

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

STATE OF MINNESOTA

Office of the Attorney General

TO : CAROL MILLIGAN
Department of Agriculture

DATE : December 28, 1992

FROM : AMY V. KVALSETH
Special Assistant
Attorney General

PHONE : 296-9422

SUBJECT : **In the Matter of the Adopted Rule Relating to Certified Seed Potatoes**

The above-referenced rule has been approved as to its legality by the Attorney General on December 24, 1992.

Enclosed is your 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 along with any extra copies of documents which you submitted to the Attorney General.

Your next step is to arrange for publication of the Notice of Adoption in the State Register. In a day or two, you should receive from the Revisor's Office three copies of the notice of adoption of your rule. You should submit two copies of the Notice of Adoption to the State Register for publication. A permanent rule without a hearing does not become effective until five days after a notice of adoption is published 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.

Enclosures
cc: Paul Strandberg
William Brown, Chief Judge
MaryAnn Hruby

AVK:cr.rules.bf0

~~AJM~~ AVK
12-17-92

RULE REVIEW CHECKLIST

File No. 1983
DATE RECEIVED 12-13-92
REVIEW DATE 12-24-92
DUE DATE 12-29-92
~~(DIS)~~APPROVED 12-24-92
WITHDRAWN _____

Docket No. 05 0009 0986
ADOPTED W/O HEARING _____
EMERGENCY RULE _____
TO REVISOR ON 12-18-92
REVISOR (DIS)APPROVED _____
FILED W/SEC. OF STATE 12-23 or 12-24-92?
RETURNED TO AGENCY _____

✓ Rule as adopted (4 copies)

_____ Notice to Solicit Outside Information/Opinion (if applicable)
_____ Date published in State Register
_____ Comments

_____ Petition for Adoption of a Rule

_____ Board's Authorizing Resolution
_____ Date adopted

✓ Proposed Rule
_____ Revisor's Certificate

✓ Notice of Intent to Adopt Rule
21.118 Statutory Authority
✓ Small Business Statement
_____ Expenditure of public money statement
9-24-92 Signature

✓ Statement of Need and Reasonableness (if applicable) Poor.
_____ Small Business Statement
_____ Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
October 21, 1992 Dated 30/25 days before adoption
_____ Notice attached indicates it is attached
_____ Copy of rule or summary attached

✓ Publication in State Register
October 26, 1992 Date 30/25 days before adoption

✓ 180-day deadline from:
_____ Effective date of law requiring rule (14.12) (both rules) amendments don't apply
✓ end of comment period (§ 14.26) (rules without hearing)
_____ effective date of statutory authority (§ 14.29) (emergency rules)

_____ Resolution Adopting
_____ Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
November 30, 1992 Date

_____ Written Requests, Submissions or Comments

✓ Declaration of Attorney
Paul Strandberg Name of SAAG representing agency

_____ Notice of Submission to Attorney General (if applicable)

_____ Affidavit of Mailing Notice to Attorney General (if

Department of Agriculture

Adopted Permanent Rules Relating to Certified Seed Potatoes

Rules as Adopted

1555.6950 MINNESOTA CERTIFIED SEED POTATO GRADES AND TOLERANCES.

[For text of subpart 1, see M.R.]

Subp. 2. **Minnesota blue tag certified seed potato grade.** To be graded as Minnesota blue tag certified seed potatoes, the potatoes must meet the requirements in items A to C.

A. Condition. 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, 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, wire worm, growth cracks, or internal discoloration other than hollow heart. Sunburn and silver scurf are not factors.

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 1-1/2 inches (38.1 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 1-1/2 inches (38.1 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:

[For text of units (a) to (d), see M.R.]

(e) 20 percent for potatoes damaged by sprouts;

(f) ten percent for potatoes seriously damaged by wireworm; and

(g) 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:

[For text of subunits i to vi, see M.R.]

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

[For text of subunits i to iv, see M.R.]

v. sunburn;

vi. skin checks; and

vii. silver scurf.

[For text of subitem (2), see M.R.]

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 to C.

A. Condition. Potatoes must be free from serious damage by soil or other foreign matter and russet scab.

B. Lot tolerances:

[For text of subitems (1) and (2), see M.R.]

C. Size. For all varieties, unless otherwise specified, 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 certified seed potatoes that 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.

[For text of subps 5 and 6, see M.R.]

Subp. 7. **Definitions.** For the purpose of this part, the terms in items A to J have the meanings given them unless the context clearly indicates otherwise.

[For text of items A to H, see M.R.]

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:

[For text of subitems (1) and (2), see M.R.]

(3) air cracks when removal causes a loss of more than five percent of the total weight of the potato;

[For text of subitems (4) to (7), see M.R.]

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

[For text of subitems (1) to (5), see M.R.]

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

(7) wireworm and air cracks when removal causes a loss of more than ten percent of the total weight of the potato.

APPROVED AS TO FORM AND LEGALITY

12-24 19 92

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY Amy V. Kvaloeth
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

DEC 23 1992

Joan Anderson Growe
Secretary of State

3:27P
RC

RECEIVED
DEC 15 1992
Attorney General
Government Services Section
Capitol Office Bldg., Suite 53
525 Park Street
St. Paul, MN

Stat authority

21.118

It shall be the duty of the commissioner to promulgate reasonable rules for carrying out the purposes and enforcing the provisions of sections 21.111 to 21.12=

end of comment period November 25, 1992

Poor SONAR

Department of Agriculture

Proposed Permanent Rules Relating to Certified Seed Potatoes

Rules as Proposed

1555.6950 MINNESOTA CERTIFIED SEED POTATO GRADES AND TOLERANCES.

[For text of subpart 1, see M.R.]

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~~:~~ in items A to C.

A. Condition. 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, wire worm, growth cracks, or internal discoloration other than hollow heart. Sunburn ~~is not a factor~~ and silver scurf are not factors.

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~~ 1-1/2 inches (~~47.6~~ 38.1 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~~ 1-1/2 inches (~~44.5~~ 38.1 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

Approved by Revisor

incident to proper grading and handling, the following tolerances, by weight, are provided:

(1) For defects:

[For text of units (a) to (d), see M.R.]

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

(f) ten percent for potatoes seriously damaged by wireworm; and

(g) 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:

[For text of subunits i to vi, see M.R.]

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

[For text of subunits i to iv, see M.R.]

v. sunburn; ~~and~~

vi. skin checks; and

vii. silver scurf.

[For text of subitem (2), see M.R.]

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 to C.

A. Condition. Potatoes must be free from serious damage by soil or other foreign matter and russet scab.

B. Lot tolerances:

[For text of subitems (1) and (2), see M.R.]

~~B.~~ C. Size. For all varieties, unless otherwise specified, 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

Approved by Revisor _____

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.

[For text of subps 5 and 6, see M.R.]

Subp. 7. **Definitions.** For the purpose of this part ~~1555.6950~~, the ~~following~~ terms in items A to J have the meanings given them unless the context clearly indicates otherwise~~:~~.

[For text of items A to H, see M.R.]

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:

[For text of subitems (1) and (2), see M.R.]

(3) air cracks ~~which are deep, or shallow air cracks which materially affect the appearance of the individual~~ when removal causes a loss of more than five percent of the total weight of the potato;

[For text of subitems (4) to (7), see M.R.]

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

[For text of subitems (1) to (5), see M.R.]

(6) surface or pitted scab, individually or in combination, which covers an area of more than twenty-five

Approved by Revisor _____

percent of the surface of the potato in the aggregate, or causes a loss of more than ten percent of the total weight of the potato including peel covering defective area;

(7) wireworm and air cracks when removal causes a loss of more than ten percent of the total weight of the potato.

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Certified Seed Potatoes

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

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

IN THE MATTER OF PROPOSED AMENDMENTS TO	)	
THE RULES OF THE DEPARTMENT OF AGRICULTURE	)	**STATEMENT OF NEED**
GOVERNING SEED POTATO CERTIFICATION	)	**AND REASONABLENESS**
MINNESOTA RULE 1555.6950		

I. INTRODUCTION

The subject of this rule making 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, section 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 rule making 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 rule making 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. 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

Rule 1555.6950 sets forth the standards for the inspection of certified seed potatoes at their point of shipment. Inspections of certified seed potatoes at the time of shipment from their point of production constitutes the final step in the certification process. Certified seed potatoes are graded, and inspected accordingly, to meet standards for either the blue tag certified seed potato grade, yellow tag certified seed potato grade, or white tag certified seed potato grade. The requirements for blue tag grade are the most stringent, followed by requirements for yellow tag grade, with white tag grade requirements being the least restrictive. For each of the three grades, the tolerance for disease is the same. The differences among blue, yellow, and white tag grades are in the extent of physical defects allowed. The three grades or tag colors are used as marketing tools. The blue tag is universally considered to be the premium grade and marketed as such. Minnesota certified seed potato growers must compete directly with seed growers from North Dakota and Wisconsin. Each sells basically the same product; consequently, it is essential that Minnesota seed growers not be put at a disadvantage by overly restrictive or inconsistent seed grade standards. MDA is proposing to amend would Rule 1555.6950 so that Minnesota seed potato grade standards conform with those of neighboring states.

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

The proposed amendments to Rule 1555.6950 are reasonable because they will not compromise certification standards or measurably diminish the quality of Minnesota certified seed potatoes. The amendments will, however, greatly facilitate the marketing of Minnesota certified seed potatoes by making Minnesota's grade requirements consistent with those of other states. This will reduce confusion and establish a level playing field in the marketplace. Minnesota certified seed potatoes are marketed along side North Dakota certified

seed potatoes and generally considered to be the same product: that is, Red River Valley seed potatoes. The proposed amendments have been mutually agreed upon by the potato industries of both states. Most of the proposed amendments pertain to grade factors. The grade factors being addressed include growth cracks, silver scurf, wireworm damage, air cracks, damage by soil, russet scab, and size. All of these grade factors are cosmetic in nature and have no effect on seed quality, disease content or the ultimate performance of the product. Expanding the use of the white tag grade to all classes of certified seed is intended to facilitate intrastate shipments of certified seed potatoes and will have no other impact on the certification process.

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 rule changes will have on the certified seed potato industry.

By definition (M.S. 14.115), all Minnesota certified seed potato growing entities are "small business." Existing seed potato certification rules and any proposed amendments must be written in a manor that achieves a balance between the concerns of small business, the seed potato grower, and the biology of potato diseases central to the certification process. Without these considerations, seed potato certification would be disfunctional.

The Department has determined that the proposed amendments will improve the workability of the present rules governing seed potato certification and place no additional economic restraints or demands on producers. These amendments will be a positive benefit to Minnesota certified seed potato growers.

Department : AGRICULTURE

STATE OF MINNESOTA
Office Memorandum

Date : December 10, 1992

To : Patty Nolte
Attorney General's Office

From : Carol Milligan
Agriculture Planning Division

Phone : 296-6906

Subject : **Review of Proposed Rule Governing Certified Seed Potatoes**

The Department of Agriculture adopted the above-mentioned rule pursuant to Minnesota Statutes, sections 14.22-14.28. Enclosed with this memo 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.

Please contact me if you have any questions.

cc: Paul Strandberg, Special Assistant Attorney General
Art Mason, Plant Protection

RECEIVED

DEC 15 1992

Office of the Attorney General
Government Services Section
Capitol Office Bldg., Suite 500
525 Park Street
St. Paul, MN 55

LIST OF ATTACHED DOCUMENTS

A. Rule as proposed

B. Notice of intent

C. Memo to LCRAR that accompanied the statement of need

D. Statement of need

E. Affidavit of mailing

F. Mailing List certificate

G. *State Register* photocopy of notice of intent

H. Rule as adopted (four copies)

I. Findings of fact

J. Declaration of counsel

Department of Agriculture

Plant Protection

In the Matter of the Proposed Rule
of the State Department of Agriculture
Governing Certified Seed Potatoes

NOTICE OF INTENT TO ADOPT
A RULE WITHOUT A PUBLIC
HEARING

(1) 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 amend this rule is Minnesota Statutes, section 21.118.

(2) 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 amendments. (3) Comment is encouraged. Each comment should identify the portion of the proposed amendments 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. (4) 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. (10) Any person requesting a public hearing should state their name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any proposed change. (11) If a public hearing is required, the department will proceed according to Minnesota Statutes, sections 14.131-14.20.

(5) 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 comment period ends on November 25, 1992. All comments must be received by the department by 4:30pm on that day.

8 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 amendments as noticed.

11 A copy of the proposed amendments are attached to this notice.

12 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.

13 The department has determined that certified seed potato growers are small businesses. The proposed amendments will be a benefit to certified seed potato producers and will place no additional economic restraints or demands on producers.

9 If no hearing is required, upon adoption of the final amendments, the amendments and the required supporting documents will be submitted to 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.

9-24-92
Date

STATE OF MINNESOTA

Elton Redalen
Elton Redalen, Commissioner
Department of Agriculture

Department : Agriculture

STATE OF MINNESOTA

Office Memorandum

Date : October 7, 1992

To : Maryanne Hruby, Director
LCRAR

From : Carol Milligan
Agriculture Planning Division

Phone : 296-6906

Subject : **Rule Governing Certified Seed Potatoes**

As required by Minnesota Statutes, sections 14.131 and 14.23, attached is the Statement of Need and Reasonableness for the above-captioned rule. The Notice of Intent to Adopt and the rule will be published in the *State Register* on 10/26/92.

Attachment

In the Matter of the Proposed Adoption
of the Rule of the State Department
of Agriculture Governing Certified
Seed Potatoes

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

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Marie Skerbitz, being sworn, says:

That on the 21st day of October, 1992, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt a Rule 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, pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 or 14.30, that their names be placed on the Minnesota Department of Agriculture rulemaking mailing list.

DIANE M. WINDHAM
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My commission expires 11-1-96

Marie Skerbitz
Mail Room Manager

Subscribed and sworn to before me
this 21st day of October, 1992.

Diane M. Windham

In the Matter of the Proposed Rule
of the State Department of Agriculture
Governing Certified Seed Potatoes

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 Minnesota Statutes, sections 14.14, subdivision 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 21st day of October, 1992.

Carol Milligan
Management Analyst

DIANE M. WINDHAM
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My commission expires 11-1-96

Subscribed and sworn to before me
this 21st day of October, 1992.

Diane M. Windham

Proposed Rules

Pursuant to Minn. Stat. §§ 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 Permanent Rules Relating to Certified Seed Potatoes

Notice of Intent to Adopt 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 amend this rule 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 amendments or any part or subpart of the rule amendments. Comment is encouraged. Each comment should identify the portion of the proposed amendments 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 rule 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 14.131-14.20.

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 comment period ends on November 25, 1992. All comments must be received by the department by 4:30 on that day.

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 amendments as noticed.

A copy of the proposed amendments are 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.

The department has determined that certified seed potato growers are small businesses. The proposed amendments will be a benefit to certified seed potato producers and will place no additional economic restraints or demands on producers.

If no hearing is required, upon adoption of the final amendments, the amendments and the required supporting documents will be submitted for 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: 24 September 1992

State of Minnesota
Elton Redalen, Commissioner
Department of Agriculture

Rules as Proposed

1555.6950 MINNESOTA CERTIFIED SEED POTATO GRADES AND TOLERANCES.

[For text of subpart 1, see M.R.]

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: in items A to C.

A. Condition. 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, wire worm, growth cracks, or internal discoloration other than hollow heart. Sunburn ~~is not a factor~~ and silver scurf are not factors.

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~~ 1-1/2 inches (~~47.6~~ 38.1 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~~ 1-1/2 inches (~~44.5~~ 38.1 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:

[For text of units (a) to (d), see M.R.]

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

(f) ten percent for potatoes seriously damaged by wireworm; and

(g) 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:

[For text of subunits i to vi, see M.R.]

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

[For text of subunits i to iv, see M.R.]

v. sunburn; ~~and~~
vi. skin checks; and
vii. silver scurf.

[For text of subitem (2), see M.R.]

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~~ to C.

A. Condition. Potatoes must be free from serious damage by soil or other foreign matter and russet scab.

B. Lot tolerances:

[For text of subitems (1) and (2), see M.R.]

~~B.~~ C. Size. For all varieties, unless otherwise specified, 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.

[For text of subps 5 and 6, see M.R.]

Subp. 7. **Definitions.** For the purpose of this part ~~1555.6950~~, the ~~following~~ terms in items A to J have the meanings given them unless the context clearly indicates otherwise~~:~~.

[For text of items A to H, see M.R.]

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.

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:

[For text of subitems (1) and (2), see M.R.]

(3) air cracks ~~which are deep, or shallow air cracks which materially affect the appearance of the individual~~ when removal causes a loss of more than five percent of the total weight of the potato;

[For text of subitems (4) to (7), see M.R.]

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

[For text of subitems (1) to (5), see M.R.]

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

(7) wireworm and air cracks when removal causes a loss of more than ten percent of the total weight of the potato.

Department of Commerce

Proposed Permanent Rules Relating to Actuarial Opinion and Memorandum

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Department of Commerce intends to adopt the above-entitled rules 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 rules is *Minnesota Statutes*, sections 45.023, and 61A.25 subd. 2a.

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 his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the department will proceed pursuant to *Minnesota Statutes*, section 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted on or before November 25, 1992 to:

Donna M. Watz
Staff Attorney
Minnesota Department of Commerce
133 East Seventh Street
St. Paul, Minnesota 55101
(612) 297-1118

The proposed rules 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 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 Donna M. Watz, Staff Attorney, at the above referenced address.

If no hearing is required, upon adoption of the 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 related to legality. Any person may request notification of

STATE OF MINNESOTA
DEPARTMENT OF AGRICULTURE

In the Matter of the Proposed Adoption of the Rule of the State Department of Agriculture Governing Certified Seed Potatoes

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

(1) Notice of the Commissioner's intent to adopt the above-entitled rule was published in the *State Register* on October 26, 1992, and was sent by United States mail to all persons on the list maintained by the department pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 on October 21, 1992. (2) 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.

(4) All persons were given the opportunity to submit comment on the rule for 30 days after the notice of proposed rulemaking. (5) No requests for a public hearing on the rule were received by the department.

(7) 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 agency.

(8) The above-captioned rule is needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rule identified as the rule governing certified seed potatoes is adopted this 30th day of November, 1992, pursuant to authority vested in me by Minnesota Statutes, section 21.118.

(9)

Elton Redalen
Commissioner

In the Matter of the Adoption of
the Rule of the State Department
Agriculture Governing Certified
Seed Potatoes

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

Dated: 12/1/93


RECEIVED
DEC 15 1992
ffice of the Attorney Genera
Government Services Section
apitol Office Bldg. • Suite 50
525 Park Street
Paul, MN