

RULES PERTAINING TO THE QUARANTINE FOR LATE BLIGHT

STATEMENT OF BASIS AND PURPOSE

The rules are adopted pursuant to the Pest Control Act, § 35-4-110 and 116, C.R.S. (1995) and HB 96-1018.

The purposes of these rules are to enforce the provisions of the quarantine for late blight, to recover the actual costs to offset the cash funds expended for services performed by the Commissioner in imposing the quarantine and to specify how such actual costs shall be recovered.

1.00 DEFINITIONS

A. "Commissioner" means the Commissioner of the Colorado Department of Agriculture, or the Commissioner's designee.

B. "CPAC" means the Colorado Potato Administrative Committee, Area II.

C. "Department" means the Colorado Department of Agriculture.

D. "Import" means to ship into the San Luis Valley from any state or country.

E. "Late blight" means the fungus *Phytophthora infestans*.

F. "Person" means any individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, limited liability company, partnership, association, or other legal entity.

G. "Quarantine" means the quarantine for late blight imposed by the Commissioner of Agriculture effective September 30, 1996.

H. "Reinspection" means an inspection conducted by the Commissioner after the potatoes have been shipped from the area of origin to Colorado.

I. "San Luis Valley" means the Colorado counties of Rio Grande, Saguache, Alamosa, Conejos, Costilla and Chaffee.

J. "Seed potatoes" means potato tubers or portions thereof utilized as seed.

K. "Testing" means performing a scientifically accepted protocol to detect the presence of a specific plant pathogen.

2.00 REINSPECTION

A. Any person who receives imported seed potatoes shall notify the Department, Division of Plant Industry whenever a load of imported seed potatoes arrives. This notification may be accomplished by phoning (719) 852-3606 or (719) 852-3983.

B. Imported seed potatoes shall not be unloaded until authorized by the Commissioner.

C. The Commissioner shall inspect the certificates for compliance with the provisions of the quarantine.

D. Loads which do not comply with the provisions of the quarantine shall be sealed by the Commissioner.

E. The Commissioner shall take random samples and route the samples for testing as required by the quarantine.

F. The Commissioner shall insure that loads pending test results are held in a bin or a truck at the site of reinspection, as required by the quarantine.

G. After reinspection, the Commissioner shall document the presence or absence of visible late blight and the results of testing, if any.

3.00 INVESTIGATIONS

The Division of Plant Industry of the Department shall conduct investigations of all alleged violations of the quarantine and these rules.

4.00 COSTS

A. The fees for reinspection shall be on file at the offices of the Colorado Department of Agriculture at Monte Vista and Lakewood, Colorado. These fees shall be applicable when such reinspection occurs during normal business hours, 0800-1700 hours, Monday through Friday, excluding state recognized holidays.

B. In the event a person requests reinspection outside of normal business hours, that person shall pay all overtime and mileage for the Commissioner's inspector.

C. Except for the special cost set forth in paragraph B immediately above, the cost for all reinspection shall be billed monthly to CPAC.

D. The full cost (direct and indirect cost) incurred by the Department for activities associated with investigations conducted pursuant to Paragraph 3.00 above shall be billed to CPAC on a quarterly basis.

E. The Department shall recover all legal costs from CPAC incurred as a result of promulgating, implementing, and enforcing the quarantine and these rules at the rate charged by the Department of Law to the Department for legal services. CPAC shall be billed quarterly for any such legal costs.