CHAPTER 401

CERTIFIED SEED

§2101. Definition

The term "certified seed" as used in this Title shall be deemed to mean potato, vegetable, forage crop or grain seeds as shall have been grown and prepared for sale in accordance with regulations laid down by the commissioner and for which a certificate or tag has been issued as provided in section 2103. Authority to make, in a manner consistent with the Maine Administrative Procedure Act, all reasonable rules and regulations is given the said commissioner. [PL 1977, c. 694, §130 (AMD).]

No seed potatoes grown outside the State shall be sold or exposed for sale in the State unless that seed meets the standards of Maine certified seed potatoes as defined by the commissioner. [PL 1979, c. 321 (NEW).]

SECTION HISTORY

PL 1977, c. 694, §130 (AMD). PL 1979, c. 321 (AMD).

§2102. Certification and inspection fee

A grower of potato, vegetable, forage crop or grain seeds may make application to the commissioner for inspection and certification of a crop growing or to be grown in this State. The grower shall provide the commissioner with the location and a description of the land on which the crop is grown and any additional information required by the commissioner. The grower shall enter into an agreement to pay inspection and certification fees determined by the commissioner to cover the cost of inspection and certification. Upon entering into an agreement with a grower, the commissioner or an agent of the commissioner shall list that grower's crops to be inspected and shall inspect and certify the crops in accordance with rules adopted pursuant to this chapter. All certification and inspection fees received in accordance with this section must be deposited in the Certified Seed Fund established in section 2107. [PL 2003, c. 578, §5 (RPR).]

SECTION HISTORY

PL 1977, c. 694, §131 (AMD). PL 2003, c. 578, §5 (RPR).

§2103. Certificates and counterfeits

The commissioner may issue a certificate or tag which shall be attached to each container or package in which certified seed shall be offered or exposed for sale. Such tag or certificate shall indicate the name of the grower, the shipping station or depot, the name of the inspector making the final inspection, the variety of the seed and shall bear the imprint of the seal of the State. Any tag having the words "inspected" or "certified seed" thereon, attached to the container or package in which certified seed shall be offered or exposed for sale, shall be so attached thereto that the whole of said certificate or tag shall be in full view. Any person who shall knowingly misuse any such tag or certificate or who shall attach to any package or container of seed, which has not been duly inspected and certified, any such tag or certificate which shall have printed thereon the words "certified seed" or which by reason of color, size, shape or otherwise may convey the impression that the seed has been certified by the commissioner, or his agents, commits a civil violation for which a forfeiture of $50 may be adjudged for each violation and shall be thenceforth denied the privileges of this chapter. [PL 1977, c. 696, §90 (AMD).]

SECTION HISTORY

PL 1977, c. 696, §90 (AMD).

§2103-A. Certification of seed potatoes

1. Certification required. Seed potatoes may not be certified beyond 5 generations of the seed originally acquired from a nuclear seed generation source meeting criteria established by the department's rules. Seed potatoes imported into the State must meet the State's certification standards and all import certificates must designate the imported seed's generation, which must equal and compare to a state certified seed designation. The imported seed must "flush out" at the same rate as the equivalent state seed generation. The commissioner may test, or cause to be tested, a seed lot imported into the State if the commissioner has reason to believe the seed lot is, or may be infected with a potato disease that poses a risk to the well-being of the State's potato industry. A person importing seed or receiving imported seed that the commissioner indicates must be tested shall submit a sample for testing. A person may not plant seed from an imported seed lot required to be tested under this subsection until the seed sample is tested and meets allowable disease standards for seed potatoes produced in the State.
[PL 1997, c. 538, §2 (AMD).]

2. Post-harvest tested. A seed potato that has not been post-harvest tested may not be certified. Seed shipped before post-harvest test results are available must be certified based on field certification.
[PL 2019, c. 229, §1 (AMD).]

3. Bacterial ring rot. The commissioner may withhold from certification for in-state sales for that year any seed potatoes grown on a farm on which bacterial ring rot has been detected.
[PL 1987, c. 336 (NEW).]

4. Release to public. For the benefit of the Maine potato industry as a whole, only varieties of seed potatoes that have been released to the public, as provided in this subsection, may be certified, except that varieties of seed potatoes that are protected by patent or are otherwise not released to the public may be certified if the applicant for certification demonstrates that the applicant has been authorized to propagate the variety by the patent holder or, if there is no patent, the registered breeder. Notwithstanding Title 1, chapter 13, subchapter I, all records pertaining to patented and nonreleased potato varieties received or kept by the department are confidential and not available for inspection. A grower may authorize in writing the disclosure of records pertaining to patented or nonreleased potato varieties. Pursuant to the rule-making provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, the commissioner shall establish rules for the administration of this subsection, including, without limitation, procedures for demonstrating authorization from a patent holder or registered breeder and the establishment of a registry of bona fide breeders and patent holders of potato varieties. For purposes of this subsection, a potato variety is deemed to have been released to the public upon publication of a description of that variety for purposes of release in the North America Potato Variety Inventory, published by the Potato Association of America, or in the American Potato Journal or another equivalent scientific or technical journal.
[PL 1997, c. 388, §5 (AMD).]

5. Rules. The commissioner may adopt rules to provide for exemptions from any of the requirements of this section when the application of the requirements would work a hardship on the Maine potato industry, and seed potato quality would not thereby be jeopardized; provided that the commissioner may not waive the requirements of subsection 4 relating to the certification of seed potatoes of patented or nonreleased potato varieties.
[PL 1987, c. 336 (NEW).]

6. Repeal. Subsection 7 is repealed July 1, 1988 and subsection 8 is repealed July 1, 1990.
[PL 1993, c. 125, §1 (AMD).]

7. Limitation.
[PL 1987, c. 336 (NEW); MRSA T. 7 §2103-A, sub-§6 (RP).]

8. Grower's own seed.

[PL 1987, c. 336 (NEW); MRSA T. 7 §2103-A, sub-§6 (RP).]

SECTION HISTORY

PL 1983, c. 565, §1 (NEW). PL 1983, c. 727 (AMD). PL 1987, c. 336 (RPR). PL 1993, c. 125, §1 (AMD). PL 1997, c. 388, §5 (AMD). PL 1997, c. 538, §2 (AMD). PL 2019, c. 229, §1 (AMD).

§2103-B. Foundation seed potato production areas

The commissioner may, upon the request of potato growers in a specified area and in a manner consistent with the Maine Administrative Procedure Act, Title 5, chapter 375, designate "foundation seed potato production areas" and, in consultation with the Seed Potato Board, Cooperative Extensive Service, University of Maine System Agricultural Experiment Station and appropriate industry organizations, establish within these areas such certified seed production practices as he deems beneficial to the industry. [PL 1985, c. 779, §36 (AMD).]

SECTION HISTORY

PL 1983, c. 565, §1 (NEW). PL 1985, c. 779, §36 (AMD).

§2104. Arrears in payments

No person who is in arrears as to payment for past services of the department under sections 2101 to 2103 shall be entitled to further services until payment of all such arrears shall have been made.

§2104-A. Arrears in payments to Seed Potato Board

A person who on July 15th of any year is in arrears as to full payment for potato seed purchased from the Seed Potato Board is not eligible for listing in the Maine certified seed potatoes book for that year published by the department's division of animal and plant health. [PL 2011, c. 420, Pt. A, §4 (AMD).]

SECTION HISTORY

PL 2009, c. 393, §6 (NEW). PL 2011, c. 420, Pt. A, §4 (AMD).

§2105. Violations

Any person who violates any of the provisions of this chapter or any rule promulgated under this chapter is subject to a civil penalty not to exceed $500. [PL 1983, c. 565, §2 (NEW).]

SECTION HISTORY

PL 1983, c. 565, §2 (NEW).

§2106. Working capital advance

The State Controller is authorized to advance $300,000 from the General Fund unappropriated surplus to the Certified Seed Fund established in section 2107 during any state fiscal year, if requested in writing by the director of the division of animal and plant health, to be used to provide cash necessary to meet current expenditures of the seed certification program. These funds must be returned to the General Fund unappropriated surplus before the close of the state fiscal year in which the advance was made. The State Controller shall report to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs within 30 days of making any working capital advance for this purpose. [PL 2011, c. 420, Pt. A, §5 (AMD).]

SECTION HISTORY

PL 1999, c. 4, §E1 (NEW). PL 2003, c. 578, §6 (AMD). PL 2011, c. 420, Pt. A, §5 (AMD).

§2107. Certified Seed Fund

There is established the Certified Seed Fund. The fund receives all certification and inspection fees paid in accordance with section 2102 and all other funds received in support of operating a statewide

seed certification program. All money deposited in the fund must be used for the management and operation of the seed certification program. Unexpended balances in the fund do not lapse and must be carried forward to be used for the purposes specified in this section. Any interest earned on the revenue deposited in the fund accrues to the fund. [PL 2003, c. 578, §7 (NEW).]

SECTION HISTORY

PL 2003, c. 578, §7 (NEW).

§2108. Annual General Fund transfer

On or before July 31st of each fiscal year, the State Controller shall transfer $120,000 from General Fund undedicated revenue to the Certified Seed Fund established in section 2107. [PL 2005, c. 12, Pt. HHH, §1 (NEW).]

SECTION HISTORY

PL 2005, c. 12, §HHH1 (NEW).

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