



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

PLANT HEALTH ACT POTATOES REGULATIONS

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For more information concerning the history of these regulations, please see the *Table of Regulations* on the Prince Edward Island Government web site (www.princeedwardisland.ca).

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PLANT HEALTH ACT

Chapter P-9.1

POTATOES REGULATIONS

Pursuant to section 6 of the *Plant Health Act* R.S.P.E.I. 1988, Cap. P-9.1, Council made the following regulations:

1. Definitions

In these regulations

- (a) “**Act**” means the *Plant Health Act* R.S.P.E.I. 1988, Cap. P-9.1;
- (b) revoked by EC809/15;
- (c) “**certificate number**” has the same meaning as in section 45 of the Seed Potato Regulations;
- (d) “**class**” means a class of seed potatoes as established in section 47 of the Seed Potato Regulations;
- (e) “**Department**” means the Prince Edward Island Department of Agriculture and Fisheries;
- (f) revoked by EC809/15;
- (g) “**equipment**” means machines, motor vehicles, implements, tools, conveyers, graders, conveyances, baskets, crates, and any other instruments, tools, devices or containers used in the production, handling, and processing of potatoes;
- (h) “**field**” means an identifiable area of land on which potatoes are planted or have been planted;
- (i) “**field inspection**” means an inspection of a growing crop, or a field which contains or has contained a growing crop, by an inspector;
- (j) “**infected potato**” means a potato plant or tuber in or on which an inspector has reason to believe
 - (i) a regulated disease is present, the presence of which may be determined by visual or laboratory methods, or
 - (ii) may have come in direct contact with a regulated disease;
- (k) “**lot**” has the same meaning as in section 45 of the Seed Potato Regulations;
- (k.1) “**potato breeder**” means any person who breeds or attempts to breed and develop any new varieties of potatoes by any means whatsoever;
- (k.2) “**potato evaluator**” means any person who is engaged in the evaluation of unregistered potato varieties specifically for the purpose of generating data for use in the registration of that variety under the *Seeds Act* R.S.C. 1985, Chap. S-8;

- (k.3) “**Institute**” means the Prince Edward Island Potato Quality Institute incorporated under the *Companies Act* R.S.P.E.I. 1988, Cap. C-14;
- (l) “**seed potato**” has the same meaning as in the Seed Potato Regulations;
- (m) “**Seed Potato Regulations**” means sections 45 to 62 of the Seeds Regulations made under the *Seeds Act*, R.S.C. 1985, Chap. S-8;
- (n) “**used container**” means any bag or container which has previously been in contact with potatoes or other root crops;
- (o) “**volunteer**” means a potato plant growing on any land area which has not been planted during the current year by any person but has grown from potatoes or potato debris, disposed of or deposited in or on that land area, or from potatoes previously grown and unharvested in that land area. (EC138/95; 398/95; 444/96; 229/97; 732/01; 809/15)

2. Potatoes designated crop

- (1) Potatoes are designated as a crop within the meaning of clause 1(c) of the Act.

Regulated diseases

- (2) The diseases of potatoes which are regulated diseases within the meaning of clause 1(o) of the Act are set out in Schedule A. (EC138/95)

3. Inspectors

- (1) The Minister may appoint as an inspector under subsection 3(1) of the Act any employee of the Department or of Agriculture and Agri-Food Canada who is deemed to be suitable and necessary for the enforcement of the Act and these regulations.

Institute employees deemed to be officers

- (1.1) Any employee designated by the Institute shall have all the powers of an officer under the Act and these regulations.

Qualifications

- (2) Any inspector who is required to carry out field inspection for the purpose of identification of any regulated disease must have successfully completed the “Inspector’s Training Course, Seed Potato” as conducted by Agriculture and Agri-Food Canada, or any equivalent course accepted by the Minister.

Officers

- (3) The Minister may appoint as officers under subsection 3(1) of the Act peace officers who are employed by the Department of Transportation and Public Works at the weigh stations at the Borden and Wood Islands ferry terminals.

Agent

- (4) The Minister may appoint an agent under section 2 of the Act who shall exercise such powers and perform such duties as are necessary for the administration and enforcement of these regulations, including the power to issue summary offence tickets under the *Summary Proceedings Act* R.S.P.E.I. 1988, Cap. S-9 in respect of a contravention of these regulations. (EC138/95; 444/96; 351/09)



4. Quarantine order

- (1) When an inspector has reasonable and probable grounds to believe that a person is in possession of infected potatoes, he may sign and issue a quarantine order which shall specify
 - (a) the fields or potato tubers believed to be infected with a regulated disease;
 - (b) restrictions upon access to or movement or disposition of all potatoes, potato equipment, premises, vehicles and fields which are or may have been in contact with infected potatoes; and
 - (c) prohibitions of further planting on the farm unit in respect of which the order is issued.

Copy of order to grower, etc.

- (2) An inspector quarantining vehicles, farm units or other premises shall, as soon as possible after issuing the quarantine order provide a copy of the order to the owner or person under whose control they were at the time of the quarantine.

Service of order

- (3) A quarantine order shall be delivered in person, by registered mail or such other method as the inspector considers appropriate.

Duration

- (4) A quarantine order issued by an inspector pursuant to subsection (1) shall remain in force until such time as the inspector has been able to determine the presence or absence of the regulated disease and will remain in force until revoked in writing by the inspector. (EC138/95; 353/96)

4.1 Contamination notice

- (1) Where an inspector has reasonable and probable grounds to believe that a person's farm or premises, or any portion thereof, has been contaminated or is suspected of being contaminated by a regulated disease, the inspector may issue a contamination notice
 - (a) specifying the fields or portions thereof believed to be contaminated; and
 - (b) identifying the regulated disease causing the contamination; and
 - (c) prohibiting the planting by the person of any potato seed in the contaminated area.

Notice, service of

- (2) A contamination notice shall be delivered in person, by registered mail or such other method as the inspector considers appropriate.

Effect of notice, offence

- (3) Any person who plants any potato seed in contravention of a contamination notice is guilty of an offence and is liable on summary conviction to the penalty set out in section 10 of the Act.

Duration of notice

- (4) A contamination notice continues in force indefinitely but may be revoked by an inspector in writing. (EC353/96)

5. Disposal of potatoes

No person shall dispose of potatoes in any manner which would be likely to result in the development or spread of a regulated disease. (EC138/95)

5.1 Storage of tubers, etc.

- (1) Between June 15 and August 31 of any year, no person shall, except with the written permission of an inspector,
- (a) store, keep, or by any means hold any bulk potato tubers or potato debris unless that material is contained inside a building or enclosed transport vehicle or is under an impermeable cover;
 - (b) permit the growth of any volunteer on any land area under their management or control.

Offence and penalty

- (2) Every person who contravenes subsection (1) is guilty of an offence and is liable, on summary conviction, to a fine of not less than \$1,000 and not more than \$25,000. (EC229/97; 351/09)

6. Transportation, prohibition

No person shall knowingly transport upon any highway as defined by the *Roads Act* R.S.P.E.I. 1988, Cap. R-15 any infected potatoes in any manner that results or could result in the release of any such potatoes on, or in any area adjacent to, such highway. (EC138/95)

6.1 Application and registration

- (1) Every person growing more than 0.1 hectares of potatoes shall, no later than June 30 in the year of planting,
- (a) make application to the Institute; and
 - (b) be registered with the Institute,
- as a potato grower, potato breeder, or potato evaluator.

Provision of information

- (1.1) Every person who applies to be registered pursuant to subsection (1) shall provide the Institute with the information required pursuant to subsection (2) in a form acceptable to the Institute.

Information on planting

- (2) All growers registered pursuant to subsection (1) must provide the following information for each farm unit under their control:
- (a) the number of hectares planted of each variety of potatoes grown;
 - (b) the certificate number and quantity (in kilograms or cwt) of each seed lot of all seed potatoes planted; and
 - (c) the location evidenced by maps or drawings of a scale and type satisfactory to the Institute, of all potato plantings.

Verification of information

- (2.1) Employees designated by the Institute may verify potato registration information supplied under subsection (2).

Eligibility for registration as breeder or evaluator

- (3) To be eligible for registration as a potato breeder or evaluator, a person must



- (a) be actively engaged in the year of application or renewal as a potato breeder or potato evaluator;
- (b) maintain records which will show a clear audit trail for each unique potato variety or breeding line which is or has been in the breeding or evaluation program and such audit trail must indicate parentage, and, if parental material has been imported into the province, should show the point of origin and details of the permit to import; and
- (c) ensure that all potatoes grown on their farm unit are free from regulated diseases.

Agreement with Institute

- (4) The Minister and the Institute may enter into an agreement governing the disclosure of information collected pursuant to subsection (2) and the monitoring of compliance with the requirements of that subsection. (EC398/95; 444/96; 179/00; 732/01)

6.2 Proof of purchase of seed

- (1) For potatoes planted on a farm unit on which the seed was not produced, growers must obtain and retain for at least twelve months original bills of sale, or other proof of purchase, of each lot planted, specifically noting the certificate number and quantity of each lot planted.

Documents

- (2) The grower must obtain such documents by the time the seed is planted and they must be produced forthwith to an inspector, on demand, for inspection or copying and if means is not available on the farm unit to copy such documents as are requested by the inspector, the inspector may remove the documents from the farm unit for copying and ensure their return within two working days.

Information to be produced

- (3) Any grower of more than 0.1 hectares of potatoes must produce forthwith to an inspector, on demand, the following information for each farm unit under their control:
 - (a) the number of hectares of each variety of potatoes planted;
 - (b) the certificate number and quantity (in kilograms or cwt) of each seed lot of all seed potatoes planted including post-harvest test virus levels in each lot, as determined by testing required pursuant to subsection 14(2);
 - (c) the location of all potato plantings;
 - (d) the spacing between seed pieces in all potato planting; and
 - (e) the average seed piece size (in ounces or grams) used when planting each individual seed lot identified in clause (b). (EC229/97; 622/98; 732/01)

7. Disinfection of vehicles transporting potatoes

Revoked by EC809/15. (EC138/95; 490/97; 477/15; 809/15)

7.1 Extra provincial equipment to be disinfected

Revoked by EC809/15. (EC229/97; 809/15)

BACTERIAL RING ROT DECONTAMINATION AND CONTAINMENT

8. Bacterial ring rot

Upon confirmation of the presence of bacterial ring rot infected potatoes on a farm unit or premises, an inspector shall serve upon the person in control of such farm or premises a bacterial ring rot disposal and clean-up notice which shall be delivered in person or by registered mail and may specify

- (a) a requirement for fields growing potatoes, under the direction of an inspector, to be treated with a registered sprout inhibitor for the purposes of preventing any subsequent germination of infected seed;
- (b) the conditions under which unharvested potatoes may be harvested and moved to storage;
- (c) restrictions regarding the movement of any equipment from the farm unit or premises before appropriate disinfection has taken place;
- (d) a requirement to file, within 14 days or less, a disposal plan which will stipulate the conditions under which all potato tubers and debris on the farm unit or premises are to be disposed of, including the date by which disposal must be completed;
- (e) following the removal of all potatoes and debris from all storage facilities and premises, as prescribed in the disposal plan, a requirement to clean down to the base surface, free of soil or other organic matter, and to disinfect
 - (i) all warehouses (walls and floors), other storage facilities (cellars, bins, etc.), potato grading and handling equipment and any other part of the farm unit or premises in which potatoes were handled or stored,
 - (ii) all equipment that may have come in contact with potatoes,
 - (iii) all containers or pallets;
- (f) the date by which the clean-up of the farm unit and premises must be completed;
- (g) the destruction of all used containers or packaging that can not be cleaned and disinfected. (*EC138/95*)

8.1 On-farm disinfection services

Revoked by EC809/15. (*EC490/97; 809/15*)

9. Disposal

Any person who has in his possession potatoes infected with bacterial ring rot shall dispose of such potatoes only by such means as are specified in a disposal plan pursuant to section 8, or in a manner determined by an inspector and specified in writing and by no other means whatsoever. (*EC138/95*)

10. Prohibition on bringing seed potatoes to infected area

- (1) A grower shall not bring, nor cause to be brought, seed potatoes onto a farm unit that was contaminated with potatoes infected with bacterial ring rot prior to the complete clean-up of the farm unit in compliance with all aspects of a bacterial ring rot disposal and clean-up notice issued pursuant to section 8, except with the written approval of an inspector and under such conditions as specified by an inspector.



Failure to comply

- (2) Seed potatoes brought onto a farm unit which is not in compliance with subsection (1) shall be considered infected with bacterial ring rot.

Clearance of infected area

- (3) Potatoes shall not be planted, or allowed to be planted, in a field where there has been an occurrence of bacterial ring rot unless the grower is able to verify, to an inspector, that the field has been free of potatoes, including volunteers, for the previous two years. *(EC138/95)*

PLANTING AND SEED REQUIREMENTS**11. Class of seed**

- (1) Subject to subsection (4), any person growing more than 0.1 hectares of potatoes shall plant only seed potatoes of a class established through the issuance of a seed certificate number for that lot of seed.

Certified seed

- (2) Notwithstanding subsections (1) and (3), no person growing more than 0.1 hectares of potatoes shall plant certified class seed potatoes.

Shepody

- (3) Revoked by EC622/98.

Exception

- (3.1) Subject to subsection (1) and notwithstanding subsection (2), any person may, in the 2000 planting season only, plant certified class seed potatoes of the Russet Burbank variety where
- (a) the seed potatoes are the progeny of Pre-Elite class seed potatoes planted in the 1995 or any subsequent planting season; and
 - (b) the sum of the post-harvest test of the seed potatoes required by section 14 does not exceed the level of 10%.

Exemption, breeders and evaluators

- (4) A person growing more than 0.1 hectares of potatoes and registered as a potato breeder or potato evaluator pursuant to section 6.1 is exempted from requirements of subsection (1) provided that the person has planted potatoes on a farm unit under the person's own management. *(EC229/97; 622/98; 179/00)*

11.1 Offence, failure to comply with seed class requirement

- (1) Any person who fails to comply with the provisions of subsection 11(1), (2), or 17(1) is guilty of an offence and is liable upon summary conviction to a fine of \$1,250 for the first 0.5 hectares or portion thereof planted in non-compliance and \$2,500 per hectare for each additional hectare, or fraction thereof, which are planted in non-compliance to a maximum of \$25,000.

Offence, documentation

- (2) Any person who fails to comply with subsection 6.2(1), (2) or (3) is guilty of an offence and is liable upon summary conviction to a fine of not less than \$12,000 for the first offence and not less than \$25,000 for subsequent offences. *(EC229/97; 622/98; 66/99; 732/01)*

12. Permit for extra- provincial seed

No person shall plant any seed potato originating outside the province unless that person has obtained a permit to import and plant potato seed from the Minister. (EC138/95)

13. Revocation

- (1) The Plant Disease Eradication Act Regulations (EC364/85), which have effect under the *Plant Health Act* by virtue of clause 33(1)(e) of the *Interpretation Act* R.S.P.E.I. 1988, Cap. I-8, are revoked.

Idem

- (2) The Disinfection of Commercial Vehicles (Interprovincial Transportation) Regulations (EC296/93) are revoked. (EC138/95)

SEED POTATO TESTING**14. Definitions**

- (1) For the purposes of this section and sections 15 to 17,
- (a) “**post-harvest test**” means a laboratory test carried out on one or more samples of seed potatoes from a lot of seed potatoes, where such sample or samples are taken
- (i) at or after harvest, or
 - (ii) in the field after complete vine desiccation,
- for the purpose of determining the post-harvest test levels of each sample taken; and
- (b) “**post-harvest test level**” means the percentage of seed potatoes that are infected with Potato Leaf Roll Virus or any of the strains of Potato Virus Y in a sample taken for a post-harvest test.

Persons who may collect samples

- (2) The collection of a sample or samples of seed potatoes for a post-harvest test shall be either performed by or supervised by an inspector or officer, an inspector appointed pursuant to the Seeds Act (Canada) or any other person authorized by the Minister.

Size of sample

- (3) The person performing or supervising the collection of a sample or samples pursuant to subsection (2) may determine the quantity of seed potatoes taken from each lot of seed potatoes as a sample for testing.

Application for collection of samples

- (4) The Minister, on application by a grower or any other interested person, may direct a person referred to in subsection (2) to collect a sample or samples of seed potatoes from a lot of seed potatoes for a post-harvest test.

Applicant’s responsibilities

- (5) The applicant requesting the collection of a sample or samples of seed potatoes for a post-harvest test
- (a) is responsible
 - (i) for having the post-harvest test performed on the samples collected, and
 - (ii) for paying all expenses and costs related to the post-harvest test; and



- (b) shall select, from among the laboratories accredited by the Canadian Food Inspection Agency to test for potato viruses, a laboratory to perform the post-harvest test. (EC732/01)

15. Determining test level for potatoes with two viruses

- (1) For the purposes of determining the post-harvest test level of a sample of seed potatoes, any seed potato in the sample that is infected with two viruses shall be counted, by the laboratory which performs the test, as two infected potatoes.

Identification of result and provision of information

- (2) The laboratory which performs a post-harvest test shall
 - (a) identify the test results by the information on the statements attached, in accordance with subsection 16(3), to the containers holding the sample; and
 - (b) provide a copy of all test results and any other information that is required by the Department, to the Department immediately on the completion of the post-harvest test. (EC732/01)

16. Testing, one sample

- (1) Where only one sample is taken from a lot of seed potatoes for a post-harvest test, that sample is deemed, for the purposes of these regulations, to be representative of the entire lot of seed potatoes.

Testing, multiple samples

- (2) Where more than one sample is taken from a lot of seed potatoes for a post-harvest test, each sample is deemed, for the purposes of these regulations, to be representative of the part of the lot of seed potatoes that is taken from the same fields or parts or combinations thereof as the sample.

Identification of sample

- (3) An inspector, officer or other person referred to in subsection 14(2) who is collecting or supervising the collection of a sample or samples of seed potatoes for a post-harvest test shall
 - (a) record
 - (i) the fields or parts or combinations thereof that each sample represents,
 - (ii) the certificate number of the lot of seed potatoes from which the sample or samples are taken, and
 - (iii) such additional information as the inspector, officer or other person considers appropriate for the purpose of identifying the sample;
 - (b) make and attach a statement, in a form approved by the Minister, containing the information referred to in clause (a) to any one or more of the containers holding the sample or samples; and
 - (c) give a copy of the statement prepared for each sample to the grower.

Separation of lots

- (4) Where more than one sample is taken from a lot of seed potatoes for a post-harvest test, the grower shall store each part of the lot represented by a sample in such a manner as to prevent it from being mixed with other parts of the lot and to preserve its identity.

Storage requirements for multiple lots

- (5) Where a grower has more than one lot of seed potatoes from which samples are taken for post-harvest tests, the grower shall,
- (a) in respect of each lot from which a single sample is taken, store the lot in such a manner as to prevent it from being mixed with another lot, or parts of another lot, of seed potatoes and to preserve its identity; and
 - (b) in respect of each lot from which more than one sample is taken, store each part of the lot represented by a sample in such a manner
 - (i) as to prevent it from being mixed with another lot or parts of another lot, of seed potatoes, and
 - (ii) as is otherwise required by subsection (4).

Mixed lots

- (6) Where, during storage or any handling or grading operation,
- (a) two or more lots, or parts of different lots, of seed potatoes are mixed; or
 - (b) two or more parts of a lot of seed potatoes represented by different samples are mixed,

the lots, parts of different lots, or parts of a lot that have been mixed are deemed, for the purposes of section 17, to have the post-harvest test level that is the highest of the post-harvest test levels of the samples taken from any of the lots, parts of different lots, or parts of a lot that make up the mixture.

Documentation required on sale

- (7) Where a grower sells a lot, or part of a lot, of seed potatoes for planting in the province on a farm unit other than the farm unit on which the seed potatoes were grown, the grower shall, before the seed potatoes are transported from any storage under the grower's control, give the purchaser the following documents:
- (a) a copy of the post-harvest test results, from the laboratory which performed the testing, for each sample taken from the lot or part of a lot sold to the purchaser;
 - (b) a statement signed by the grower certifying
 - (i) the quantity of seed potatoes in the lot, or part of a lot, sold,
 - (ii) the identity of the lot, or part of a lot, sold by reference to the information recorded on each statement required to be given to the purchaser under clause (c); and
 - (c) a copy of each statement made under clause (3)(b) in respect of a sample taken from the lot or the part of a lot sold to the purchaser.

Failure to provide documentation

- (8) Where a grower fails to give to the purchaser any of the documents, required by subsection (7), the lot or part of a lot of seed potatoes that are sold by the grower is deemed, for the purposes of section 17, not to have undergone a post-harvest test. (EC732/01)

17. Post-harvest test required

- (1) Subject to subsections (2) to (4), every person growing more than 0.1 hectares, in total, of potatoes shall plant only seed potatoes from a lot
- (a) that has undergone a post-harvest test;
 - (b) that has a post-harvest test level not exceeding 3%; and



- (c) that has test results showing that the percentage of seed potatoes in the lot that are infected with Potato Leaf Roll Virus does not exceed 2%.

Exception, Pre-Elite, Elite I

- (2) Seed potatoes of the Pre-Elite or Elite I class do not require a post-harvest test prior to planting if the seed potatoes are planted on the farm unit on which they were produced.

Idem, Nuclear class

- (3) Seed potatoes of the Nuclear class do not require a post-harvest test prior to planting.

Exempted persons

- (4) Any person registered as a potato breeder or potato evaluator pursuant to section 6.1 is exempted from the requirements of subsection (1) where the person grows potatoes on a farm unit under the person's own management. *(EC732/01; 451/02; 105/03; 573/03; 246/08; 79/10)*

Percentage of virus allowed

- (5) Revoked by EC451/02.

Revocation

- (6) Revoked by EC451/02.

SCHEDULE A
REGULATED DISEASES

The regulated diseases of potatoes with their respective causal pathogens are:	
Disease	Causal Pathogen
Bacterial Ring Rot	<i>Clavibacter michiganense subsp. sepedonicum</i>
Brown Rot	<i>Burkholderia solanacearum</i>
Potato Rot Nematode	<i>Ditylenchus destructor</i> <i>Ditylenchus dipsaci</i> (Potato Race)
Potato Wart	<i>Synchytrium endobioticum</i> (All Races)
PVY6	Potato virus Y necrotic
PSTV	Potato spindle tuber viroid

(EC138/95; 398/95; 353/96; 582/97; 646/00)