# **01-001 DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY**

 **DIVISION OF QUALITY ASSURANCE AND REGULATIONS**

**Chapter 125: OFFICIAL GRADES, STANDARDS AND INSPECTION REQUIREMENTS FOR POTATOES PACKED IN MAINE**

**SUMMARY**: This chapter establishes official grades, standards and inspection requirements for all potatoes packed within the State of Maine and combines those requirements under one rule for efficient administration.

**I. DEFINITIONS**

 Unless otherwise provided herein, all terms shall have the meaning indicated in the *United States Standards for Grades of Potatoes*, as promulgated on March 27, 1991 attached hereto. In addition, the following terms have the meanings described below:

A. "Chef(s)" means large potatoes typically purchased by restaurants, hotels, resorts, or other institutional markets where size, count or portion control are desired. Such potatoes shall meet U.S. No. 1 grade standards and shall not be less than 2 3/4 inches in diameter or 8 ounces in weight.

B. "Commissioner" means the Commissioner of The Maine Department of Agriculture, Conservation and Forestry.

C. "Consumer pack" means a unit of 50 pounds or less net weight of potatoes contained in a bag or other type of container designed for the consumer market.

D. "Department" means the Maine Department of Agriculture, Conservation and Forestry, Division of Quality Assurance and Regulations.

E. "Long White Potatoes" means long type Irish potatoes with a smooth white skin, including but not limited to the following varieties: Shepody and White Rose.

F. "Lot" means a load or any number of like containers which contain potatoes of the same kind or similar variety located in the same place or conveyance. Potatoes which are different from each other as to grade, size, or type and size of container, identification marks or other factors shall be deemed to be separate lots. For the purposes of these rules a lot shall not exceed 50,000 pounds.

G. "Maine Bag" means any consumer pack of potatoes on which appears the word "Maine" in letters larger than 1/4 inch or a pictorial representation of the outline of the shape of the state.

H. "Maine Bag Grade" means any of the officially established grades of potatoes adopted by the Commissioner which qualify for packing in a Maine bag.

I. "Non Approved Varieties" means varieties that are not approved for packing or shipping by the Department in Maine Bags because of poor or unacceptable eating or cooking characteristics. The following variety is currently non- approved: Snowden. Additional varieties may be designated as non-approved through the rule-making process.

J. "Non Commercial Producer" means a potato producer that produces ten (10) or fewer acres of potatoes annually. The production of all family members sharing the same farm or equipment shall be included in calculating the farm production.

K. "Non-Maine Bag" means any consumer pack that is not a Maine bag.

L. "Organic Potatoes" means potatoes that are produced in the State of Maine by producers that are Certified Organic Farmers.

M. "Positive Lot Identification" means the affixing by, or under the supervision of, the inspector of a traceable code, consisting of numbers and/or letters, to containers by stamping or taping or other means approved by the Department.

N. "Principal display panel" means that part, or those parts of a label designed to be most likely displayed and examined under normal conditions of display at retail markets.

O. "Round type Irish potatoes" means those varieties classified as round to include white and yellow fleshed; red, white and blue skinned, round russets, etc.

P. "Russet Type Potatoes" means long type Irish potatoes with russeted skins, including but not limited to the following varieties: Bel Rus, Russet Burbank and Russet Norkotah.

Q. "Sprout Inhibitor" means a sprout suppressant approved or registered for use on potatoes by the Pesticides Control Board, such as Maleic Hydrazide or Chloro IPC.

R. "State of Maine Quality Trademark" means an official quality trademark described as either a silhouette of the State of Maine divided into three horizontal sections or three parallel stripes consisting of a blue stripe at the top, white in the center and red at the bottom. The use of these trademarks is subject to the provisions set forth by Department of Agriculture Rules (01-001, Chapter 135).

S. "Very Serious Damage" means defect(s) that affects the external appearance of the potato and cannot be removed without a loss of more than 15 percent of the total weight of the potato including peel covering the defective area.

**II. OFFICIAL GRADING AND INSPECTION STANDARDS**

A. Title 7 M.R.S.A. sub-section 951 authorizes and empowers the commissioner, "after holding public hearing, to establish and promulgate official definitions and standards for grading, classifying, packing and labeling potatoes and to change official standards from time to time. Such official standards shall not be lower in their requirements than the minimum requirements of the official standards for corresponding grades or classifications as promulgated from time to time by the Secretary of Agriculture of the United States, commonly known as U.S. Grades." The commissioner hereby incorporates by reference as the basic standards for grades of Maine potatoes the U.S. Standards for Grades of Potatoes of the U.S.D.A., Agricultural Marketing Service, as of March 27, 1991, attached hereto.

B. Title 7 M.R.S.A. sub-section 951 also authorizes the commissioner after consultation with the Maine Potato Board to adopt rules pursuant to the *Maine Administrative Procedure Act*, requiring the inspection of all or a portion of consumer packs of potatoes for conformity with U.S. No. 1 or other grades. Inspection under any rule adopted pursuant to this law must be performed by a licensed Federal/State or State Inspector, or a Certified Seed Specialist. At the request of and in consultation with the Maine Potato Board, the commissioner has adopted rules to require inspection of consumer packs of potatoes.

C. Notwithstanding paragraph II A., the minimum size for all potatoes packaged in containers labeled with U.S. No. 1 or a Maine Bag Grade shall not be less than 2 inches in diameter or 4 ounces in weight. Except that potatoes labeled as "Baby Maine Grade" or "Size B" are exempted from these requirements but must meet the requirements of the "Baby Maine Grade" or "Size B" designations. Other sizes may be allowed by the Commissioner for the purpose of test marketing. Any changes in size to allow for test marketing must be specifically approved by the Department.

D. The minimum size for potatoes designated as chef(s) shall not be less than 2 3/4 inches in diameter or 8 ounces in weight.

**III. MAINE BAG GRADES**

A. "Baby Maine Grade" shall meet the following requirements:

1. Quality

a. U.S. No. 1

b. Washed

c. Clean

d. Fairly well matured

2. Size

a. The minimum diameter shall not be less than 1 1/2 inches,

b. The maximum diameter shall not be more than 2 1/4 inches,

c. The range in diameter within each lot shall not be more than 1/2 inch.

3. Labeling requirements

Each container shall be conspicuously labeled with the words "Baby Maine Grade".

B. "Maine Chef's Special" shall meet the following requirements:

1. Quality

a. U.S. No. 1

b. Washed

c. Clean

d. Fairly well matured

2. Size

a. The minimum diameter of each round Type Irish potato shall not be less than 3 inches,

b. The maximum diameter of each round Type Irish potato shall not be more than 4 inches,

c. The minimum weight of each russet type or long white potato shall not be less than 10 ounces.

C. "Maine Grade" shall meet the following requirements:

1. Quality

a. U.S. No. 1

b. Washed

c. Clean

d. Fairly well matured

2. Size

a. The minimum diameter shall not be less than 2 inches,

b. The maximum diameter shall not be more than 3 1/2 inches,

c. Each lot shall meet the requirements of size A.

3. Type

Shall be round type Irish Potatoes.

D. "Maine Long White Grade" shall meet the following requirements:

1. Quality

a. U.S. No. 1

b. Washed

c. Clean

d. Fairly well matured

2. Size

a. The minimum size shall not be less than 2 inches in diameter or 4 ounces in weight,

b. The maximum size shall not be more than 12 ounces in weight except when packed in containers that are clearly labeled to show that the contents contain a larger size.

3. Type

Shall be Long type Irish potatoes.

E. "Maine Russet Grade" shall meet the following requirements:

1. Quality

a. U.S. No. 1

b. Washed

c. Clean

d. Fairly well matured

2. Size

a. The minimum size shall not be less than 2 inches in diameter or 4 ounces in weight,

b. The range in size within a lot shall not be more than 7 ounces in weight except when packed in containers that are clearly labeled to show that the contents contain a larger size.

3. Type

Shall be Russet type Irish potatoes.

4. Additional Requirements

Each lot of Russet Type Potatoes must meet any additional requirements set forth in the "Russet Marketing Order" (01-013 Chapter 2).

F. "Premium Maine Grade" shall meet the following requirements:

1. Quality

a. U.S. No. 1

b. Washed

c. Clean

d. Fairly well matured

2. Size

a. The minimum diameter shall not be less than 2 1/4 inches,

b. The maximum diameter shall not be more than 3 1/2 inches,

c. Each lot shall meet the requirements of Size A.

3. Labeling requirements

Each container shall be conspicuously labeled with the words "Premium Maine Grade".

4. Type

Shall be round type Irish Potatoes.

**IV. ADDITIONAL REQUIREMENTS FOR MAINE BAG GRADES**

A. All consumer packs of potatoes shall have been treated with an approved sprout inhibitor after January 15th of each year at rates of application and otherwise as prescribed on the Pesticide label. Consumer packs may be subject to random sampling and laboratory testing by the residue testing section of a designated Laboratory for the presence of an approved sprout inhibitor.

B. Non-approved varieties are not allowed in a Maine Bag.

**V. STATE OF MAINE QUALITY TRADEMARK**

Only packers who seek and obtain from the Department, a State of Maine Quality Trademark license shall be authorized to use said trademark. The Trademark may only be used on containers meeting the Maine Bag Grades. Any additional requirements set forth in the official use of the "State of Maine Quality Trademark" (01-001 Chapter 135) must be complied with.

**VI. NON-MAINE BAG DESIGNATIONS AND GRADES**

A. "Processing Grade" shall meet the following requirements:

1. **Quality**

a. Each lot shall consist of potatoes of one variety or similar varietal characteristics,

b. Each lot shall be free from blackheart, freezing injury, late blight, ring rot, soft rot or wet breakdown,

c. Each lot shall be free from serious damage caused by dirt or other foreign matter, hollow heart, internal discoloration, insects, larvae, sunburn or worms,

d. Each lot shall be free from very serious damage by bruises.

2. **Size**

The minimum diameter shall not be less than 1-1/2 inches.

3. **Containers** (including consumer packs);

a. Containers shall be a minimum size of 50 pounds net weight,

b. Containers shall be plain brown in color,

c. All printing shall be in black ink and limited to the principal display panel on the front of the container.

4. **Labeling and marketing**

Each container shall be conspicuously branded "Processing Grade," followed by the words "For Processing Use only - Not For Sale At Retail Level" in letters of at least 2 inches in height. Processing Grade Potatoes can only be sold for use in processing.

B. "Unclassified Grade" shall meet the following requirements:

1. **Quality**

a. Each lot shall consist of potatoes of one variety or similar varietal characteristics,

b. Each lot shall be free from blackheart, freezing injury, late blight, ring rot, soft rot or wet breakdown,

c. Each lot shall be free from serious damage by sunburn.

2. **Size**

The minimum diameter shall not be less than 1 7/8 inches.

3. **Containers**

Unclassified potatoes may be packed only in containers meeting the following specifications:

a. Containers shall be constructed of solid paper or solid paper with a mesh window. The size of the container shall be either 20 or 50 lbs. net weight,

b. Containers shall be plain brown or white in color,

c. All printing must be in black or blue ink,

d. Other containers, or variations thereof, must be specifically approved by the Department.

4. **Labeling**

Each container shall be conspicuously branded "unclassified" in letters of at least 1/2 inch in height.

5. **Disclaimer**

Each container of "unclassified" potatoes shall conspicuously include the following disclaimer in letters at least 1/4 inch in height: "These potatoes are ungraded and may be affected by various blemishes and/or defects which may be peeled away prior to consumption". The disclaimer shall be contained within a pronounced rectangle located on the principal display panel or prominently on the back of the container.

**VII. TOLERANCES**

To allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances, by weight or equivalent basis, are provided as specified.

A. **For Defects**

1. **Baby Maine Grade, Maine Grade, Maine Long White Grade and Maine Russet Grade**

a. A total of 8 percent of the potatoes in any lot may fail to meet the requirements of this grade; provided that included in this tolerance not more than the following percentages shall be allowed for the defects listed:

1. 5 percent for external defects,

2. 5 percent for internal defects,

3. 3 percent for potatoes which are affected by freezing, late blight, ring rot, soft rot, southern bacterial wilt or wet breakdown, including therein not more than 1 percent for potatoes which are frozen or affected by soft rot or wet breakdown.

2. **Maine Chef's Specials and Premium Maine Grade**

a. A total of 8 percent of the potatoes in any lot may fail to meet the requirements of this grade; provided that included in this tolerance not more than the following percentages shall be allowed for the defects listed:

1. 4 percent for external defects,

2. 4 percent for internal defects,

3. 2 percent for potatoes which are affected by freezing, late blight, ring rot, soft rot or wet breakdown, including therein not more than 1 percent for potatoes which are frozen or affected by soft rot southern bacterial wilt or wet breakdown.

3. **Processing Grade**

a. A total of 11 percent of the potatoes in any lot may fail to meet the requirements of this grade; provided that included in this amount not more than the following percentages shall be allowed for the defects listed:

1 6 percent for external defects,

2. 5 percent for internal defects,

3. 3 percent for potatoes which are affected by freezing, late blight, ring rot, soft rot, Southern bacterial wilt or wet breakdown, including therein not more than 1 percent for potatoes which are frozen or affected by soft rot or wet breakdown.

4. **Unclassified**

a. A total of 10 percent of the potatoes in any lot may fail to meet the requirements of this grade, provided that included in this amount not more than the following percentages shall be allowed for the defects listed:

1. 10 per cent for defects including not more than 5% for blackheart,

2. 3 percent for potatoes which are affected by freezing, late blight, ring rot, soft rot, Southern bacterial wilt or wet breakdown, including therein not more than 1 percent for potatoes which are frozen or affected by soft rot or wet breakdown.

B. **For Off-Size**

Not more than 3 percent of the potatoes in any lot may be smaller than the required or specified minimum size except that a tolerance of 5 percent shall be allowed for potatoes packed to meet a minimum size of 2 1/4 inches or larger in diameter or 5 ounces or more in weight. In addition, not more than 10 percent may be larger than any required or specified maximum size.

C. **Application of Tolerances**

Individual samples shall have not more than double the tolerances specified, except that at least one defective and one off-size potato may be permitted in any sample: Provided, that en route or at destination one-tenth of the samples may contain three times the tolerance permitted for potatoes which are frozen or affected by soft rot or wet breakdown: and provided further, that the averages for the entire lot are within the tolerances specified for the grade.

**VIII. SAMPLES FOR GRADE AND SIZE DETERMINATION**

A. Individual samples shall consist of at least 20 pounds:

1. When individual packages contain at least 20 pounds, each individual sample is drawn from one package,

2. When packages contain less than 20 pounds, a sufficient number of adjoining packages are opened to provide at least a 20-pound sample,

3. The number of such individual samples drawn for grade and size determination will vary with the size of the lot.

**IX. MANDATORY INSPECTION AND SHIPPING**

A. All potatoes packed in Maine in consumer packs must be inspected and pass the grade and other requirements hereof.

1. **Certification**

a. No person shall pack potatoes in consumer packs unless he/she has given notice of intent to pack to the Department prior to the commencement of packing.

b. All potatoes shall be inspected and certified during the process of, or immediately prior to, being placed in a trailer or other conveyance, by a Federal/State or State Inspector, a Certified Seed Specialist or other person(s) authorized by the Department.

c. All potatoes shall meet or exceed the minimum grade requirements of the grade shown on the container.

d. Each lot of potatoes within or being placed in a trailer or other conveyance shall be covered by an unrestricted, original federal/state certificate of inspection or serialized notesheet that accurately describes the lot and includes the correct trailer, or other conveyance, or positive lot identification number.

e. Each Inspection Certificate shall be issued no more than four days prior to shipment.

f. Warehouse Certificates shall be unrestricted and include positive lot identification.

B. **Fees for Inspection**

The Department shall establish, assess and collect fees for all inspections of potatoes made pursuant to these rules. The fees shall be on a uniform basis, in a reasonable amount, which the Department shall determine to be sufficient to cover the cost of such inspection. Fees shall be promptly paid by the packer or other person receiving the inspection service. Failure to pay for fees after 30 days of the date of billing incurs a late charge of 10% plus reasonable interest. Continued failure to pay will result in refusal by the Department to provide inspection services to that person and any other person or firm having a legal relationship to that person.

C. **Shipping**

No packer, shipper, dealer, or broker shall prepare for market, send to market, arrange for the sale of, or have in their possession, or under their control, any potatoes required to be inspected which have not been inspected and determined at point of origin by a duly authorized inspector to have met the standards required by this Chapter.

D. **Exemptions and Waivers from Grade Inspection**

1. Exemptions from mandatory inspection are provided as follows:

a. Potatoes produced by "non-commercial producers",

b. Certified Organic potatoes,

c. Potatoes sold directly by the producer to consumers through roadside stands, farmers markets or other means, provided that all labeling and grading requirements are complied with,

d. Potatoes which are identified, certified and inspected as foundation or certified seed potatoes,

e. Potatoes intended and actually delivered for charitable purposes and not for sale,

f. Waivers from inspection may be granted by the Department where inspection is impractical because of remote location, or if the total volume of potatoes sold to all persons collectively in any trailer or other conveyance does not exceed 2000 pounds. Waivers can only be obtained by notifying the Department prior to the commencement of packing. Notification shall be on forms provided by the Department. Potatoes exempted from inspection must be in compliance with all labeling and grading requirements.

E. **Inspection Advisory Committee**

The Maine Potato Quality Control Board shall serve as the inspection advisory committee. The purpose of the committee shall be to advise the Department of concerns regarding the inspection service. Decisions regarding grade or interpretation of these rules shall be the responsibility of the Department.

F. **Enforcement**

1. The enforcement of these regulations is vested in the Department as follows:

a. The Department may seize, embargo or detain any load or lot of potatoes, or any portion thereof, if such potatoes are being held, sold or transported in violation of these rules.

b. Potatoes in consumer packs awaiting shipment on the warehouse floor that have not been positive lot identified shall be in violation of these rules.

c. If the Department has reason to believe that potatoes being placed in a trailer or other conveyance do not meet the inspection and grade requirements, it shall be the responsibility of the packer to provide inspector notes, or other documentation to verify compliance.

**X. PENALTIES**

Any person who violates any of the provisions of these regulations shall be subject to the penalty provisions of Title 7 Maine Revised Statutes Annotated and applicable Department Regulations.

**XI. VARIETIES**

Disputes arising concerning potato varieties shall be settled by a determination of variety identification made by the Division of Plant Industry of the Department or the Plant Genetics Section of a designated University or other qualified resource. In the event that these resources do not agree, the Commissioner shall be the final decision maker.

STATUTORY AUTHORITY: 7 M.R.S.A. §§ 951, 951-B, 954-A, and 1033-A(3)

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