

STATE OF MINNESOTA

DEPARTMENT OF AGRICULTURE

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

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

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

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

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

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

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

#### 3MCAR Sec. 1.0127 Purpose and Authority

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

#### 3MCAR Sec. 1.0128 Definitions

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

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

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

### 3 MCAR Sec. 1.0129 General Guidance

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

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

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

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

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

### 3 MCAR Sec. 1.0131 Requirements for Certified Seed Potato Production

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

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

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

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

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

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

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

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

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

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

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

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

### 3 MCAR Sec. 1.0134 Fees

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

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

The new language also specifies when fees are due.

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

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

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

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

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

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

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

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

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

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

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

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