

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 RULES 1555.6760 )

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, section 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 amendment is noncontroversial in nature because it is 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 this amendment, the department has directed that the rulemaking proceedings be conducted in accordance with the statutory provisions governing the adoption of noncontroversial rules, Minnesota Statutes, sections 14.22 to 14.28. Accordingly, the rulemaking proceedings on the proposed amendment are governed by that statute and no hearing will be conducted on the proposed amendment unless, on or before April 8, 1987, 25 or more persons submit to the department a written request for such hearing. In accordance with the requirements of Minnesota Statutes, section 14.23, this Statement of Need and Reasonableness was prepared and completed prior to the date that the proposed rule was published in the State Register.

II. GENERAL OVERVIEW

In 1951, the State of Minnesota adopted rule 1555.6770 Shipping Point Certificates or Bulk Seed Certificates. This rule states that an application for the inspection of a field planted with purchased certified seed potatoes shall include a copy of the shipping point certificate or bulk seed certificates for the total amount of purchased certified seed potatoes planted.

Simply put, this rule requires, for the sole purpose of identifying seed source at the time of application, that every load of seed potatoes that exchanges hands between certified seed potato growers must receive a Federal-State shipping point inspection. While at the same time, if growers choose to replant some of their own certified seed potatoes, no shipping point inspection certificates are required when making application for inspection. Other states, such as North Dakota and Wisconsin, address this situation by giving their growers the option of using an affidavit of seed lot identification or a

waiver of shipping point inspection. In this way, seed potatoes that are eligible for recertification may be exchanged between consenting parties without the added cost and inconvenience of a Federal-State shipping point inspection.

Within the Seed Potato Certification Law, MS21.113 is the only provision that addresses the timing of inspections. It states that seed potatoes must be inspected while growing in the field and again after harvest. No provision explicitly requires a shipping point inspection at the time that potatoes leave the custody of the certified grower. At the present, all seed potatoes are inspected while growing in the field and again after harvest during a storage inspection. The storage inspection documents yield per field, that the seed potatoes are properly stored, bins are labeled, only certified seed potatoes are present and there is no potential for disease contamination. At that point, the requirements of the law are met. Therefore, this rule clearly places an unjustified restriction on the local instate movement of certified seed potatoes between certified seed potato growers.

Another important consideration is sanitation. The movement of seed potatoes between the different classes of certified growers is in one direction: from Primary Foundation to Foundation to Certified. During the peak demand period for shipping point inspection, inspectors are required to repeatedly go from one potato storage to another. Often this is from a Certified class storage to a Primary Foundation class storage. This creates a very undesirable situation with great potential for introducing disease into a Primary Foundation class operation. Primary Foundation growers are aware of this and have expressed their discontent with the situation. In fact, the sanitation issue is the basis for other states giving certified growers the option to exchange seed without a shipping point inspection.

Enforcement of the present rule is at times very difficult to impossible. It is impractical and far too costly to maintain a staff of trained inspectors large enough to inspect every load of seed potatoes sold during the peak period in the spring. Consequently, the quality of inspections is compromised and this places unnecessary liability on the State. The proposed amendment would give a certified seed potato grower the option to forego the shipping point inspection and submit a Certificate of Origin when making application for inspection on a field planted with purchased seed potatoes. This amendment would free inspectors, during peak demand periods, to concentrate on critical inspections where seed is being shipped out of state or between growers that are demanding a shipping point inspection. Moreover, the potential for spread of disease, via the inspector's tools, would be greatly reduced. This change would also bring Minnesota into conformity with neighboring states.

### III. NEED FOR REASONABLENESS OF THE PROPOSED AMENDMENT TO RULES

- A. 1555.6760, subparts 1 and 2. Application for Inspection and Shipping Point Inspection Certificates, Bulk Seed Certificates, or Certificates of Origin.

The proposed amendment to the rules is reasonable because it will not diminish the quality of Minnesota certified seed potatoes or place additional restrictions on producers. The current rules require that each application for the inspection of a field planted with purchased certified seed shall include a copy of the shipping point certificate or bulk seed certificate for the total amount of purchased certified seed potatoes planted. This amendment would give the certified seed potato growers the option of purchasing seed potatoes without a Federal-State shipping point inspection and submitting a Certificate of Origin to satisfy the requirements for application. The proposed amendment will have no bearing on part 1555.6950 Minnesota Certified Seed Potato Grades. When a Certificate of Origin would require approval of the commissioner, the seller and the purchaser and would be restricted to intrastate shipments of certified seed potatoes that are eligible for recertification between certified seed potato producers. This procedure is followed in other states that certify seed potatoes, and it greatly facilitates the movement of seed between growers. The objective of the present rule is to identify the source of the purchased seed potatoes being entered for certification. This amendment would continue to meet this requirement while simplifying the process for the seller and purchaser if they agree to sue a Certificate of Origin. Subpart 2 is the recodification of 1555.6770 being repealed, plus amendments.

- B. 1555.6760, subparts 3 and 4 are the recodification of 1555.6780 and 1555.6790 which are being repealed.

#### 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 change will have on the certified seed potato industry.

The department has determined that the proposed amendment would simplify the present rules regarding application for inspection and places no additional economic restraints or demands on producers. This amendment would be a positive benefit to Minnesota certified seed potato producers.