

TITLE 22
AGRICULTURE AND HORTICULTURE

CHAPTER 9
POTATOES -- GRADING AND PACKING

22-901. APPLICATION OF ACT. When potatoes are marketed or offered for shipment, within the state of Idaho, for packing, repacking or processing purposes, or when potatoes are offered for sale by the grower direct to the consumer in lots of less than one (1) carload within the state or when "Idaho Certified" seed stock, as defined by the Idaho state seed certification officials are offered for sale, the provisions of this act prescribing grades and requiring grading shall not apply; but in all other cases when potatoes are packed for sale, offered for sale, sold, or offered for shipment within or outside the state of Idaho, such potatoes shall be graded either as "Idaho Deluxe," "Idaho Standard," or "Idaho Utility": provided, however, that all potatoes marketed within the state of Idaho or outside the state of Idaho may conform to grades promulgated by an act of congress or promulgated by authority of the secretary of agriculture of the United States, if the shipper or grower so desires. It is further provided that all potatoes not meeting the requirements of grade hereinabove provided for and hereinafter set out are hereby declared to be detrimental to the potato industry of the state of Idaho and shall not be marketed, except as provided in this section. All potatoes conforming to the grades hereinabove and hereinafter set out shall be packed in containers or bags in conformity with the following prescribed rules. When potatoes are to be shipped out of state in bulk, permission shall first be obtained from the Idaho department of agriculture. All permits issued hereunder shall be issued subject to the requirement that the potatoes to be shipped must be graded and must either meet the Idaho grades or the United States department of agriculture grades for potatoes; except that potatoes shipped outside the state for processing into some changed form or product do not need to be graded. The Idaho department of agriculture may promulgate the necessary rules and forms to carry out this paragraph.

[22-901, added 1941, ch. 32, sec. 1, p. 72; am. 1965, ch. 146, sec. 1, p. 285; am. 1970, ch. 175, sec. 1, p. 505.]

22-902. IDAHO DELUXE. Idaho Deluxe potatoes shall consist of potatoes of one (1) variety or similar varietal characteristics, the minimum size of which shall be either two (2) inches in diameter or four (4) ounces in weight, except as hereinafter provided for, and not less than forty percent (40%) of the potatoes in the lot shall be six (6) ounces or larger, and which are fairly well shaped, free from freezing injury, blackheart, and soft rot or wet breakdown and from damage caused by dirt or other foreign matter, sunburn, second growth, growth cracks, air cracks, internal disorders, cuts, shriveling, sprouting, scab, blight, dry rot, rhizoctonia, other disease, insects or mechanical or other means, except that this grade may contain not more than fifteen percent (15%) by weight of potatoes meeting the requirements of Idaho Standard Grade as hereinafter provided for, providing that none of this fifteen percent (15%) of potatoes by weight shall be smaller in size by weight than ten (10) ounces.

In order to allow for variations other than size, incident to proper grading and handling, not more than six percent (6%) of the potatoes in any

container may be below the requirements of the grade, but not to exceed one sixth ($1/6$) of this amount or one percent (1%) may be allowed for potatoes affected by soft rot or wet breakdown. In addition, not more than five percent (5%) by weight may be damaged by internal disorders, and in addition, not more than three percent (3%) may be below the prescribed size, provided, however, that when potatoes of this grade are packed to meet a minimum size requirement of six (6) ounces or more by weight, the tolerance for undersize shall be five percent (5%), but not more than two percent (2%) may be smaller than two (2) inches in diameter or four (4) ounces in weight.

[22-902, added 1941, ch. 32, sec. 2, p. 72; am. 1970, ch. 175, sec. 2, p. 505.]

22-903. IDAHO STANDARD. Idaho Standard potatoes shall consist of potatoes of one (1) variety or similar varietal characteristics, the minimum size of which shall be two (2) inches in diameter, or four (4) ounces in weight, except as hereinafter provided for, and not less than forty percent (40%) of the potatoes in the lot shall be six (6) ounces or larger, and which are free from freezing, injury, blackheart, soft rot or wet breakdown and from serious damage caused by dirt or other foreign matter, sunburn, second growth, growth cracks, air cracks, internal disorders, cuts (potatoes with clipped ends permissible only in tolerance hereinafter provided for), shriveling, scab, blight, dry rot, other disease, insects or mechanical or other means.

In order to allow for variations other than size, incident to proper grading and handling, not more than six percent (6%) of the potatoes in any container may be below the requirements of the grade, but not to exceed one sixth ($1/6$) of this amount or one percent (1%) shall be allowed for potatoes affected by soft rot or wet breakdown. In addition, not more than five percent (5%) may be seriously damaged by internal disorders, and not more than three percent (3%) may be below the prescribed size provided, however, that when potatoes of this grade are packed to meet a minimum size requirement of six (6) ounces or more by weight, the tolerance for undersize shall be five percent (5%), but not more than two percent (2%) may be smaller than two (2) inches in diameter, or four (4) ounces in weight.

[22-903, added 1941, ch. 32, sec. 3, p. 72; am. 1970, ch. 175, sec. 3, p. 505.]

22-904. IDAHO UTILITY. Idaho Utility potatoes shall consist of potatoes of one (1) variety or similar varietal characteristics and shall be not less than one and one-half ($1\frac{1}{2}$) inches in diameter and which are free from freezing injury, blackheart, and soft rot or wet breakdown, and from serious damage caused by dirt or other foreign matter, sunburn, second growth, growth cracks, air cracks, internal disorders, cuts, shriveling, scab, blight, dry rot, other disease, insects or mechanical or other means.

In order to allow for variations other than size incident to proper grading and handling, not more than six percent (6%) of the potatoes in any container may be below the requirement of the grade, but not to exceed one sixth ($1/6$) of this amount, or one percent (1%), shall be allowed for potatoes affected by soft rot or wet breakdown. In addition, not more than three percent (3%) may be below the prescribed minimum size and not more than five percent (5%) in addition may be seriously damaged by internal disorders.

[22-904, added 1941, ch. 32, sec. 4, p. 72; am. 1970, ch. 175, sec. 4, p. 505.]

22-905. APPLICATION OF TOLERANCES. All percentages shall be calculated on the basis of weight.

The tolerances for the standards are on a container basis. However, if the averages for the entire lot, based on sample inspection, are within the tolerances specified in the standards, the contents of individual packages in the lot may vary from the specified tolerances subject to the following limitations.

In packages containing over 15 specimens, when the tolerance specified is 10 percent or more, not over one tenth (1/10) of the individual packages in the lot may contain more than one and one-half (1 1/2) times the tolerance, but no package may contain more than four (4) times the tolerance for soft rot or wet breakdown.

When the tolerance specified is less than 10 percent, not over one tenth (1/10) of the individual packages in any lot may contain more than double the tolerance specified, but no package may contain more than four (4) times the tolerance for soft rot or wet breakdown.

In packages containing 15 specimens, or less, not over one tenth (1/10) of the individual packages in any lot may contain more than double any tolerance specified, except that at least one (1) defective specimen shall be permitted in a package.

[22-905, added 1941, ch. 32, sec. 5, p. 72.]

22-906. BAKERS. When potatoes, sized six (6) ounces or larger, are packed in containers branded in accordance with the grade to which they conform, they may, in addition, carry a tag or brand bearing the designation "Idaho Bakers."

[22-906, added 1941, ch. 32, sec. 6, p. 72.]

22-907. CONTAINERS. The term "containers" means cloth, plastic, paper, or fiber sacks (such as are customarily used in the shipment of potatoes), cartons, barrels, boxes, crates, hampers, or baskets. Cloth or fiber sacks in which potatoes not exempt under the provisions of this act are packed for shipment, shall be new or recleaned, bright, undamaged sacks. Provided, however, that on and after September 1, 1949, no container known as a mugged bag can be used on any grade or grades of potatoes as defined in this act. The term "mugged bag" means any bag, after such bag has been filled and the top thereof closed or secured, which is not fully closed at the top and which leaves the mouth thereof partially open so that the lips of the bag are not drawn closely together.

The term "undamaged" means that sacks have unbroken hems and may have not more than two (2) holes of not more than one (1) inch in diameter.

[22-907, added 1941, ch. 32, sec. 7, p. 72; am. 1949, ch. 108, sec. 1, p. 197; am. 1965, ch. 146, sec. 2, p. 285.]

22-908. BRANDS. When potatoes are packed in containers, such containers shall be branded, marked, labeled, or stenciled in a plain and legible manner with the name of the grade as hereinbefore provided for and to which such potatoes conform. When the containers contain one hundred (100) pounds

or more, such brands, marks, labels, or stencils shall be in two (2) inch or larger block type letters, but when the containers contain less than one hundred (100) pounds, the brands, marks, labels, or stencils may be in proportion to the size of the container.

The brands, marks, labels, or stencils shall be branded in a color or colors to contrast with the color of the container, and shall be on the same side of the bag or container as the private brand or other printing on the container, and shall be in such position as to be readily legible with the other printed matter or design on the container. On one hundred (100) pound bags, the grade designation shall not be nearer than six (6) inches to the top or bottom of the bag; on bags containing less than one hundred (100) pounds, the grade designation shall be placed in position in proportion relatively to the one hundred (100) pound bag.

[22-908, added 1941, ch. 32, sec. 8, p. 72.]

22-909. PRIVATE BRANDS. Private brands may be used when such brands include the official grade title and are registered, approved and recorded by the state department of agriculture.

[22-909, added 1941, ch. 32, sec. 9, p. 72.]

22-910. DEFINITION OF TERMS. As used in these standards:

1. "Soft rot or wet breakdown" means any soft, mushy, or leaky condition of the tissue such as slimy soft rot, leak, or wet breakdown following freezing or sunscald.

2. "Diameter" means the greatest dimension at right angles to the longitudinal axis. The long axis shall be used without regard to the position of the stem (rhizome).

3. "Fairly well shaped" means that the appearance of the individual potato or the general appearance of the potatoes in the container is not materially injured by pointed, dumbbell-shaped or otherwise ill-formed potatoes.

4. "Free from damage" means free from any injury or defect which materially injures the appearance of the individual potato or the general appearance of the potatoes in the container, or which cannot be removed without a loss of more than five percent (5%) of the total weight of the potato including peel covering defective area. Loss of outer skin (epidermis) shall not be considered as damage unless the skinned surface is materially affected by very dark discoloration. Any one (1) of the following defects or any combination of defects the seriousness of which exceeds the maximum allowed for any one (1) defect shall be considered as damage:

(a) Second growth or growth cracks which have developed to such an extent as to materially injure the appearance of the individual potato or the general appearance of the potatoes in the container.

(b) Air cracks which are deep, or shallow air cracks which materially injure the appearance of the individual potato or the general appearance of the potatoes in the container.

(c) Shriveling, when the potato is more than moderately shriveled, spongy, or flabby.

(d) Sprouting when more than ten percent (10%) of the potatoes have sprouts over three-fourths (3/4) of an inch long.

(e) Surface scab which covers an area of more than five percent (5%) of the surface of the potato in the aggregate.

(f) Pitted scab which affects the appearance of the potato to a greater extent than the amount of surface scab permitted or causes a loss of more than five percent (5%) of the total weight of the potato including peel covering defective area.

(g) Rhizoctonia when the general appearance of the potatoes in the container is materially injured or when individual potatoes are badly infected.

(h) Dirt when the general appearance of the potatoes in the container is more than slightly dirty or stained, or when individual potatoes are badly caked with dirt or badly stained; or other foreign matter which materially affects the appearance of the potatoes.

5. "Free from serious damage" means free from any injury or defect which seriously injures the appearance of the individual potato or the general appearance of the potatoes in the container, or which cannot be removed without a loss of more than ten percent (10%) of the total weight of the potato including peel covering defective area. Any one (1) of the following defects or any combination of defects the seriousness of which exceeds the maximum allowed for any one (1) defect shall be considered as serious damage:

(a) Dirt when the general appearance of the potatoes in the container is seriously affected by tubers badly caked with dirt; or other foreign matter which seriously affects the appearance of the potatoes.

(b) Cuts when both ends are clipped or when more than an estimated one-third ($1/3$) of the potato is cut away from one (1) end or when the remaining portion of the clipped potato weighs less than four (4) ounces.

Other cuts which seriously affect the appearance of the individual potato or which cannot be removed without a loss of more than ten percent (10%) of the total weight of the potato including peel covering defective area.

(c) Shriveling when the potato is excessively shriveled, spongy, or flabby.

(d) Surface scab which covers an area of more than fifty percent (50%) of the surface of the potato in the aggregate.

(e) Pitted scab which affects the appearance of the potato to a greater extent than the amount of surface scab permitted or causes a loss of more than ten percent (10%) of the total weight of the potato including peel covering defective area.

6. "Sampling" means the procedure used to take a representative sample from a lot:

(a) Random sampling: The process of selecting a sample from a lot whereby each unit in the lot has an equal chance of being chosen.

(b) Sample portion: A randomly selected portion of the potatoes taken from the lot which when composited with other portions will represent the quality of the lot.

7. "Recognized types of sampling procedures" mean:

(a) Official sampling: The sampler is a trained and licensed employee of the federal/state inspection service. The federal/state inspection service or the Idaho department of agriculture assumes full responsibility for employees in this position, ensuring that proper sampling methods and procedures, sample identity and security are maintained.

(b) Supervised sampling: The sampler is not an employee of the federal/state inspection service nor the Idaho department of agriculture. Sampling methods and procedures, sample identity and security are randomly checked and supervised by the federal/state inspection service.

Before a sampler can be employed as a supervised sampler, the sampler shall be trained and approved by the federal/state inspection service. Federal/state inspection service registers shall contain the names of trained and approved samplers used for this type of sampling. Worksheets and certificates or computer printouts from this type of sampling shall show supervised sampling.

8. "Submitted samples" mean samples that are drawn, marked and controlled by the applicant requesting inspection and submitted to the inspection service for grading results. Work sheets and certificates or computer printouts from this type of sampling shall show "submitted sample."

9. Any handler of potatoes requesting grade or quality inspections from the federal/state inspection service using sampling methods other than official sampling shall notify all financially interested parties.

10. Any processor, packer or shipper of potatoes who uses other than the official sampling as defined in this chapter, shall notify the grower of this fact. The penalties for any deviation in sampling procedures or for tampering with a sample or altering a certificate are provided in section [22-912](#), Idaho Code.

[22-910, added 1941, ch. 32, sec. 10, p. 72; am. 1990, ch. 190, sec. 1, p. 420.]

22-911. RETAIL SALES OF POTATOES. (a) It shall be unlawful within the state of Idaho to offer for sale or sell to any retail dealer for the purpose of resale to the consumer, or to offer for sale or sell to the consumer in any retail store or market in this state, any potato which has not been graded or which does not meet the grading standards of [chapter 9, title 22](#), Idaho Code.

(b) All potatoes sold to the consumer by retail stores or markets in this state shall be graded and marked in accordance with the standards set forth in this chapter. Provided, however, that nothing in this act shall be construed as to prohibit the sale of bulk potatoes to the consumer in retail stores or markets if such potatoes are clearly identified to the consumer as to grade and state of origin.

(c) The director of the department of agriculture may cause to be made, by qualified inspectors appointed for that purpose, inspections of all potatoes offered for sale in all retail stores or markets, and at all wholesale distributors or potato dealers selling or offering potatoes for sale to retail outlets. Such inspections shall be for the purpose of ensuring that potatoes offered for sale are properly identified as to grade and are within the standards set forth in [chapter 9, title 22](#), Idaho Code. Such inspectors shall order the removal or regrading and remarking of any potatoes which are misbranded or mismarked or which no longer meet the required standards of grade.

(d) The director shall adopt rules and regulations necessary to enforce the provisions of this section, and may regulate the handling, transportation, storage and display of all potatoes offered for sale to the consumers in this state so as to enhance the quality thereof.

[I.C., sec. 22-911, as added by 1972, ch. 233, sec. 1, p. 614; am. 1974, ch. 18, sec. 14, p. 364.]

22-912. PENALTY FOR VIOLATIONS. Any person violating any of the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$500 or by imprisonment

in the county jail not exceeding six (6) months, or by both such fine and imprisonment.

[22-912, added 1941, ch. 32, sec. 12, p. 72.]

22-913. REMEDY BY INJUNCTION. In addition to the remedy prescribed in the foregoing section for the violation of the provisions of this act, any person, firm or corporation violating, or threatening to violate, any of the provisions of this act may be enjoined from violating the same; such injunction proceedings may be instituted by the director of the department of agriculture as plaintiff, and the attorney general or prosecuting attorney of the county where the violation or threatened violation of this act has occurred, on demand of the director, shall represent the director in such proceedings. In any such proceedings no bond shall be required of the plaintiff.

[22-913, added 1941, ch. 32, sec. 13, p. 72; am. 1974, ch. 18, sec. 15, p. 364.]

22-914. SEPARABILITY. If any part of this act shall be held to be unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this act. The legislature hereby declares that it would have passed the remaining parts of this act if it had known that such part or parts thereof would be declared unconstitutional.

[22-914, added 1941, ch. 32, sec. 15, p. 72.]