

## APPENDIX B

# MONTANA DEPARTMENT OF AGRICULTURE AGRICULTURAL SCIENCES DIVISION

## Title 80, Chapter 3, Part 3, MCA Montana Produce Act

**80-3-301. Short title.** This part may be cited as the "Montana Produce Act".

**80-3-311. Standard grades for produce.** (1) Unless a Montana grade standard has been established, the standard grades for produce:

- (a) are limited to the U.S. grades governing the produce;
- (b) must conform in all respects and be identical with the most recent standards established by the U.S. department of agriculture for the produce; and
- (c) when conforming, must be accepted as the legal standards for this state.

(2) The department may by rule establish state grades for produce grown in Montana when the amount grown reaches a volume rendering it of market importance or when requested by the industry. State produce grades must be established in consultation with representatives of the various components of the produce industry, including growers, sellers, buyers, traders, wholesalers, retailers, and consumers.

(3) The grade "Montana unclassified" must contain at least 50% of produce that would grade U.S. No. 2 or better.

(4) Produce not conforming to established grades may be sold if it is marked in the same manner as graded produce, except that in place of specifying the grade, the word "ungraded" or "unclassified" must be used.

**80-3-315. Shipping point inspection -- fees.** Produce graded and prepared for shipment is subject to a shipping point inspection by the department upon request; however, Montana-grown seed potatoes that are entered in the Montana seed certification program and prepared for shipment off the farm for planting purposes are subject to a shipping point inspection by the department. Inspection fees must be set by rule and must be commensurate with the cost of providing the inspection.

### Administrative Rules of Montana Sub-Chapter 35 Grading of Certified Seed Potatoes

#### **4.12.3501 GENERAL REQUIREMENTS**

(1) The department of agriculture, pursuant to 80-3-311 and 80-3-315, MCA, adopts grade standards and inspection procedures to enforce those grades as further set out in these rules. For the purposes of grading certified seed potatoes, the department hereby adopts by reference the United States Standards for Grades of Potatoes as specified in 7 CFR Part 51 sections 1540 through 1566 of the January 1, 1998 edition with the exceptions specified in ARM 4.12.3501 through 4.12.3504.

(2) All seed potatoes shall be shipped under tags that represented all grade and classes to which they were sorted and certified.

(3) Final pack inspection.

(a) all Montana certified seed potatoes sold in bulk or offered for sale in bags shall be inspected by a federal or federal-state inspector. The final inspection shall be made before potatoes are moved from the

loading point. If the potatoes do not meet the final grade requirements, the grade certificate shall not be issued unless the potatoes are regraded to meet the requirements. Standard method of loading shall be used when loading trucks and/or railroad cars, or bulk shipments; and

(b) federal and federal-state grade inspectors are granted authority at any or all times to call in a potato specialist from the Montana state university (MSU) extension potato certification program if they suspect grower(s) are not handling certified seed potatoes in accordance with guidelines set forth by the MSU extension potato certification program, or if they suspect potatoes inspected do not conform in other respects with the requirements of MSU extension potato certification program. However, under no circumstances shall the department be held responsible for enforcing MSU extension potato certification program guidelines and procedures, and any failure to review for such compliance shall not be construed as approving for MSU extension potato certification program guidelines.

(4) Issuance of an official grade certificate by the department shall mean approval for department grading standards only.

(5) Official tags shall be issued by MSU extension potato certification program officials to the applicant or a designated agent. No mutilation of official tags by writing or marking over, or otherwise altering original information printed thereon, shall be permitted unless requested in writing by the grower and approved by the department of agriculture.

(6) The grower, to whom the official tags were issued, shall be responsible for the proper completion of the tags.

(7) Each lot of certified seed potatoes shall be inspected by either federal or federal-state inspectors at the time of shipment.

(8) Ungraded potatoes shall not be inspected.

(9) Washing of certified seed potatoes to be tagged with an official tag shall not be permissible unless requested by the buyer. Presence of soil on tubers shall not constitute reason for throwing them out of the grade. Grower should allow for weight of soil when packaging potatoes for sale.

(10) It shall be permissible to use official tags on potatoes containing an excess of oversize, undersize, and/or sprouts providing that the official grade certificate indicates that the potatoes exceed the tolerance. It shall be the responsibility of the grower to submit written evidence that the purchaser is willing to accept such a grade.

#### **4.12.3502 SEED CLASS DESIGNATION**

(1) At the time the tags are ordered by the grower, it shall be the responsibility of the MSU extension potato certification program to print clearly across the face of the appropriate grade tag the following: the proper class designation, growers name, address, and any other pertinent information necessary for shipment of the potato crop.

#### **4.12.3503 BLUE TAGS**

(1) The official blue tag shall be used to designate seed lots that are the equivalent of the U.S. No. 1 grade with the following exceptions:

(a) size -- the minimum size shall be 1 1/2 ounces and the maximum size shall be 12 ounces.

(b) combined total length of growth cracks may extend two-thirds length of tuber and/or the depth of one-fourth the diameter of the tuber.

(c) cuts and bruises shall be scored when removal causes loss of more than 10% of the total weight of a tuber.

(d) air cracks shall be scored only if the depth exceeds 1/2 inch.

(e) sunburn (greening) , hollow heart, hollow heart with discoloration, light brown discoloration or brown center shall be permissible.

(f) stem-end discoloration -- serious discoloration extending beyond a depth of 1/2 inch shall be scored unless verified by a department approved pathologist as not being a disease symptom.

- (g) immaturity, as indicated by feathering of skin, shall not disqualify provided there is no undue loss of weight from wilting or shriveling of tubers.
- (h) sprouts - - not more than 10% of the lot may have sprouts more than 3/4 inch in length. Individual sprouts or clusters shall not be scored on appearance or length if within the 10% tolerance.
- (i) oversized, undersized, and sprouts shall be permissible provided the excess tolerance is indicated on the official grade certificate.
- (j) freezing injury other than the condition of being frozen or affected by soft rot or wet breakdown shall be scored when removal of the affected area causes a loss of more than 10% of the total weight of the tuber. The tolerance shall be not more than 3 percent for freezing injury.
- (k) the tolerance shall be not more than 1% for potatoes which are affected by late blight tuber rot, soft rot or wet breakdown.

#### **4.12.3504 RED TAGS**

- (1) The official red tag shall be used to designate seed lots that are the equivalent of U.S. No. 2 grade with the following exceptions:
  - (a) size -- the minimum size shall be 1 1/2 ounces and the maximum shall be 12 ounces.
  - (b) growth cracks shall not be scored.
  - (c) surface or russet scab shall not be scored.
  - (d) cuts and bruises shall be scored when removal causes loss of more than 15% of the total weight of a tuber.
  - (e) second growth shall not be deliberately removed.
  - (f) the following blue tag exceptions shall also apply to red tags: air cracks, sunburn (greening) , stem-end discoloration, immaturity, sprouts, oversize, undersize, hollow heart, hollow heart with discoloration, light brown discoloration, brown center, freezing injury, and the tolerance for late blight tuber rot.

#### **4.12.3505 BULK SHIPMENTS**

- (1) Potatoes shipped in bulk shall meet all official grade and MSU extension potato certification program requirements. All carriers shall be tagged in an appropriate manner.
- (2) Official tag carrying information described in this section shall be used and, in addition, the following information must be filled out on the official bulk tag:
  - (a) inspection certification number;
  - (b) date inspected;
  - (c) buyer's name;
  - (d) date and time loaded;
  - (e) trucking firm's name and driver's initials;
  - (f) carrier license or car number; and
  - (g) approximate weight (100 lbs. occupies about 2.4 cubic feet, or .42 x cu. ft. = number of CWT's) .

### **Title 80, Chapter 5, Part 1, MCA Certification**

**80-5-140. Application of sections.** A person, firm, association, or corporation that issues, uses, or circulates any certificate, advertisement, tag, seal, poster, letterhead, marking, circular, or written or printed representation or description pertaining to seeds or plant parts intended for propagation or sale or sold or offered for sale in which the words "Montana state certified", "state certified", "Montana certified", or "one year off certified" or similar words or phrases are used or employed is subject to 80-5-140 through 80-5-144.

80-5-141. Rules by Montana state university-Bozeman -- certification agencies. Every person, firm, association, or corporation subject to the provisions of 80-5-140 through 80-5-144 shall observe, perform, or comply with all rules and standards for seed certification established or specified by Montana state university-Bozeman, hereafter referred to as the university, as to what crops grown or to be grown in Montana shall be eligible for certification hereunder, as to the conduct of such certification, either by said university directly or by agents or agencies authorized by it for the purpose, and as to standards, requirements, and forms of and for certification hereunder; provided, however, that not more than one such agent or agency for certification shall be designated for any one specified crop. No certification within the provisions of 80-5-140 through 80-5-144 shall be made or authorized except by or through said university.

**80-5-142. Certification work on self-supporting basis.** Certification work, whether conducted by said university or by an agency designated by it, shall be on a self-supporting basis and not for financial profit.

**80-5-143. Withholding certification.** The said university or its designated agency or agencies may withhold certification from any grower of seeds or plant parts who is engaged in or attempting to engage in any dishonest practices for the purpose of evading the provisions of 80-5-140 through 80-5-144, including standards and rules laid down by the said university or its designated agency or agencies to cover certification.

**80-5-144. Unlawful use of certification -- penalty.** A person, firm, association, or corporation may not issue, make, use, or circulate any document purporting to be or represented as a seed or plant part certification certificate, represent seeds or plant parts as certified, or use the term "Montana state certified", "state certified", "Montana certified", or "one year off certified" or similar words or phrases, without the authority and approval of the university. A person, firm, association, or corporation who violates 80-5-140 through 80-5-144 is guilty of a misdemeanor and shall be fined not less than \$100 or more than \$500 for each offense.

## **Title 80, Chapter 5, Part 4, MCA Seed Potato Disease Control Act**

**80-5-401. Short title.** This part may be cited as the "Seed Potato Disease Control Act".

**80-5-402. Definitions.** As used in this part, the following definitions apply:

(1) "Certified seed potatoes" means potato seed stock that has passed limited field and storage inspections and that has been grown in accordance with the certification rules and regulations of an official seed potato certifying agency of the state or country of origin and certified as such.

(2) "Commercial purpose" means planting or propagating potatoes for the purpose of selling, trading, or otherwise exchanging for profit.

(3) "Department" means the department of agriculture provided for in 2-15-3001.

(4) "Person" means an individual, firm, partnership, corporation, company, association, or separate business or legal entity.

(5) "Seed potatoes" or "potato seed" means all varieties of potato tubers, stems, and other plant parts of the herb plant known as *Solanum tuberosum* that are intended or used for seed purposes, planting, propagation, or reproduction.

80-5-403. Imported seed potatoes -- restrictions -- exceptions. (1) To control and prevent the spread of contagious diseases among seed potato stock, seed potatoes may not be imported into this state for any commercial purpose unless the seed potatoes are:

(a) from seed stock produced as a part of a certified seed potato crop in the state or country of origin and certified as being from that stock;

(b) subject to inspection at the Montana receiving point by a federal or state-federal standard grade inspector;

(c) shipped in a clean, disinfected container or transportation carrier; and

(d) accompanied by a United States department of agriculture or state of origin certification of inspection describing the seed variety, seed class, standard grade, quality or condition, and seed source and have affixed to each inspection certificate an official state of origin seed potato certification tag or label.

(2) The provisions of subsection (1) do not apply to any unit of the Montana university system when it is importing into this state potato seed for research or educational purposes.

(3) Seed or commercial potatoes, equipment, machinery, bags, or containers known to be diseased or contaminated with bacterial ring rot, golden nematode, or other diseases designated by department rule may not be brought into this state.

**80-5-404. Planting noncertified seed potatoes prohibited -- exceptions.** (1) To control and prevent the spread of contagious diseases and viruses among seed potato stock, it is unlawful for any person to plant or produce potatoes, either seed or commercial, from any seed potato stock unless the seed potatoes are: (a) from seed stock produced as a part of a certified seed potato crop in the state or country of origin

and certified as being from that stock;

(b) subject to inspection at the receiving point by a federal or state-federal standard grade inspector if from a source outside the county;

(c) shipped in a clean, disinfected container or transportation carrier; and

(d) for each individual lot of seed potatoes, accompanied by a United States department of agriculture or state of origin certificate of inspection describing the seed variety, seed class, standard grade, quality or condition, and seed source and have affixed to each inspection certificate an official state of origin seed potato certification tag or label.

(2) The provisions of this section do not apply

to: (a) potatoes grown in home gardens;

(b) potatoes grown by any unit of the Montana university system for research or educational purposes.

**80-5-405. Enforcement -- penalty.** (1) The department shall administer and enforce the provisions of this part.

(2) When potatoes are found to be in violation of this part, the department may issue orders: (a) restricting transportation of the potatoes;

(b) requiring treatment or destruction of the potatoes; or

(c) requiring other disease prevention or suppression measures.

(3) The department may adopt rules governing quarantines to prevent the intrastate or interstate movement of diseases of potatoes from infested areas and adjacent areas. Quarantines may restrict or prohibit the transportation of plants, seed potatoes, machinery, equipment, soil, or other material capable of transporting the disease in any stage of development.

(4) A person violating any provision of this part is guilty of a misdemeanor and upon conviction shall be punished as provided in 46-18-212.