the grade:

(a) sprouts;

(b) injury by slight scab; and

(c) flattened or depressed areas with or without underlying flesh discoloration.

B. Size. For all varieties, the maximum size ~~shall~~ must 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) 20 percent for potatoes seriously damaged by hollow heart;~~

~~(b) 5 percent for potatoes seriously damaged by internal discoloration other than hollow heart;~~

~~(c) 20 percent for potatoes damaged by sprouts; and~~

~~(d) 20 percent for potatoes which fail to meet the remaining requirements of the grade, provided that included in that amount not more than the following percentages are allowed:~~

~~i. 5 percent damage by surface or pitted scab~~

~~ii. 2 percent damage by dry rot~~

~~iii. 6 percent serious damage for other defects other than hollow heart, and internal~~

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~~discoloration other than hollow heart, provided that of this six percent not more than the following percentages are allowed for the following defects:~~

~~Soft rot, frozen, or wet breakdown~~	~~0.5%~~
~~Bacterial ring rot~~	~~0.0%~~
~~Powdery scab~~	~~0.0%~~

~~(2) For offsize:~~

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

~~(b) 10 percent for potatoes which fail to meet the required maximum size~~ (396.9 grams).

Subp. 4. **Minnesota white tag certified seed potato grade.** Minnesota white tag certified seed potato grade consists of Primary Foundation certified ~~or~~, Foundation certified, or Generation certified seed potatoes ~~which~~ that meet blue tag requirements, but are graded according to agreement between the seller and the 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 is allowed.

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

Subp. 5. **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 except that at least one defective specimen, other than bacterial ring rot or powdery scab, and one offsize specimen may be permitted in any container.

Subp. 6. [Unchanged.]

Subp. 7. **Definitions.** For the purpose of part 1555.6950, the following terms have the meanings given them unless the context clearly indicates otherwise:

A. to H. [Unchanged.]

I. "Damage" means any defect or combination of defects which materially affects the appearance of the

Approved by Revisor _____

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:

(1) to (6) [Unchanged.]

(7) ~~dirt~~ soil if the individual potato has more than 50 percent of its surface affected by lightly caked ~~dirt~~ soil which is scattered, or more than 15 percent of its surface badly caked with ~~dirt~~ soil.

J. [Unchanged.]

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Emergency Amendments to Permanent Rules Relating to Certified Seed Potato Grades

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 Amendments to the Rule of the Department of Agriculture Governing Certified Seed Potato Grades

NOTICE OF INTENT TO AMEND A RULE WITHOUT A PUBLIC HEARING

Notice is hereby given that the Minnesota Department of Agriculture intends to amend the above-entitled rule 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 and amend this rule is Minnesota Statutes, Sections 21.113 and 21.118.

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

Any person may make a written request for a public hearing on the amendments 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 amendments 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 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 rule as noticed.

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

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.

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

The department has determined that the proposed amendments would merely rectify the present rule addressing certified seed potato grades and tolerances and place no additional economic restraints or demands on producers. This amendment would be a positive benefit to Minnesota certified seed potato growers.

9 If no hearing is required, upon adoption of the final amendments, the rule 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 amendments must submit a written request to Ms. Milligan.

STATE OF MINNESOTA

Date: 11-5-87

Jim Nichols

Jim Nichols, Commissioner
Department of Agriculture

STATE OF MINNESOTA
DEPARTMENT OF AGRICULTURE

IN THE MATTER OF PROPOSED AMENDMENTS TO THE RULES OF THE DEPARTMENT OF AGRICULTURE GOVERNING CERTIFIED SEED POTATO GRADES MINNESOTA RULE 1555.6950

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 noncontroversial in nature because they are supported by the industry, 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 Statues, section 14.22 to 14.28. Accordingly, the rulemaking proceedings on the proposed amendments are governed by the statute and no hearing will be conducted on the proposed amendments unless 25 or more persons submit to the department a written request for such hearing during this comment period. In accordance with the requirements of Minnesota Statues, 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 adopted rules 1555.6950, Minnesota Certified Seed Potato Grades and Tolerances. This rule states the tolerances for diseases, physical defects, appearance, shape and size for certified seed potatoes at the time of final inspection, at the point of shipment. Three grades are covered by this rule, Blue tag, Yellow tag and White tag. In this system, Blue tag is the best grade with the most stringent tolerances, followed by Yellow tag and then White tag. White tag grade is for intrastate use only and the grade, for the most part, is determined by agreement between the seller and the purchaser.

The Blue tag is by far the most important and plays a major role in the national marketing of Minnesota certified seed potatoes. Minnesota growers must compete with growers from other states in the same market on a grade for grade basis. While high quality is a major consideration, the grade tolerances must be manageable from an economic standpoint. For example, if a Minnesota seed grower must discard an additional 20 percent of his crop to meet a specific grade standard not enforced in another state, his ability to compete at the same price is greatly compromised. As a result, a seed grower in a neighboring state is more willing to supply the product and takes the sale. Another important consideration is standardizing seed grades within the United States. Uniform tolerances for seed between states would eliminate the present confusion in the marketplace as to what constitutes a blue tag grade. Furthermore, a uniform grade would enhance the ability of the United States to compete in international markets in Europe

and South America. To this end a national committee recently completed a revision of the United States Standards for Grades of Seed Potatoes. The standards were revised in such a way as to be acceptable for all states which produce certified seed potatoes. The new standards are to serve as a basis for all blue tag grades as well as an international export grade for seed potatoes. Seeing the potential of a standardized seed grade, several states have either adopted the new U.S. grade or modified their rules to comply with it.

Minnesota's current certified seed potato grades and tolerances are based on the United States Standards for Grades of Table Potatoes. While these standards are adequate, emphasis is on appearance rather than on disease. As a result, factors that affect appearance, such as areas of external discoloration due to loss of skin are scored disproportionately to factors which affect disease. The proposed amendments would either eliminate such factors or increase the tolerances for ones which deal with appearance, but would change tolerances for disease. Most important, the proposed amendments would apply the same grade standards to Minnesota grown certified seed as are applied to seed grown in other states such as North Dakota. This is a major economic consideration, since Minnesota growers compete directly with North Dakota growers in the same marketplace.

III. NEED FOR AND REASONABLENESS FOR THE PROPOSED AMENDMENTS TO THE RULES.

1555.6950 Minnesota Certified Seed Potato Grades and tolerances.

The proposed amendments to the rules are reasonable because they will not diminish the general quality of Minnesota Blue, Yellow or White tag certified seed potatoes or place additional restriction on the industry. The current rules are inconsistent with the United States Standards for Grades of Seed potatoes as well as those of neighboring states. These amendments would bring Minnesota into conformity with other states and USDA standards and allow Minnesota seed growers to compete more effectively in the marketplace. The resulting amendments to the Blue tag grade would eliminate as factors external discoloration from loss of skin and flattened or depressed areas without underlying flesh discoloration, and increase damage by sprouts from 10 percent to 20 percent. Likewise, amendments to the Yellow tag grade would eliminate as factors external discoloration from loss of skin and damage by sprouts. The White tag grade would remain unchanged.

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 prosped rule changes will have on the certified seed potato industry.

The Department has determined that the proposed amendments would merely rectify the present rules addressing certified seed potato grades and tolerances and place no additional economic restraints or demands on producers. This amendment would be a positive benefit to Minnesota certified seed potato growers.

In the Matter of the Proposed
Amendments to the Rule of the
Department of Agriculture Governing
Certified Seed Potato Grades

AFFIDAVIT OF MAILING
THE NOTICE OF INTENT
TO ADOPT A RULE

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Marie Skerbitz, being sworn, says:

That on the 2nd day of December, 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 who have requested, persuant to Minnesota Statutes, sections 14.14, subdivision 1.a. and 14.22 OR 14.30, that their names be placed on the Minnesota Department of Agriculture rulemaking mailing list.

Marie Skerbitz
Mail Room Clerk

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

Subscribed and sworn to before me
this 2nd day of December, 1987.

Diane M. Windham

In the Matter of the Proposed
Amendments to the Rule of the
Department of Agriculture Governing
Certified Seed Potato Grades

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. Statutes, sections 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 2nd day of December, 1987.

Carol Milligan
Carol Milligan
Management Analyst

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

Subscribed and sworn to before me
this 2nd day of December, 1987.

Diane M. Windham

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 Emergency Amendments to Permanent Rules Relating to Certified Seed Potato Grades

Notice of Intent to Amend a Rule Without a Public Hearing

Notice is hereby given that the Minnesota Department of Agriculture intends to amend the above-entitled rule 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 and amend this rule is *Minnesota Statutes*, Sections 21.113 and 21.118.

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

Any person may make a written request for a public hearing on the amendments 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 amendments 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 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 rule as noticed.

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

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.

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

The department has determined that the proposed amendments would merely rectify the present rule addressing certified seed potato grades and tolerances and place no additional economic restraints or demands on producers. This amendment would be a positive benefit to Minnesota certified seed potato growers.

If no hearing is required, upon adoption of the final amendments, the rule 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 amendments must submit a written request to Ms. Milligan.

Dated: 5 November 1987

Jim Nichols, Commissioner
Department of Agriculture

Rule as Proposed

1555.6950 MINNESOTA CERTIFIED SEED POTATO GRADES AND TOLERANCES.

Subpart 1. **Minnesota certified seed potato grades.** Before potatoes are eligible for grading as certified seed potatoes, the requirements of parts 1555.6750 to 1555.6840 must be met. In addition, Primary Foundation certified seed potatoes must meet the requirements of part 1555.6850~~.~~, Foundation certified seed potatoes must meet the requirements of parts 1555.6860 to 1555.6900, and Generation certified seed potatoes must meet the requirements of parts 1555.6851 to 1555.6852. ~~Grading and tagging or issuance of a bulk certificate are the final steps in the certification process.~~

Subp. 2. **Minnesota blue tag certified seed potato grade.** To be graded as Minnesota blue tag certified seed potatoes, the potatoes must meet the following requirements:

A. The potatoes must be, at the time of final inspection, of one variety, unwashed, fairly well-shaped, free from bacterial ring rot, powdery scab, late blight, freezing, black heart, and soft rot or wet breakdown, and free from injury by surface or pitted scab, and from damage caused by ~~dirt~~ soil 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, flattened or depressed areas with underlying flesh discoloration, and from serious damage caused by hollow heart or internal discoloration other than hollow heart. Sunburn is not a factor.

B. Size. For round or intermediate shaped varieties, the maximum size shall be not more than 12 ounces (340.2 grams) and, unless otherwise specified, the minimum size shall be not less than 1-7/8 inches (47.6 millimeters) in diameter. For long varieties, the maximum size shall be not more than 14 ounces (396.9 grams) and, unless otherwise specified, the minimum size shall be not less than 1-3/4 inches (44.5 millimeters) in diameter. For all varieties, size "B," the minimum diameter shall be not less than 1-1/2 inches (38.1 millimeters) and the maximum size shall be not more than 2-1/4 inches (57.1 millimeters) 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~~ ten percent for potatoes seriously damaged by hollow heart;

(b) ~~5~~ five percent for potatoes seriously damaged by internal discoloration (other than hollow heart);

(c) ~~8~~ eight percent for potatoes injured by (slight) scab;

(d) ~~10~~ ten percent for potatoes damaged by ~~dirt~~ soil or other foreign matter;

(e) ~~10~~ 20 percent for potatoes damaged by sprouts; and

(f) ~~6~~ six percent for potatoes which fail to meet the remaining requirements of the grade, provided that included in that amount not more than the following percentages are allowed for the following defects:

i. soft rot, frozen, or wet breakdown, 0.5 percent;

ii. damage by surface or pitted scab, 2.0 percent;

iii. damage by dry rot, 2.0 percent;

iv. bacterial ring rot, 0.0 percent; ~~and~~

v. powdery scab, 0.0 percent; and

vi. late blight tuber rot, 1.0 percent; and

(g) the following do not affect seed quality and must not be scored aginst the grade:

i. brown discoloration following skinning;

ii. dried stems;

iii. flattened or depressed areas showing no underlying flesh discoloration;

iv. greening;

v. sunburn; and

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.

vi. skin checks.

(2) For offsize:

(a) ~~5~~ five percent for potatoes which fail to meet the required or specified minimum size~~.~~; and

(b) ~~10~~ ten percent for potatoes which fail to meet the required maximum size.

Subp. 3. **Minnesota yellow tag certified seed potato grade.** To be graded as Minnesota yellow tag certified seed potatoes, the potatoes must meet the ~~following~~ requirements of blue tag with the exceptions in items A and B.

A. ~~The potatoes must be, at the time of final inspection, of one variety, fairly well shaped, and free from bacterial ring rot, powdery scab, late blight, freezing, black heart, and soft rot or wet breakdown, and from damage caused by second growth, growth cracks, air cracks, cuts, shriveling, sprouts (after April 15, sprouts are not a factor), 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, hollow heart, or internal discoloration other than hollow heart. Pressure bruising, or flattened or depressed areas with or without underlying flesh discoloration, and sunburn are not factors.~~ Lot tolerances:

(1) For defects:

(a) 20 percent for potatoes seriously damaged by hollow heart; and

(b) 20 percent for potatoes that fail to meet the remaining requirements of the grade, with not more than six percent serious damage.

(2) The following do not affect seed quality and must not be scored against the grade:

(a) sprouts;

(b) injury by slight scab; and

(c) flattened or depressed areas with or without underlying flesh discoloration.

B. Size. For all varieties, the maximum size ~~shall~~ must 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) 20 percent for potatoes seriously damaged by hollow heart;~~

~~(b) 5 percent for potatoes seriously damaged by internal discoloration other than hollow heart;~~

~~(c) 20 percent for potatoes damaged by sprouts; and~~

~~(d) 20 percent for potatoes which fail to meet the remaining requirements of the grade, provided that included in that amount not more than the following percentages are allowed:~~

~~i. 5 percent damage by surface or pitted scab~~

~~ii. 2 percent damage by dry rot~~

~~iii. 6 percent serious damage for other defects other than hollow heart, and internal discoloration other than hollow heart, provided that of this six percent not more than the following percentages are allowed for the following defects:~~

~~Soft rot, frozen, or wet breakdown~~	~~0.5%~~
~~Bacterial ring rot~~	~~0.0%~~
~~Powdery scab~~	~~0.0%~~

~~(2) For offsize:~~

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

~~(b) 10 percent for potatoes which fail to meet the required maximum size~~ (396.9 grams).

Subp. 4. **Minnesota white tag certified seed potato grade.** Minnesota white tag certified seed potato grade consists of Primary Foundation certified ~~or~~, Foundation certified, or Generation certified seed potatoes ~~which~~ that meet blue tag requirements, but are graded according to agreement between the seller and the 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 is allowed.

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

Subp. 5. **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 except that at least one defective specimen, other than bacterial ring rot or powdery scab, and one offsize specimen may be permitted in any container.

Subp. 6. [Unchanged.]

Subp. 7. **Definitions.** For the purpose of part 1555.6950, the following terms have the meanings given them unless the context clearly indicates otherwise:

A. to H. [Unchanged.]

I. "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:

(1) to (6) [Unchanged.]

(7) ~~dirt~~ soil if the individual potato has more than 50 percent of its surface affected by lightly caked ~~dirt~~ soil which is scattered, or more than 15 percent of its surface badly caked with ~~dirt~~ soil.

J. [Unchanged.]

Board of Barber Examiners

Proposed Permanent Rules Relating to License Transfer and Expansion or Change of Location of School

Notice of Intent to Adopt a Rule Without a Public Hearing

Notice is hereby given that the State Board of Barber Examiners intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes* 154.24.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule 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 his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

Adam J. Mikrot, Executive Secretary
Board of Barber Examiners
5th Floor Metro Square Building
Seventh and Robert Streets
St. Paul, Minnesota 55101
612-296-2364

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this notice.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule

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STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE MINNESOTA DEPARTMENT OF AGRICULTURE GOVERNING CERTIFIED SEED POTATO GRADES

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 December 7, 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 December 2, 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 submission to the attorney general were received by the department.

The above-captioned rule is needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rule identified as the Rule Governing Certified Seed Potato Grades is adopted this 15th day of January 1988, 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 ADOPTION OF RULES OF THE MINNESOTA DEPARTMENT OF AGRICULTURE GOVERNING CERTIFIED SEED POTATO GRADES

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STATE OF MINNESOTA

Jim Nichols

JIM NICHOLS
COMMISSIONER OF AGRICULTURE

In the Matter of the Adoption of the
Rule of the Minnesota Department
of Agriculture Governing Certified
Seed Potato Grades

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 0986.

Paul Strandberg
Special Assistant Attorney General

Date: January 19, 1983

SF-00006-05 (4/86)

DEPARTMENT : OF AGRICULTURE

STATE OF MINNESOTA

Office Memorandum

DATE : January 19, 1988

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

Rec'd
1/20/88

FROM : Carol Milligan, Management Analyst
Planning Division

PHONE : 296-6906

SUBJECT : Review of Proposed Rule Governing Seed Potato Grades

The Department of Agriculture adopted the above-mentioned rule 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 did not receive any written comments, requests for a hearing, or requests for notification of submission to the Attorney General.

If you have questions, please contact me.

CM:cb

Attachment

cc: Jim Nichols, 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, Seed Potato Certification

PLANNING DIVISION
DEPARTMENT OF AGRICULTURE

LIST OF ATTACHED DOCUMENTS

A. Rule as Proposed.

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

C. Statement of Need and Reasonableness.

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

E. Certification of Mailing List.

F. State Register Photocopy of Notice of Intent.

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

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

I. Declaration of Counsel.