

## **CHAPTER 4.1-56 SEED POTATO CONTROL AREAS**

### **4.1-56-01. Definition.**

As used in this chapter, unless the context otherwise requires, "potato" means an Irish potato.

### **4.1-56-02. Seed potato control area - Proposal - Notice of meeting.**

1. In order to form a seed potato control area, five individuals who own land within the proposed area shall schedule and provide notice of a meeting that is open to all landowners and occupants in the proposed area.
  - a. The notice must define the boundaries of the proposed seed potato control area.
  - b. The notice must be published at least twice, for two successive weeks, in the official newspaper of each county containing land in the proposed seed potato control area.
2. If consented to by a majority of the landowners and occupants present at the meeting, a petition to form a seed potato control area may be circulated among all landowners in the proposed area.

### **4.1-56-03. Seed potato control area - Petition for formation.**

The petition to be circulated, as provided in section 4.1-56-02, must:

1. Describe the boundaries of the proposed seed potato control area; and
2. State the quality of seed that may be planted within the proposed seed potato control area.

### **4.1-56-04. Seed potato control area - Creation.**

1. Once the petition has been signed by at least eighty percent of the persons owning land in the proposed seed control area, the petition may be presented to the seed commissioner for approval.
2. If the seed commissioner determines that the petition meets the requirements of this chapter, the seed commissioner may order the creation of:
  - a. The seed potato control area as described in the petition; or
  - b. A seed potato control area having boundaries that are not as extensive as those set forth in the petition.
3.
  - a. In the order establishing the seed potato control area, the seed commissioner shall prescribe the quality of seed potatoes that may be planted within the control area. The quality prescribed may differ from that set forth in the petition.
  - b. After the establishment of a seed potato control area, the seed commissioner may issue an order changing the quality of seed potatoes that may be planted within the control area.

### **4.1-56-05. Seed potato control area - Governance committee.**

1. Each seed potato control area must be governed by a committee consisting of three individuals who are appointed by the seed commissioner from a list of landowners or occupants within the control area.
2. The terms of office for members of the governance committee and its rules of operation must be provided for in the seed potato control area's bylaws and agreed to by at least eighty percent of the landowners or occupants within the control area.
3. If fewer than three qualified individuals are willing or able to serve as members of the governance committee, the governance committee shall consist of the lesser number. If, however, no qualified individual is willing or able to serve on the governance committee, the seed commissioner shall dissolve the seed potato control area.

### **4.1-56-06. Governance committee - Powers.**

The governance committee may:

1. Expend moneys collected pursuant to this chapter;
2. Employ and compensate necessary personnel;
3. Accept gifts, grants, and donations of money, property, and services to carry out this chapter; and
4. Do all things necessary and proper to enforce this chapter and any rules adopted to implement this chapter.

#### **4.1-56-07. Governance committee - Duties.**

The governance committee shall:

1. Keep a record of its expenses;
2. Submit the record to the seed commissioner at the time and in the manner required by the seed commissioner; and
3. Provide reports at the time and in the manner required by the seed commissioner.

#### **4.1-56-08. Prohibition.**

A person may not plant or authorize the planting of seed potatoes other than those permitted within the seed potato control area.

#### **4.1-56-09. Assessment.**

1. The governance committee may impose an assessment at a rate determined by the committee, but not exceeding two and one-half cents per hundredweight [45.36 kilograms] on all seed potatoes produced within the control area.
2. Any person producing seed potatoes within the control area shall pay the assessment at the time and in the manner required by the governance committee.

#### **4.1-56-10. Shipment of potatoes - Payment of assessment.**

A person producing seed potatoes in a seed potato control area may not ship or transport the seed potatoes out of the area unless the person pays the assessment provided for in this chapter.

#### **4.1-56-11. Seed commissioner - Orders.**

The seed commissioner may by order:

1. Alter the boundaries of the seed potato control area;
2. Assign additional powers and duties to the governance committee;
3. Prescribe requirements for seed selection, seed treatment, field isolation, cultural practices, disease removal, and insect control;
4. Prescribe requirements for the governance committee with respect to seed potato control efforts;
5. Prescribe or authorize seed quality for use within the control area;
6. Provide for the inspection, testing, and approval of seed to be used within the control area; and
7. Set forth additional requirements or prohibitions with respect to activities within the seed potato control area.

#### **4.1-56-12. Seed potato control area - Dissolution.**

Upon a showing of good cause, or as otherwise authorized by this chapter, the seed commissioner may order the dissolution of a seed potato control area.

#### **4.1-56-13. Penalty.**

1. Any person willfully violating this chapter is guilty of a class A misdemeanor.
2. Any person willfully violating this chapter is subject to a civil penalty in an amount not exceeding ten thousand dollars for each violation. The civil penalty may be imposed by a court in a civil proceeding or by the seed commissioner.