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**STATE OF MAINE
117TH LEGISLATURE
FIRST REGULAR SESSION**

**Final Report of
THE COMMISSION TO STUDY
POTATO QUALITY ISSUES**

APRIL 1995

Staff:

**Jill Ippoliti, Legislative Analyst
Amy B. Holland, Researcher**

**Office of Policy and Legal Analysis
Room 101, State House—Sta. 13
Augusta, Maine 04333
(207) 287-1670**

Members:

***Senator Judy Paradis
Rep. Richard Kneeland
*Robert J. Tardy
Robert Blackstone
Vernon DeLong
Carl Flora
Maylen Kenney
Carl Leinonen
Andrew Yeager**

***Denotes Chairs**

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EXECUTIVE SUMMARY

P.L. 1993, Chapter 699, established the Commission to Study Potato Quality Issues and charged the commission with studying "methods that would improve the efficiency of the inspection program, increase the use of inspection services and reduce costs". Although the commission's charge clearly pertained to the inspection program itself, issues relating to quality were discussed. The commission's charge to study the inspection program was based on the premise that more consistent quality will result from increased use of inspection.

The consensus among commission members is that use of inspection services will increase if fees can be lowered and service improved. The objective of the recommendations made in this report is to directly or indirectly impact the cost of the program or the quality of delivered service. Few require legislative action. Most of the recommendations are related to administration of the inspection program or management of staff. The Department of Agriculture, Food and Rural Resources has the authority in Maine statute and the flexibility within its Cooperative Agreement with the Agricultural Marketing Service of the United States Department of Agriculture to implement the suggested changes.

A. Legislative Recommendations

1. Protect the Commodity Accounts from Future Actions taken to Balance the General Fund Budget.

To protect the commodity accounts and contain personal services costs, we are recommending legislation that, if enacted, would prohibit retirement contributions by commodity group employees who are paid entirely from other special revenue from being applied towards the unfunded liability of the state retirement system.

To balance the FY1992-93 budget, the weekly work schedule of each state employee was reduced by one hour and funds were deappropriated by a reduction of 0.9% from each account. In the future the commodity accounts should be exempted from such provisions. The potato industry and other industries that support state agencies through an industry tax must be allowed to maintain services vital to their industries and paid for with industry taxes.

2. Operation of a Port of Entry Facility for Commercial Vehicles

The Governor's Task Force on Motor Carrier Safety Laws is recommending legislation creating a study on operation of a Port-of-Entry facility. The study is envisioned as a joint effort by the Maine Departments of Transportation and Public Safety to determine the impact of a Port-of Entry on enforcement of commercial vehicle laws and on traffic patterns along the Port-of-

Entry route and alternate routes. Operation of a port of entry facility would enable the Department of Agriculture, Food and Rural Resources to more efficiently enforce the branding laws and also to inspect horticultural stock, bees and other agricultural products entering and leaving the state.

The commission recommends that the Department of Agriculture, Food and Rural Resources work with the Departments of Public Safety and Transportation to make them aware of agriculture's support of a Port-of-Entry and to assist in developing a study which might also accommodate agriculture's inspection responsibilities.

3. Mandatory Inspection

The potential benefits to the industry of an improved product image and increased demand are strong arguments for mandatory inspection. The commission recommends that the Maine Potato Board and Maine Quality Control Board develop a detailed proposal for mandatory inspection. The commission is proposing legislation to give the commissioner the authority to require inspection of consumer packs of tablestock potatoes through rulemaking. The legislation would require the commissioner to adopt rules for mandatory inspection upon the request of the Maine Potato Board.

B. Quality of Service

The use of contract inspection has greatly increased in the last few years. Satisfaction is high among the contract consumers of inspection services. Efforts should continue to promote use of contract inspection.

Complaints regarding response time and consistency for "on-demand" inspection requests need to be addressed.

1. Redirect focus of program manager

A substantial percentage of the program manager's time should be spent supervising inspectors in the field. The other primary focus of this position should be encouraging use of the inspection service.

2. Communications/equipment

The inspection service must optimize use of electronic answering machines, beepers, cellular phones and other communications devices to improve service without adding personnel.

3. Geographic location of inspectors

The inspection service must be creative in adapting, predicting demand as best as possible, controlling demand through financial incentives, and retaining a trained workforce that is geographically disbursed proportional to workload.

4. Cooperation between Quality Assurance Inspection and Seed Potato Inspection Programs

The commission encourages increased cooperation between the two divisions to maximize efficient use of staff and respond to seasonal differences in workload. At this time, the commission recommends that seed potato inspectors be trained and allowed to inspect potatoes in seed houses that are destined for tablestock markets.

5. Warehouse inspections

The commission recommends that all warehouse inspections be positive lot identified and that the positive lot identification (p.l.i.) be provided by the inspection service at no additional charge.

C. Reducing Cost of the Inspection Program

The commission recommends that management for inspection services be streamlined to eliminate overlapping and duplicative functions and to make management cost effective. Privatization was discussed at length by this commission. The prohibition on privatizing potato inspection functions ends June 30, 1995. (P.L. 1993, c. 707)

1. Negotiation of Sidebar Agreement

Many factors affecting the overall cost of the inspection program are controlled by the collective bargaining process. We strongly urge the union and the department to negotiate a sidebar agreement to the union contract for produce inspectors and seed potato inspectors.

2. Full-time, seasonal and intermittent inspectors

The workforce should consist of a mix of full-time inspectors and intermittent inspectors. The number of full-time inspectors and weeks specified should be based on use of contract inspection. A sufficient number of seasonal, temporary or intermittent inspectors should be trained to respond primarily to "on demand" requests for inspection.

3. Adjust fees for holiday weeks

The commission recommends that the department review regular fees and premium rates to see if a more equitable fee structure can be developed.

D. Development of Alternate Method of Funding the Inspection Program

The Commission urges the Department of Agriculture, Food and Rural Resources to work with the Maine Potato Board to develop a per acre method or another alternate method of assessing fees to defray the cost of inspection.

#310WPPSTUDY

I. Background:

LD 1717, An Act to Amend the Laws Relating to Potatoes, was submitted in the second session of the 116th Legislature by the Department of Agriculture, Food and Rural Resources. The original bill gave the commissioner authority through rulemaking to require inspection of consumer packs of Maine potatoes. It also required inspection of all U.S. #1 packages of Maine potatoes for the shipping season ending July 1, 1994. Testimony by proponents of the bill focused on Maine's loss of market share in the market for tablestock potatoes and attributed that loss to failure to deliver a product of consistently high quality. Mandatory inspection was proposed as a way to improve the quality of tablestock potatoes reaching the market. The anticipated benefit of an improved image for the Maine potato was increased demand for the tablestock product.

Testimony opposing the bill focused on resistance to mandatory inspection within the industry and the perceived minimal value of an inspection certificate in the marketplace. Dissatisfaction with the cost of inspection and with several aspects of the service provided was evident.

Concurrent with the public hearing and work session on this bill, the department was pursuing the possibility of privatizing the inspection service as a way to reduce the operating costs of the inspection program.

The committee amendment which replaced the original bill did not authorize mandatory inspection. Instead, it addressed the quality issue by increasing penalties for violations of branding laws. A House amendment established the Commission to Study Potato Quality Issues and charged the commission with studying "methods that would improve the efficiency of the inspection program, increase the use of inspection services and reduce costs". The final legislation P.L. 93, c. 699 is found in Appendix A-1. Section 8 establishes the commission.

The supplemental budget bill enacted as P.L. 93, c. 707, Part A increased the subsidy for potato inspection by \$150,000 and included language which prohibited privatizing potato inspection during the remainder of the 1994-1995 biennium. This language is found in Appendix A-2.

This is a brief overview of actions of the 116th Legislature relevant to the commission. The bibliography found at the end of this report lists references for a more comprehensive background on this issue.

II. Commission's Approach to Task/Summary of Information Received

Although the commission's charge clearly pertained to the inspection program itself, closely related issues inevitably were discussed. This section summarizes the commission's discussions by topic. The information requested and received on these topics can be found in the Appendices arranged by topic.

A. Quality of Maine Tablestock Potatoes

The effect of a poor quality product reaching the marketplace was discussed at length at the first meeting of this commission. Agreement was unanimous that a poor quality product reaching the consumer has a negative impact on the image of Maine potatoes. This commission's charge, however, was not to study product quality. Rather the commission's charge to study the inspection program was based on the premise that more consistent quality will result from increased use of inspection.

The purpose of inspection is to certify that potatoes meet a certain standard, in most cases for tablestock potatoes, U.S. Grade #1. Potatoes packed in a Maine Bag are required to be inspected. (7 MRSA §1036) Inspection of "non-Maine Bag" consumer packs is not required by law. However, Maine consumer packs are required under branding law to be clearly labelled with the grade of the potatoes. Potatoes that fail to meet the grade stated on the label constitute a violation of the branding law. As mentioned earlier, the fines for branding law violations were recently increased. (7 MRSA §957)

Many packers use inspection to make sure that they are packing to grade, i.e. packing to the standard for the grade appearing on their label. Wholesalers may specify that they want loads inspected to meet a U.S. grade or increasingly may require inspection to certify that their own store standard has been met. Although the value of an inspection certificate at the market destination was a matter of varying opinions (and is discussed in another section), a truckload of potatoes accompanied by an inspection certificate is not usually inspected in transit for compliance with branding law. The likelihood that a truck will not be detained in transit for branding law inspection is of value in itself.

Proponents of mandatory inspection for all consumer packs have contended that the image of Maine potatoes would improve if all consumer packs were inspected to assure grade tolerances were met. The department has additionally contended that mandatory inspection would allow the inspection program administrators to better predict demand for service. This would facilitate more efficient use of the inspection workforce. The department was asked to estimate

revenue and expenditures for mandatory tablestock inspection. That estimate is found in Appendix B-1.

Opponents of mandatory inspection assert that an inspection certificate is of limited value in the marketplace and they are unwilling to pay for a service of limited value. They contend that quality can be improved by more aggressively enforcing the branding law. A December 1993 survey conducted by the Maine Potato Board indicated strong resistance to mandatory inspection within the tablestock industry. (Appendix B-2)

B. Enforcement of Branding Law

Enhanced enforcement of the branding law was discussed as a tool to improve quality. The department provided historical data which suggests use of inspection has increased during periods when a branding law has been in effect. (Appendix B-3)

Time lag between when a person was cited with a violation and resolution through either a consent decree or court action has impaired the effectiveness of the branding law. Prior to recent amendments, a person with multiple violations of branding law could reduce or avoid a period of mandatory inspection by appealing a decision. Language in statute now specifies that the period of the stay during appeal is not counted in calculating the one year mandatory inspection period. (7MRSA §957, sub-§1-B)

On July 22, 1994 the Maine Supreme Judicial Court upheld the constitutionality of warrantless administrative searches of potato packing houses. Several cases pending resolution were awaiting a decision on this appeal. (State of Maine v. Joseph McGillicuddy)

C. Maine's Responsibilities Under the USDA Cooperative Agreement; The Value of An Inspection Certificate.

The Maine Department of Agriculture, Food and Rural Resources has a Cooperative Agreement with the Agricultural Marketing Service of the United States Department of Agriculture to make the inspection of fresh fruits and vegetables and other products available to growers, shippers, processors and receivers. Each of the 50 states has a cooperative Agreement with the Agricultural Marketing Service. The extent to which a state provides an inspection service under the agreement varies greatly depending primarily on the level of shipping point activity for fresh produce. A copy of the standard language recommended by the Agricultural Marketing Service for renewals of the cooperative agreement is found in the Appendix. (Appendix B-4)

Under the agreement the responsibilities of the federal agency and the state agency are specified. The federal agency ensures that federal-state inspectors are properly trained, issues inspectors' licenses, and furnishes certificate forms. The state agency employs or assigns inspectors and collects fees for work performed under the agreement. Use of fed-state inspection is promoted as assuring a standard of

quality has been met. States with mandatory inspection for tablestock potatoes such as Idaho and Colorado do have the image in the marketplace of providing a product of consistent quality.

An inspection certificate can protect against loss in the marketplace but many feel this protection is very limited. A wholesale buyer may request a truckload of U.S. Grade #1 potatoes be delivered yet refuse to accept the load even when accompanied by an inspection certificate. Shippers charge that loads are refused not based on the quality of the product delivered but on market forces that have changed between the time the order was made and the product delivered. A shipper can request a market inspection to determine if grade was met and try to force acceptance or can send the truckload elsewhere. This is a business decision and often is made by the potato dealer not the grower.

The value of inspection is greatly enhanced by using positive lot identification (p.l.i.). P.l.i. enables continuing identification after a lot of potatoes has been unloaded and is in the market. The inspection on that lot remains valid unless the lot is reinspected and found to be out of grade.

Loads can be refused based on either quality or condition of the product. Although the quality of the product, those factors determining grade, should not change in transit, condition can change significantly. Potatoes are a perishable product. The commission asked the Agricultural Marketing Service for data on loads refused by state of origin. Data on requests for inspections at the terminal market might also be useful in evaluating market acceptance for products by state of origin. Unfortunately this data was not available. Improvements in computerized records on requests for inspections and appeals should make this information available in the future.

D. Cost of Inspection/Satisfaction with Service Provided

With voluntary inspection, the person packing or shipping tablestock potatoes determines if inspection is worth the cost. Approximately eighty-five percent of Maine tablestock potatoes that are inspected receive a subsidy under the Maine Bag program. The cost to the applicant is \$.08 per hundredweight (cwt.). The cost for non-Maine Bag inspection is \$.14/cwt. The graph in Appendix B-5(a) indicates a 8% increase in use of inspection between the 1991-92 season and the 1992-93 season. Interestingly this jump in use occurred simultaneously with a 2 cent increase from 6 to 8 cents per cwt. The jump in use between 1991-92 and '92-93 is probably best explained by the increased use of contract inspection. Other historical data do not show a consistent correlation between price and use of the service. (Appendix B-5(b))

Contract inspection can provide a packer with 40 hours of inspection at a fee significantly lower than that packer would pay for a comparable volume charged on a per cwt. basis. (see Appendix B-6 for fee schedule) The department has promoted contract inspection as a way to manage demand for inspection services. Satisfaction with

contract inspection services are high. Packers like the assurance of timely inspection and the consistency in grading provided by the contract inspectors. Contract inspection has been used predominantly by the large packers. The commission and department agree that more can be done to facilitate smaller packers cooperatively developing contracts for inspection services.

Despite the positive move toward contract inspection, the need for sporadic, on-demand inspections will continue. Containing the cost of both services is a concern of the industry. The likelihood of decreased general fund subsidies to the inspection program augment this concern.

For "on-demand" inspections, the quality of service is also an issue. The commission heard complaints that the response time, the time between making the request and having an inspector arrive to do the inspection, was often unacceptable. The speed with which trucks can be loaded and travelling distance for an inspector are key components to this problem. Requests received later in the day, i.e. after 9 a.m., present the greatest scheduling problems. The department provided information on requests for inspection by geographic location and time of day. (Appendix B-8)

Another related complaint was that inspectors are sometimes switched during the course of an inspection, resulting in inconsistent grading and packer dissatisfaction. The need to switch inspectors was described as a function of the need to respond quickly to other requests. Recommendations are made at the end of this report to address these situations.

In its discussion of cost, the commission reviewed information from other states on their inspection programs. Appendix B-7 compares some aspects of the various programs. Of particular interest to some members of the committee was the use of 3rd parties to provide licensed inspectors. The high cost of state employee benefits and the seasonal fluctuations in workload have prompted several states to explore the use of 3rd parties under their cooperative agreements as way of cutting costs. Section F of this report takes a closer look at 3rd part agreements or privatization.

The department provided the commission with its Vision Statement for a Quality Control Inspection Service. (Appendix B-9) Directors in the department are clearly cognizant of industry's complaints. The recommendations at the end of this report mirror many of the department's recommendations for providing an improved and affordable service.

Appendix B-10 provides an organizational chart for the Division of Quality Assurance and Division of Plant Industry. Appendices B-11 and B-12 provide a breakdown on costs for the Fruit and Vegetable Inspection Program for FY94.

E. Alternative Methods for Assessing Inspection Fees

The commission discussed alternate methods of assessing fees for inspection. Currently a tablestock producer or shipper requesting inspection pays either a fee based on per hundredweight of product inspected or, if using contract inspection, pays a weekly charge based on the hours of inspection specified in the contract. Producers of seed potatoes are assessed a per acre fee and, in addition, pay a per hundredweight fee for shipping inspection. (Appendix B-6) Members of the commission were interested in exploring a per acre fee assessment to partially or fully cover the cost of inspection. Estimates of per acre charges under differing scenarios were provided by the department and are found in Appendix B-13.

Potential advantages of a per acre assessment might be increased revenue to support the program and increased use of inspection by growers. Dealers would likely benefit from increased inspection without directly paying a fee. The advisability of assessing per acre fees is complicated by many factors, among them the fact that acreages devoted to tablestock, processing, seed or chip production change from year to year. The impact of a change in fee assessment on use of inspection is uncertain, however, the commission believes the feasibility of an alternative method for assessing fees merits further study and consideration.

F. Use of Third Parties to Provide Inspection Services

Under Maine statute the Commissioner of Agriculture, Food and Rural Resources has the authority to contract with a private entity for inspection services (7 MRSA §9). The department has the authority under its current cooperative agreement to use inspectors who are employees of a 3rd party. However, the recommended language for future revisions to the agreement is much clearer. Below is a brief summary of information regarding a state's authority to contract with a 3rd party to provide inspection services.

- The Cooperative Agreement is between the Agricultural Marketing Service of the USDA and the Maine Department of Agriculture, Food and Rural Resources (the department). The department may contract with 3rd parties but the department is ultimately responsible for adherence to the agreement.
- The USDA does not have a set list of criteria for reviewing 3rd party contracts. Again, their agreement is with the department. The USDA is interested in reviewing guidelines that a state or department develops to solicit proposals.
- The USDA does have specific auditing provisions that must be followed.
- Restrictions on the selection and use of a 3rd party are as follows:

The 3rd party must not have a conflict of interest which might affect their provision of objective inspection services. The example of a proposal for the Oregon Farm Bureau to be a 3rd party provider of inspection services was briefly discussed at the August meeting. In this case there probably would not be a conflict of interest since a majority of the Farm Bureau's members would not be using the service.

If a "for-profit" entity is selected as the 3rd party, that entity should not serve as trustee of the inspection fund.

- The USDA does not train or issue licenses to individuals. A license is only valid for an individual employed or assigned by a cooperating agency.

Despite the prohibition on privatization in effect for the remainder of the 1994-95 biennium, several members of the commission were interested in pursuing more information on this option for the future. Dave Bracht, Director of Management and Finance for the National Association of State Departments of Agriculture was invited to the Commission's December meeting and presented a draft proposal for providing inspection services. NASDA currently has a 3rd party agreement with California to provide produce inspection. Information on the NASDA proposal is in Appendix C. The cost estimate does not include administrative costs incurred by the department. The department would continue to be ultimately responsible for the cooperative agreement with USDA and have continuing administrative costs associated with the inspection program. The department estimates its annual costs under this proposal at \$130,000. This figure includes administrative costs, rent and utilities.

III. RECOMMENDATIONS

The commission's charge was "to study methods that would improve the efficiency of the inspection program, increase the use of inspection services and reduce costs". The consensus among commission members is that use of inspection services will increase if fees can be lowered and service improved. The objective of each of the recommendations made in this report is to directly or indirectly impact the cost of the program or the quality of delivered service. Few require legislative action. Most of the recommendations are related to administration of the inspection program or management of staff. The Department of Agriculture, Food and Rural Resources has the authority in Maine statute and the flexibility within its Cooperative Agreement with the Agricultural Marketing Service of the United States Department of Agriculture to implement the suggested changes.

The recommendations below are roughly categorized. After each recommendation is a brief summary of the commission's discussion on this topic.

A. Legislative Recommendations

1. **Protect the Commodity Accounts from Future Actions taken to Balance the General Fund Budget.**

a. Maine Retirement System. Public Laws of 1991, chapter 591, Part P, contained a provision that deferred \$73,500,000 from teachers' retirement and state General Fund employee retirement contributions to the unfunded liability of the state retirement system. Withholding those funds resulted in an essentially unequal rate of contribution to the retirement system between those classes of employee and employees funded by other funds. The Part II budget for fiscal years 1996 and 1997 (LD 958) contains an appropriation of \$6,650,000 to comply with an audit finding regarding excess retirement withheld from federal funds as a result of that 1991 public law. No similar audit has been conducted to identify or rectify similar excess retirement withholding issues pertaining to employees, such as commodity group employees, who are paid from other sources of revenue.

To protect the commodity accounts from such actions in the future, we are recommending legislation that, if enacted, would prohibit retirement contributions by commodity group employees who are paid entirely from other special revenue from being applied towards the unfunded liability of the state retirement system. That proposed legislation is included as Appendix D-1.

b. Provisions of P.L. 1991, Chapter 780. To balance the FY1992-93 budget, PL 1991, c. 780, Part WW reduced the weekly work schedule of each state employee by one hour. Part KKK deappropriated funds by a reduction of 0.9% from each account in FY1992-93. These provisions impacted the commodity accounts and personnel employed with funding from these accounts. In the

future, if similar budget-balancing methods are used, the commodity accounts should be exempted from such provisions. The potato industry and other industries that support state agencies through an industry tax must be allowed to maintain services vital to their industries and paid for with industry taxes.

2. **Operation of a Port of Entry Facility for Commercial Vehicles**
Legislation was introduced in the 1st Regular Session of the 117th Maine Legislature to provide funding for operating the weigh station in York on a 24-hour basis. LD 108, An Act to Install Rumble Strips on the Maine Turnpike and to Allocate Funds to Operate a 24-hour Weigh Station had a public hearing before the Joint Standing Committee on Transportation and was reported out of committee "Ought Not to Pass". This report was made with knowledge that the Governor's Task Force on Motor Carrier Safety Laws is recommending legislation creating a study on operation of a Port-of-Entry facility.

The study is envisioned as a joint effort by the Maine Departments of Transportation and Public Safety to determine the impact of a Port-of-Entry on enforcement of commercial vehicle laws and on traffic patterns along the Port-of-Entry route and alternate routes. A Port-of-Entry differs from operation of a 24 hour weigh station in that all commercial vehicles entering the state would be required to pass through the Port-of-Entry. Operating a 24 hour weigh station would only require commercial vehicles passing by that weigh station to be checked.

The commission heard concerns that truckers are becoming increasingly reluctant to haul to and from northern Maine. Some in the trucking industry contend that the certainty of a 24-hour weigh station or a Port-of-Entry is preferable to the increased "spot" checks experienced by truckers throughout the state in the past year.

Representatives from the Department of Agriculture, Food and Rural Resources emphasized that operation of a port of entry facility would enable the department to more efficiently enforce the branding laws and also to inspect horticultural stock, bees and other agricultural products entering and leaving the state. It was also suggested that increased enforcement of the branding law facilitated by a port of entry could increase use of inspection.

The commission recommends that the Department of Agriculture, Food and Rural Resources contact the Departments of Public Safety and Transportation to make them aware of agriculture's support of a Port-of-Entry and to assist in developing a study which might also accommodate agriculture's inspection responsibilities.

3. **Mandatory Inspection.** The commission heard support for and opposition to mandatory inspection. The potential benefits to the industry of an improved product image and increased demand are strong arguments for mandatory inspection. Much of the expressed opposition to mandatory inspection was based on concerns regarding

cost and implementation rather than a philosophical opposition. The commission recommends that the Maine Potato Board and Maine Quality Control Board develop a detailed proposal for mandatory inspection. The commission is proposing legislation to give the commissioner the authority to require inspection of consumer packs of tablestock potatoes through rulemaking. (Appendix D-2) The legislation would require the commissioner to adopt rules for mandatory inspection upon the request of the Maine Potato Board.

Increased confidence in the operation of the inspection service, a demonstrated ability to contain inspection costs and a detailed proposal with an acceptable effective date could significantly reduce opposition within the industry.

B. Quality of Service

The use of contract inspection has greatly increased in the last few years. In 1994, 70% of all inspected tablestock potatoes were inspected under contract. This compares to 35% in 1992. Satisfaction is high among the contract consumers of inspection services. Efforts should continue to promote use of contract inspection.

Complaints regarding response time and consistency for "on-demand" inspection requests need to be addressed. Quality and cost of service are obviously interrelated. Recommendations that relate primarily to quality issues are discussed in this section.

1. Redirect focus of program manager

The commission understands that the job description for the program manager is being rewritten. The commission asserts that a substantial percentage of the program manager's time should be spent supervising inspectors in the field. The other primary focus of this position should be encouraging use of the inspection service. The program manager should meet regularly with customers of the service and potential customers. We strongly believe that resources can be shifted to accommodate this emphasis without adding office personnel.

2. Communications/equipment

The inspection service must optimize use of electronic answering machines, beepers, cellular phones and other communications devices to improve service without adding personnel. Inspectors must be equipped to perform all anticipated tasks. In November of 1994, all inspectors were equipped to do Positive Lot Identification. This is an important step for service delivery.

3. Geographic location of inspectors

The efficiency with which inspectors are dispatched is essential to providing acceptable service. The commission heard repeatedly of the shortened loading time for trucks and the continuing uncertainty of daily demand for inspection. The inspection service must be creative in adapting, predicting demand as best as possible, controlling demand through financial incentives, and retaining a trained workforce that is geographically disbursed proportional to workload.

4. Cooperation between Quality Assurance Inspection and Seed Potato Inspection Programs

The Division of Quality Assurance and the Division of Plant Industry have developed cooperative working arrangements for several activities. The commission encourages increased cooperation between the two divisions to maximize efficient use of staff and respond to seasonal differences in workload.

The department has identified several opportunities for sharing staff. Cooperative activities which offer a potential for cost savings or a more efficient use of staff and promise a quality of service equal to that currently provided should be pursued. At this time, the commission recommends that seed potato inspectors be trained and allowed to inspect potatoes in seed houses that are destined for tablestock markets. The primary focus of this effort would be potatoes being sold as Chefs from the seed houses.

5. Warehouse inspections

The commission recommends that all warehouse inspections be positive lot identified and that the positive lot identification (p.l.i.) be provided by the inspection service at no additional charge. This will greatly enhance the value of an inspection and reduce the number of loads refused at the market destination. If p.l.i. is not adopted for all warehouse inspections, we recommend that a warehouse inspection certificate be valid for 48 hours after issuance.

C. Reducing Cost of the Inspection Program

This section presents recommendations to directly reduce cost of the inspection program. Some are specific to certain fees for service. Others are broader in impact. The commission recommends that management for inspection services be streamlined to eliminate overlapping and duplicative functions and to make management cost effective. Privatization was discussed at length by this commission. The commission was split on recommending privatization as a recourse to be pursued. All members agree that a failure to reduce program costs and increase utilization of inspection will lead to increased

pressure to privatize. Six* members sense that pressure as immediate and see union negotiations as critical. If negotiations fail to produce a package that supports affordable inspection, these members recommend privatizing the inspection service. The prohibition on privatizing potato inspection functions ends June 30, 1995. (P.L. 1993, c. 707)

1. Negotiation of Sidebar Agreement

Many factors affecting the overall cost of the inspection program are controlled by the collective bargaining process. The commission urges the Department of Agriculture, Food and Rural Resources and the Maine State Employees Union to find ways to improve the cost effectiveness of the inspection program.

We strongly urge the union and the department to negotiate a sidebar agreement to the union contract for produce inspectors and seed potato inspectors. The commission heard repeated requests from packers and shippers in the industry for the flexibility of a 6 day week. The commission suggests that negotiators redefine the work week so that inspection can be provided Monday through Saturday. Given the flexibility of 6 days, management should schedule and assign inspectors so that packers and shippers incur a minimum of overtime charges.

2. Full-time, seasonal and intermittent inspectors

The workforce should consist of a mix of full-time inspectors and intermittent inspectors. We suggest that full-time employees be guaranteed a specified number of weeks of employment a year. The number of full-time inspectors and weeks specified should be based on use of contract inspection. A sufficient number of seasonal, temporary or intermittent inspectors should be trained to respond primarily to "on demand" requests for inspection.

3. Adjust fees for holiday weeks

Currently shippers receiving inspection services under a contract are paying the regular rate (based on a 40 hour week) for holiday weeks when only 24 to 32 hours of service are provided. Similarly, a non-contract shipper requesting an inspection the day after Thanksgiving pays a premium rate even though the inspector has not exceeded 40 hours. The commission recommends that the department review fees to see if a more equitable fee structure can be developed.

* Rep. Richard Kneeland, Robert Blackstone, Vernon DeLong, Carl Flora, Maylen Kenney, and Andrew Yeager

D. Development of Alternate Method of Funding the Inspection Program

The Commission urges the Department of Agriculture, Food and Rural Resources to work with the Maine Potato Board to develop a method or methods of assessing fees to defray the cost of inspection. The method discussed most extensively by this commission was implementing a per acre fee to be imposed on growers and not contingent on their use of inspection. Studying potential inequities and other ramifications of this approach was beyond the scope of this commission. We recommend that the department and representatives of the potato industry pursue the feasibility of an alternative method of fee assessment.

#306WPPSTUDY

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STATE OF MAINE

—
IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-FOUR
—

H.P. 1273 - L.D. 1717

An Act to Amend the Laws Relating to Potatoes

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, this legislation amends laws to improve the potato industry, an important agricultural industry in the State; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 7 MRSA §956, 2nd ¶, as enacted by PL 1985, c. 655, §2, is amended to read:

Any person who refuses or interferes with access by the commissioner or ~~his~~ the commissioner's representative as provided for in this section, following oral request and warning given by the commissioner or ~~his~~ the commissioner's representative regarding the contents of this section, ~~shall-be is~~ is guilty of a separate civil violation under section 957, ~~provided that oral request and warning by the commissioner or his representative~~

~~shall substitute for a first violation warning under section 957, subsection 1, and any continued refusal or interference shall be subject to the civil penalties as provided in section 957, subsection 2.~~

Sec. 2. 7 MRSA §957, sub-§1, as repealed and replaced by PL 1981, c. 513, §6, is repealed.

Sec. 3. 7 MRSA §957, sub-§§1-A and 1-B are enacted to read:

1-A. Penalty. The following civil penalties apply:

A. For the first violation committed during a shipping season, a forfeiture of not more than \$200;

B. For the 2nd violation committed during a shipping season, a forfeiture of \$1,000; and

C. For the 3rd and subsequent violations committed during a shipping season, a forfeiture of not less than \$1,500.

1-B. Mandatory inspection. After notice and an opportunity for hearing in an adjudicatory proceeding in accordance with the Maine Administrative Procedure Act, the commissioner may order a person the commissioner finds has violated this chapter 3 or more times in a shipping season to undergo mandatory inspection in the manner provided in section 446 for a period of one year from the date of the final administrative determination. If the inspection order is stayed during appeal of the administrative determination, the period of the stay is not counted in calculating the one-year period. A person subject to mandatory inspection under this subsection may not ship potatoes packed in consumer packs unless the packs are accompanied by an unrestricted, original certificate of inspection covering the entire manifest, or an original or a copy of a certificate of inspection positively identifying the actual bags or containers in the shipment. Shipment of potatoes without the certificate required by this subsection is a separate violation subject to the penalties provided by this section.

Sec. 4. 7 MRSA §957, sub-§2, as repealed and replaced by PL 1981, c. 513, §6, is repealed.

Sec. 5. 7 MRSA §973, first ¶, as repealed and replaced by PL 1989, c. 502, Pt. B, §3, is amended to read:

There is created a fund to be known as the Potato Marketing Improvement Fund, ~~to which shall be credited all~~. All funds received by the commissioner from any source for the development and implementation of an improved storage, packing and marketing

program must be credited to the fund. Any money credited to the Potato Marketing Improvement Fund from the issuance of bonds on behalf of the State for agricultural development ~~shall~~ may be used only for the purposes of state loans as prescribed by section 974-A, to provide assistance to farmers for the design, construction, improvement, support and operation of storage, packing and marketing facilities and to pay the administrative costs of processing loan applications, to the extent that the costs exceed the fee for administrative costs established by section 974-A, subsection 2. Repayment of these loans and interest ~~thereon--shall~~ on the loans must be credited to the Potato Marketing Improvement Fund to be available for making additional state loans for the same purposes, except that any interest earned on the cash balance of the fund may be used for the grants authorized by section 975 ~~975-A.~~ In order to provide additional amounts for loans, the commissioner, at the commissioner's discretion, may take such actions and enter into such agreements as may be necessary to sell or assign up to \$2,000,000 in the aggregate principal amount of loans and undivided interests in a pool of loans and assign or pledge any mortgage or other security to the Finance Authority of Maine, under terms and conditions the commissioner considers advisable. The assignment and related transactions may not result in indebtedness of the State. The proceeds of the sale or assignment must be credited to the Potato Marketing Improvement Fund and used for the purposes authorized in this section.

Sec. 6. 7 MRSA §1036, sub-§3, as repealed and replaced by PL 1987, c. 754, §5, is amended to read:

3. **Penalty.** Any person who violates subsection 1 or 2-A is subject to section 957 and any person who violates subsection 2 is subject to the following civil penalties and administrative action:

A. For the first violation, a forfeiture of \$500;

B. For the 2nd violation, a forfeiture of \$1,000; and

C. For the 3rd and subsequent violations, no less than \$1,000 ~~\$1,500.~~ ~~After notice and opportunity for hearing are provided by the commissioner in a manner consistent with the Maine Administrative Procedure Act, Title 5, chapter 375, for adjudicatory proceedings, the violator shall, for a period of one year from the date of the violation, be subject to mandatory inspection in the manner provided in section 446.~~

After notice and an opportunity for hearing in an adjudicatory proceeding in accordance with the Maine Administrative Procedure

Act, the commissioner may order a person the commissioner finds has violated subsection 2 3 or more times in a shipping season to undergo mandatory inspection in the manner provided in section 446 for a period of one year from the date of the final administrative determination. If the inspection order is stayed during appeal of the administrative determination, the period of the stay is not counted in calculating the one-year period. A person subject to mandatory inspection under this subsection may not ship potatoes packed in consumer packs unless the packs are accompanied by an unrestricted, original certificate of inspection covering the entire manifest, or an original or a copy of a certificate of inspection positively identifying the actual bags or containers in the shipment. Shipment of potatoes without the certificate required by this subsection is a separate violation subject to the penalties provided by this subsection.

Sec. 7. Exploration of special utility rate for off-grade potato processors. The Public Utilities Commission, any electric utility providing service to Aroostook County and the Department of Agriculture, Food and Rural Resources shall explore the development of a special rate for electricity used by any processor in Aroostook County exclusively for the processing of off-grade potatoes. Any special rate proposal developed under this section may not require an electric utility to offer that rate to a customer engaged in the processing of off-grade potatoes under the utility's standard rate schedule. For purposes of this section, "off-grade potatoes" means those potatoes that fail to meet minimum grade requirements as established by the United States Department of Agriculture for U.S. #2 processing rate potatoes.

Sec. 8. Study commission established. The Commission to Study Potato Quality Issues is established to study the management and operation of the quality inspection program. The commission consists of 9 members.

1. Five members are appointed jointly by the President of the Senate and the Speaker of the House of Representatives as follows: 3 Legislators, one member representing the Maine State Employees Association and one member representing the Agricultural Bargaining Council.

2. Three members are selected by the Governor from a list of nominees provided by the Maine Potato Board. The list provided by the Maine Potato Board must contain 2 nominees from each of the following: the Table Stock Executive Council, the Dealers' Executive Council and the Maine Potato Quality Control Board. The Governor shall select 3 of the nominees, one from each council and one from the board.

3. One member is the Commissioner of Agriculture, Food and Rural Resources or the commissioner's designee.

4. All appointments are made by the President of the Senate and the Speaker of the House of Representatives and must be made no later than 30 days from the effective date of this section. The first meeting of the commission must be no later than 15 days following the completion of appointments. The President of the Senate and the Speaker of the House of Representatives shall elect a chair from among the members.

5. The duties of the commission are to study methods that would improve the efficiency of the inspection program, increase the use of inspection services and reduce costs. In conducting the study, the commission may:

A. Hold public hearings;

B. Meet at such times and places as the commission determines necessary and hold informational sessions for discussions with knowledgeable persons;

C. Conduct, summarize and analyze the results of a literature search of data pertaining to potatoes;

D. Conduct, tabulate and analyze the results of a survey of the public or affected persons and groups;

E. Conduct legal research and prepare opinions on legal questions within the scope of the study; and

F. Determine and summarize the legislative actions or governmental programs undertaken in other jurisdictions related to issues within the scope of the study.

6. The Legislative Council shall provide staff assistance upon the request of the commission, including assistance in preparing any recommended legislation.

7. The members of the commission are not entitled to compensation other than reimbursement for expenses, as defined in the Maine Revised Statutes, Title 5, chapter 379, upon application to the Executive Director of the Legislative Council.

8. The commission shall submit its report, together with any necessary implementing legislation, to the joint standing committee of the Legislature having jurisdiction over agriculture matters no later than April 15, 1995.

Sec. 9. Transfer of funds. Notwithstanding the provisions

of the Maine Revised Statutes, Title 5, section 1585, no later than April 15, 1994, the Department of Agriculture, Food and Rural Resources shall transfer up to \$3,500 from the Maine Potato Board to the Legislature toward the actual expenses incurred by the Commission to Study Potato Quality Issues.

Sec. 10. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

1994-95

**AGRICULTURE, FOOD AND RURAL RESOURCES,
DEPARTMENT OF**

Marketing Services - Agriculture

All Other \$3,000

Provides for the allocation of funds for additional operating costs of the Branding Law Program.

**DEPARTMENT OF AGRICULTURE, FOOD
AND RURAL RESOURCES
TOTAL**

\$3,000

LEGISLATURE

**Commission to Study Potato
Quality Issues**

All Other \$3,500

Provides for the allocation of funds to cover the operating expenses of the Commission to Study Potato Quality Issues.

**LEGISLATURE
TOTAL**

\$3,500

TOTAL ALLOCATIONS

\$6,500

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Appendix A-2

CHAPTER 707

PUBLIC LAWS, SECOND REGULAR SESSION - 1993

Provides for the deappropriation of funds by placing a moratorium on applications for benefits under this program.		Capital Construction, Repairs, Improvements - Administration	
Maine Residents Property Tax Program		All Other	150,000
All Other	(\$500,000)	Provides for the appropriation of funds for engineering, marketing and other studies needed to determine options for the Pineland Center.	
Provides for the deappropriation of funds due to an available balance from the supplemental appropriation provided in Private and Special Law 1993, chapter 57.		DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES	
Maine Residents Property Tax Program		TOTAL	(500,000) 2,177,161
All Other		AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF	
Provides funds to meet an anticipated shortfall in the Maine Residents Property Tax Program due to a higher than originally anticipated number of qualified applicants.		Potato Quality Control - Reducing Inspection Costs	
Taxation - Bureau of		All Other	50,000 100,000
Personal Services	(17,572)	Provides funds to increase the subsidy of potato inspections. Notwithstanding any other provision of law, the potato inspection function may not be privatized during the remainder of the 1994-95 biennium. All parties with an interest in potato inspections are authorized to work together to improve the State's potato inspection function and report any findings and recommendations to the First Regular Session of the 117th Legislature.	
All Other	14,057	DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES	
Total	(3,515)	TOTAL	50,000 100,000
Provides for the transfer from Personal Services to All Other through the abolishment of 4 Intermittent Clerk I positions. Savings in fiscal year 1994-95 will be used to fund the Youth Apprenticeship Program for the Bureau of the Budget.		ATTORNEY GENERAL, DEPARTMENT OF THE	
Taxation - Bureau of		Administration - Attorney General	
Positions - Legislative Count	(4.0)	All Other	100,000
Positions - Other Count	(-5.5)	Provides for the appropriation of funds for reimbursement of litigation costs associated with the City of Portland lawsuit.	
Personal Services	(2,839)	District Attorneys Salaries	
Provides for the deappropriation of funds from the elimination of 3 seasonal, 16-week Taxpayer Assistant Specialist positions, 4 seasonal, 16-week Tax Examiner positions, and the upgrade of 4 seasonal, 26-week Tax Examiner positions to full time.		Positions - Legislative Count	(2.0)
		Personal Services	\$6,080

Source: *Laws of Maine*, 1993, Vol. 3.

COMMISSION TO STUDY POTATO QUALITY ISSUES

(Chapter 699, P.L. 1993)

MEMBERSHIP

Appointments by the Governor

Robert Blackstone
RFD #1, Box 2000
Washburn, Maine 04786

Table Stock Executive Council

Andrew Yeager
P.O. Box 189
H. Smith Packing Corp.
Blaine, Maine 04734

Dealers Executive Council

Maylen Kenney
RFD #2, Box 368
Presque Isle, Maine 04769

Maine Potato Quality Control
Board

Appointment by the President of the Senate

Senator Judy Paradis
40 U.S. Route 1
Frenchville, Maine 04745

Appointments by the Speaker of the House

Representative Richard Kneeland
RR 1, Box 11
Easton, Maine 04740

Representative Robert J. Tardy
P.O. Box 336
Newport, Maine 04953

Joint Appointments by the President of the Senate and Speaker of the House

Vernon DeLong
344 Main Street
Presque Isle, Maine 04769

Agricultural Bargaining
Council

Carl Leinonen
Maine State Employees Association
65 State Street
Augusta, Maine 04330

Maine State Employees
Association

Ex Officio

Carl Flora, Designee of
Commissioner of Agriculture
State House Station #28
Augusta, Maine 04333

June 30, 1994

Appendix B-1

Estimated Revenue and Expenditures with Mandatory Tablestock Inspection FY 95 (July 1, 1994-June 30, 1995)

Projected FY 95 Revenue from inspection (current usage)*	\$ 618,000
Additional Revenue with mandatory tablestock inspection**	\$ 490,000
Total Revenue	\$ 1,108,000
Projected FY 95 inspection expenditures (current usage)*	\$ 748,717
Projected increase in expenditures with mandatory tablestock inspection**	\$ 350,346
Total Expenditures	\$ 1,099,063
Balance	\$ 8,937

* Estimates between 2.3 and 2.4 million cwt. of tablestock potatoes inspected at \$0.14 per cwt. Includes revenue from inspection of other fresh produce.

** Estimates an additional 3.5 million cwt. of tablestock potatoes inspected at \$0.14 per cwt.

Inspection Cost to Shipper at Varying Levels of Subsidy With Mandatory Tablestock Inspection

Appropriation	Cost to Shipper (per CWT)
\$ 95,652	\$ 0.124
\$ 200,000	\$ 0.106
\$ 250,000	\$ 0.097
\$ 300,000	\$ 0.089
\$ 350,000	\$ 0.080

Source: Maine Department of Agriculture, Food and Rural Resources, Division of Quality Assurance.

MAINE POTATO BOARD

744 Main Street, Room 1, Presque Isle, Maine 04769 (207) 769-5061

December 1, 1993

TO: All Maine Potato Growers

FROM: Brian R. Campbell, President

SUBJECT: Industry Survey

The Maine Legislature and the Attorney General have recommended that the Maine Potato Board poll its growers to determine whether there is industry support for a full inspection program for tablestock potato shipments before seeking legislation.

We are interested in your comments and it is not necessary for you to sign the poll below. Please complete and return the poll by December 14 so that the results can be reported at our December Maine Potato Board meeting.

1. Which market do you sell to?

Process	_____	# Acres	<u>6,788</u>
Chip	_____	# Acres	<u>2,662</u>
Tablestock	_____	# Acres	<u>19,870</u>
Seed	_____	# Acres	<u>9,215</u>

2. What percentage of your crop is shipped bulk? _____%
consumer pack? _____%

3. Do you approve of a full inspection program? Yes - 24; No - 121

a. Private 43
b. Fed/State 55

For all tablestock? Yes - 29; No - 73

a. Shipped bulk 12
b. Shipped in Consumer packs 63

4. Other comments on any issue:

Total Returns - 213
Total Mailed - 707
Total Acres - 38,535

POLL COMMENTS

I THINK THE PRESENT MAINE BAG PROGRAM IS WORKING. AS MUCH AS CAN BE DONE TO PROMOTE IT BOTH AT THIS END AND AT THE MARKET SHOULD BE DONE.

I DO NOT WANT A FULL INSPECTION PROGRAM BUT IF ONE IS MANDATED, ALL POTATOES MUST FALL UNDER THE PROGRAM. NO EXEMPTIONS FOR PROCESSING OR CHIP POTATOES. EVERYONE MUST COMPLY WITH A FULL INSPECTION PROGRAM.

THE DEPARTMENT OF AGRICULTURE SHOULD DO MORE TO ENCOURAGE DEALERS TO HIRE CONTRACT INSPECTORS FOR THEIR FARM ACCOUNTS. IF WE ARE FORCED TO HAVE INSPECTION, ALL POTATOES INCLUDING BULK, CONSUMER PACKS AND CHIP STOCK MUST BE INCLUDED.

THE INSPECTION ONLY COVERS YOU IN THE STATE OF MAINE AND NOT THEN IF A TRUCK STOP DECIDES TO TURN THE LOAD AROUND. IT'S ABOUT TIME THE FARMER WAS PAID FOR HIS WORK INSTEAD OF SOMEONE SITTING BEHIND A DESK TELLING US HOW TO FARM.

I FEEL THE INSPECTION SHOULD BE UP TO THE FARMER WHO IS RAISING THE POTATOES. THE BUYER AND PACKER SHOULD KNOW WHAT A GOOD PRODUCT IS. WHY PAY FOR INSPECTION WHEN IT ISN'T WORTH THE PAPER IT'S WRITTEN ON?

WE DO NOT NEED FULL INSPECTION!

FULL INSPECTION WOULD BE FINE ONLY IF IT WAS F.O.B. FINAL AFTER IT WAS INSPECTED.

I DO NOT BELIEVE IN MANDATORY INSPECTION AS IT WILL NOT FORCE THE BUYER ON THE OTHER END TO RECEIVE THE LOAD.

I DO NOT WANT COMPULSORY INSPECTION. IF THE BUYER WANTS INSPECTION I WILL GIVE IT TO HIM.

I DO NOT BELIEVE IN INSPECTION BECAUSE IF THE BUYER ON THE OTHER END DOESN'T LIKE THE POTATOES HE WILL NOT ACCEPT THE LOAD.

ALL YOU HAVE TO DO IS PUT UP A GOOD BAG OF POTATOES .

I DO NOT APPROVE OF COMPULSORY INSPECTION EXCEPT FOR THE MAINE TRADEMARK BAGS. POTATO BOARD EFFORTS SHOULD BE TO PROMOTE GROWERS DEVELOPING MARKETING PLANS ASSISTED BY EXTENSION, CREDIT AGENCIES AND IMPLEMENT THEM WITH INDUSTRY AND GOVERNMENT ASSISTANCE PROGRAMS.

WE NEED TO HAVE A QUALITY PRODUCT GOING OUT TO THE MARKET. I AM A PROCESSING GROWER, BUT I REALIZE THAT I OR ANY OTHER PROCESSING GROWER SHOULD NOT JUST RELY ON ONE MEANS OF MARKETING POTATOES.

INSPECTION IS TOO EXPENSIVE FOR WHAT IT'S WORTH. IT'S ONLY A GUIDELINE. ONCE THE DOOR TO THE TRAILERS ARE SHUT, THE INSPECTION IS USELESS. IT'S NO HELP WHATEVER AT DESTINATION.

OUR INDUSTRY IS IN ENOUGH TROUBLE WITHOUT IMPOSING MANDATORY INSPECTION. THE FINAL INSPECTOR IS THE BUYER AND A MAINE INSPECTION CERTIFICATE ISN'T WORTH THE PAPER IT'S WRITTEN ON IF HE DOESN'T WANT OR NEED THE LOAD WHEN IT ARRIVES. RATHER THAN IMPOSE INSPECTION, WHY DOESN'T THE MAINE POTATO BOARD FOCUS ITS EFFORTS ON DEVELOPING A ROUND WHITE POTATO THAT WILL COMPETE IN THE MARKET INSTEAD OF DEVELOPING SEED POTATOES TO BE PRODUCED OUT OF STATE.

I THINK A PRIVATE INSPECTION SERVICE USED AT THE SHIPPER'S DISCRETION WOULD BE EFFECTIVE AND CHEAPER.

INSPECTION ON TABLESTOCK IS OF NO BENEFIT AT ALL TO FARMERS.

IF OUR INSPECTION PROGRAM, WHETHER IT IS FEDERAL/STATE OR PRIVATE, HAD SOME TEETH IN IT, I WOULD BE FOR IT. BUT IF IT IS JUST USED TO GET POTATOES THRU KITTELY, I CAN'T SEE ANY SENSE WASTING THE TIME OR MONEY.

I AM NOT IN FAVOR OF FULL INSPECTION. FARMERS SHOULD HAVE THE CHOICE TO USE IT OR NOT.

I FEEL AS THOUGH THE BUYER CAN DETERMINE IF THE PRODUCT MEETS THE GRADE HE OR SHE EXPECTS. I HAVE NEVER SEEN A BUYER LOOK AT OR ASK FOR THE INSPECTION CERTIFICATE.

IF INSPECTION CAN'T STAND AT THE RECEIVING END, IT'S NO USE HAVING IT.

THE STATE CANNOT AFFORD TO INCREASE INSPECTIONS AND NEITHER CAN THE INDUSTRY.

I DON'T AGREE WITH FULL INSPECTION IN ANY WAY SHAPE OR FORM. I HAVE DELIVERED POTATOES IN THE BOSTON, NEW YORK AND NEW JERSEY MARKETS FOR OVER 20 YEARS. MAINE INSPECTIONS AIN'T WORTH THE PAPER THEY ARE WRITTEN ON TO ANYONE EXCEPT THE MAINE BRANDING LAW SO YOU CAN GET YOUR TRUCK OUT OF STATE.

AS A SEED GROWER I HAVE TO GET MY POTATOES INSPECTED TO SHIP OUT OF STATE. WHY NOT TABLESTOCK?

I WOULD APPROVE A MANDATORY INSPECTION PROGRAM IF IT WAS MODELED AFTER THE SEED INSPECTION PROGRAM.

I WOULD AGREE TO MANDATORY INSPECTION IF IT WOULD GUARANTEE THAT ALL LOADS WOULD BE ACCEPTED AT DESTINATION POINT. THE WAY IT IS NOW, EVEN IF THE LOAD PASSES HERE, IT DOESN'T MEAN IT WILL BE ACCEPTED AT DESTINATION.

BULK INSPECTION DOESN'T TELL THE RECEIVER/RE-PACKER MUCH BECAUSE HE USES HIS OWN INSPECTION AND DEDUCTIONS. THE CONSUMER PACK SHOULD BE INSPECTED TO PROVIDE THE CONSUMER WITH A QUALITY PACK.

ALL THE POTATOES WE SHIP ARE INSPECTED BY THE BUYER, SO WHY SHOULD WE HAVE TO INSPECT THEM HERE?

FEDERAL AND STATE INSPECTION IS TOO EXPENSIVE AND TOO BOGGED DOWN WITH GOVERNMENT REGULATIONS AND FRINGES.

I FAVOR FULL INSPECTION AND OPPOSE SHIPPING PICK-OUTS TO THE MARKET. THAT RUINS THE MARKET.

THE MAINE BAG IS A JOKE, THE INSPECTION SERVICE IS A JOKE. IT HAS NO VALUE, NO STRENGTH. IT'S WORTHLESS. YOU PEOPLE ARE WASTING GOOD FARMER'S MONEY WHICH IS DESPERATELY NEEDED.

MAINE BAGS SHOULD NOT BE ALLOWED TO GO TO MARKET AFTER THEY HAVE BEEN TURNED DOWN.

UNTIL WE CAN CONTROL WHO AND HOW ANYONE USES PACKAGES THAT SAY MAINE ON THEM HERE AT HOME OR OUT OF STATE, THE ENTIRE EFFORT IS USELESS.

WE HAVE A MARKETING ORDER FOR RUSSETS. I DON'T FEEL WE NEED ONE FOR WHITES.

65% OF INSPECTED LOADS OF POTATOES GOING OUT OF MAINE WILL NOT MEET BRANDING LAW SPECS IF THE BRANDING COULD GET A LOOK AT THEM. THE INSPECTION ONLY GETS THEM OUT OF THE STATE. GO WITH A MANDATORY TWO AND ONE QUARTER INCH WASHED PRODUCT. THAT WILL MAKE A DIFFERENCE.

I DO NOT FAVOR COMPULSORY INSPECTION. WHO DOES THE MAINE POTATO BOARD THINK THEY ARE TRYING TO SHOVE INSPECTION DOWN THE THROAT OF THE TABLESTOCK GROWER. I DO NOT BELIEVE THERE IS ANYONE ON THE BOARD WHO COULD BE TRUSTED TO CONDUCT AN HONEST POLL. I ALSO SAY THAT IF COMPULSORY INSPECTION IS ENACTED, I WILL NOT PAY FOR A SERVICE THAT I DO NOT WANT.

MY FATHER BOUGHT POTATOES OFF THE STREET FOR YEARS. COMPULSORY INSPECTION DIDN'T WORK THEN AND IT WON'T NOW. THE INSPECTOR'S ATTITUDE IS DIFFERENT EACH DAY. THE MAINE BAG WITH A TWO AND A QUARTER INCH SIZE AND COMPULSORY INSPECTION AND PREMIUM PRICE COULD HAVE WORKED, BUT THE

LEAVE IT JUST AS IS WITH THE MAINE BAG PROGRAM.

MORE REGULATION, JUST WHAT WE NEED. GET A MARKET. DEHY, STARCH OR SOMETHING THAT WILL RETURN OUR COSTS IN OFF-GRADE AND THERE WILL BE A BETTER PRODUCT SHIPPED. WHAT IS THE MAINE POTATO? A NICE WET KATAHDIN OR A DRY RUSSET AN EVERYTHING IN BETWEEN. THERE IS NO "MAINE POTATO ". HOW CAN YOU SELL WHAT YOU DON'T HAVE.

I ONLY APPROVE OF INSPECTION THAT GUARANTEES GRADE TO DESTINATION.

I FEEL I DON'T NEED INSPECTION BECAUSE IF I DONT DO A GOOD JOB GRADING MY POTATOES MYSELF, THE BUYER WON'T TAKE ANYMORE POTATOES FROM ME.

I MOST DEFINATELY APPROVE OF MANDATORY INSPECTION IF THE DEALERS ARE MADE TO SHARE SOME OF THE RESPONSIBILITY OF LOADS THAT ARE REJECTED. I REALIZE THERE IS A LAW IN PLACE TO COVER THIS NOW, BUT IT IS NOT WORKING. A DEALER CAN STILL INTIMIDATE A GROWER.

I STRONGLY FEEL THAT UNTIL THE MAINE FEDERAL/STATE INSPECTION CERTIFICATE IS ACCEPTED AT THE MARKET, IT IS AN ADDED EXPENSE THAT GROWERS DON'T NEED.

FEDERAL/STATE INSPECTION HAS PRICED ITSELF TOO HIGH TO THE POINT WHERE SHIPPERS CAN'T AFFORD TO USE IT.

WHEN WE SHIP A LOAD OF POTATOES TO THE MARKET WE USE OUR OWN BRAND AND NAME ON THE BAG AND ARE PROUD OF IT. WE KNOW WHAT IT WILL TAKE TO KEEP US IN BUSINESS AND WE DO NOT NEED ANYONE THAT DOES NOT KNOW THE BUSINESS TO BE CONTROLLING US. I AM TOTALLY AGAINST INSPECTION. BETTER TO HAVE THINGS AS IS.

I BELIEVE THAT IF YOU COULD MAKE IT THAT IF YOU PASSED INSPECTION HERE, AFTER YOU CLOSED THE DOOR ON THE TRUCK, THE ONLY NEWS ABOUT THAT LOAD WOULD BE THE PAY CHECK, I WOULD HAVE INSPECTION 100%. I MUST SAY THAT THE INSPECTORS HAVE COME A LONG WAY IN BECOMMING A SERVICE AND NOT A GESTAPO UNIT.

QUALITY MUST BE IMPROVED, UNLESS COMPULSORY INSPECTION IS ADOPTED, THERE MAY BE NO MEANINGFUL POTATO INDUSTRY IN MAINE IN FIVE YEARS.

WHEN THERE IS A SHORTAGE BUYERS WILL ACCEPT ANYTHING INCLUDING PICK-OUTS. WHEN THERE IS A SURPLUS BUYERS WILL TURN DOWN LOADS THAT HAVE BEEN INSPECTED.

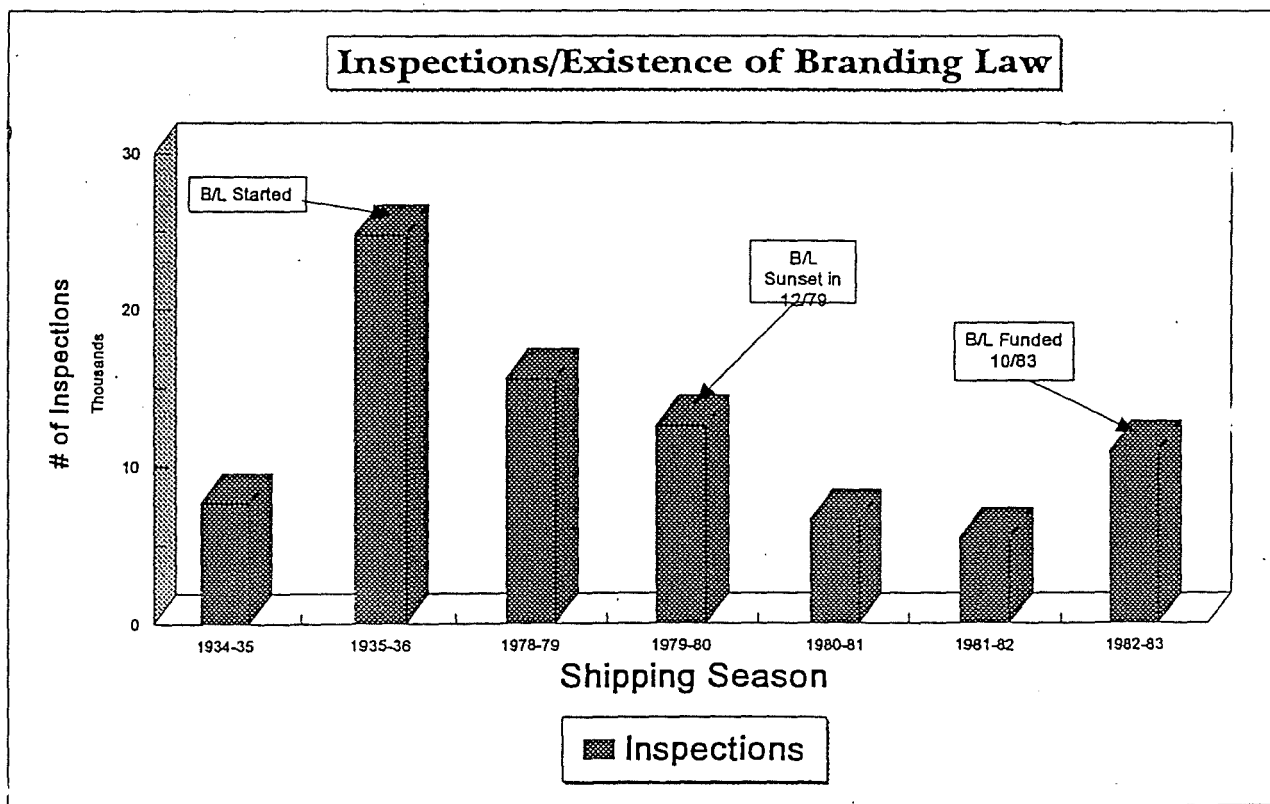
INSPECTION MEANS NOTHING AT THE OTHGER END. IF THEY WANT YOUR POTATOES THEY TAKE THEM, IF THEY DON'T WANT OR LIKE THE LOOK OF YOUR PRODUCT ALL THE INSPECTION THIS SIDE OF HELL WON'T MAKE THEM ACCEPT THEM.

FORGET ABOUT THE FULL INSPECTION. YOU'RE BEGINNING TO SOUND LIKE A BROKEN RECORD. GO ON TO SOMETHING ELSE. INSPECTION ISN'T THE PROBLEM.

Appendix B-3

Number of Inspections Relative to Existence of Branding Law

Shipping Season	Number of Inspections	Branding Law
1934-35	7,678	No
1935-36	24,805	Yes
1978-79	15,600	Yes
1979-80	12,621	Partial Season
1980-81	6,652	No
1981-82	5,470	No
1982-83	11,051	Yes



Source: Maine Department of Agriculture, Food and Rural Resources, Division of Quality Assurance.

Appendix B-4

FORM AMS-20

AGREEMENT NO.

12-25-A-XX

Revision X

COOPERATIVE AGREEMENT
between the
AGRICULTURAL MARKETING SERVICE
UNITED STATES DEPARTMENT OF AGRICULTURE
WASHINGTON, D.C. 20250
(herein after called the Federal Agency)
and the

(hereinafter called the State Agency)

1. TITLE OF AGREEMENT: Federal-State Inspection of Fresh Fruits, Vegetables and Other Products.
2. OBJECTIVE: To make the inspection service for fresh fruits, vegetables and other products, authorized by Congress, more widely available to growers, shippers, processors and receivers than would be possible without the cooperation of the State Agency.
3. STATEMENT OF WORK: This Cooperative Agreement shall be carried out by the organizational units or officials of the Federal Agency and the State Agency in the manner and subject to the conditions provided in the Statement of Work, Form AMS 20-2, attached hereto as a part of this Agreement.
4. LEGAL AUTHORITY: Agricultural Marketing Act of 1946 as amended (7 USC 1621 *et seq.*) and applicable statutes of the State of XX.
5. REVISION: This Agreement is a revision of and shall supersede Cooperative Agreement No. 12-25-A-XX, Revision X, as amended, effective XX, between the X and the Agricultural Marketing Service.
6. EFFECTIVE DATE: XX, 1994
7. APPROVALS: The signatories hereby certify that they have authority to enter into this Cooperative Agreement.

This Agreement is hereby approved for the State Agency.

Done at _____ on _____
(City and State) (Date)

Signature

Title

This Agreement is hereby approved for the Federal Agency.

Done at Washington, D. C. on _____
(Date)

Administrator, Agricultural Marketing Service

STATEMENT OF WORK - COOPERATIVE AGREEMENT NO. 12-25-A-, Rev. ****

This STATEMENT OF WORK is part of the Cooperative Agreement between the Agricultural Marketing Service, United States Department of Agriculture, and the State Agency effective DATE, 1994, having the title of Federal-State Inspection of Fresh Fruits, Vegetables and Other Products.

I. INTRODUCTION: Federal employees and State Agency employees designated to perform work functions under this Agreement shall be as follows:

A. For the Federal Agency - A Federal Supervising Inspector and other Federal Supervisors employed by the Fruit and Vegetable Division, Agricultural Marketing Service, who will be under the exclusive supervision of the Federal Agency.

B. For the State Agency - A Program Supervisor, State Supervisors, and Federally licensed inspectors employed or assigned to the work by the Agency. Federal licensees shall receive supervision from the Federal and State agencies, and shall not be entitled to Federal benefits.

II. RESPONSIBILITIES:

A. The Federal Agency will:

1. Supervise inspectors in the interpretation and application of grades, methods of performing inspections, and preparation of Federal and Federal-State certificates, and ensure that training regarding the performance of Federal-State duties is consistent with 7 CFR Part 51 and Federal Agency-issued instructions.
2. Define qualifications and procedures for evaluating and licensing all inspectors in accordance with 7 CFR Part 51 Subpart-Regulations as supplemented by Federal Agency-issued instructions.
3. Through the Federal Supervising Inspector, issue Federal shipping point licenses to all inspectors determined by mutual agreement to be qualified and needed to perform shipping point inspection services.
4. Upon the recommendation of the Federal Supervising Inspector and subject to Federal Agency-issued instructions, issue Federal market licenses to qualified inspectors. The Federal and State agencies shall mutually agree upon the need to issue such licenses and the qualifications of recommended candidates.
5. Furnish the standard inspector's notesheets and certificate forms considered necessary to perform inspections under this Agreement. The State Agency may use additional forms paid for by the State Agency or the user if such forms have been approved for use by the Federal Agency.
6. Deposit payments received from the State Agency for inspections performed under this Agreement into the U.S. Treasury to the credit of a Federal Trust Fund. Such deposits shall immediately become available to cover authorized costs incurred in conducting a nationwide inspection service on fresh fruits and vegetables. Such Federal operational expenses shall include, but not be limited to: (1) the costs of establishing and revising U.S. grade standards, grading manuals, and visual aids; (2) the salaries and expenses of Federal Supervising Inspectors when coordinating this work; (3) the costs of promoting the uniformity of Federal-State shipping point inspection work in the various States; and (4) the costs of promoting uniformity between such work and the inspection service in receiving markets.
7. Furnish the State Agency with an annual report of the fees collected and the cost of program operation for the Federal-State Inspection Program.

B. The State Agency will:

1. Employ or assign only inspectors licensed by the Federal Agency to perform work under the terms of this Agreement. The selection, assignment, or seasonal release of such employees shall be the

CONTINUATION SHEET - COOPERATIVE AGREEMENT NO. 12-25-A-**, Rev. **

responsibility of the State Agency and subject to the concurrence of the Federal Supervising Inspector. The State Agency also shall have the primary responsibility for the recruitment of such employees. The State Agency shall provide such employees with administrative supervision, and with technical supervision as delegated by the Federal Supervising Inspector.

2. Establish and collect shipping point inspection fees for work performed under this Agreement. Fees shall be reasonable and adequate to cover the cost of the services performed.
3. Inform the Federal Agency of any change in fees prior to the effective date of the proposed changes.
4. Deposit fees and expenses collected for shipping point and terminal market Federal-State inspections, and interest earned from the investment of such collections, into a Federal-State Inspection Fund. These collections shall remain available without fiscal year limitation, and be used only for conducting work under this Agreement. A complete accounting of all receipts from work performed under this Agreement and of all disbursements from such receipts shall be maintained. Audits shall be conducted as provided by applicable regulations of the Federal Agency, and a copy of all audits of this fund or of work under this Agreement shall be furnished to the Federal Agency. The State Agency shall also provide the Federal Agency with an annual report of the fees collected and the cost of the work conducted, whether paid from fees or from appropriations.
5. Provide suitable office space, equipment, telephone services, and clerical services for activities under this Agreement.
6. Pay from the Federal-State Inspection Fund the salaries and benefits of the Federally licensed inspectors and clerical personnel employed or assigned to work under this Agreement, and other allowable expenses as permitted by USDA's Uniform Federal Assistance Regulations.
7. In addition to any other payments and services provided to the Federal Agency as specified in this Agreement, pay to the Federal Agency XX percent of all fees collected for shipping point inspection work performed under this Agreement, except that only the base portion of fees collected for work during overtime or holiday periods shall be subject to this assessment.
8. Furnish program reports requested by the Federal Agency and retain copies of official records for the retention period required by the Federal Agency.

C. It is mutually understood and agreed that:

1. Federally licensed shipping point or market inspectors, upon the request of a financially interested party, shall perform shipping point inspections within the State or in adjacent states as mutually agreed by both parties to this Agreement and the cooperator of the Federal-State Inspection Service in the adjacent State. Shipping point inspection certificates issued under this Agreement shall be Federal or Federal-State certificates.
2. Receiving market inspections shall be conducted as follows:
 - a. Federally licensed market inspectors, upon request by a financially interested party, shall perform receiving market inspections within the State or outside thereof as mutually agreed by both parties to this Agreement and the cooperator of the Federal-State Inspection Service in the adjacent State. Federal-State inspections of fresh fruits and vegetables that are received at terminal markets, that have crossed a State line (except those exceptions authorized by Federal Agency-issued instructions), or that are offered to Federal, State, or city agencies under purchase contracts shall be considered receiving market work.

CONTINUATION SHEET - COOPERATIVE AGREEMENT NO. 12-25-A**, Rev. **

- b. Federally licensed market inspectors will be subject to Federal supervision, and must attend training classes when considered necessary by the Federal Supervising Inspector. Such training will not exceed 30 days per inspector per calendar year. When attendance at the Federal Terminal Market Training Class is required by the Federal Supervising Inspector, the Federal Agency shall pay training, travel, and per diem expenses in accordance with Federal Travel Regulations for up to two inspectors each calendar year. The State Agency shall be responsible for all other inspector training.
 - c. Fees for receiving market inspections shall be at the rates prescribed in 7 CFR Part 51 Subpart-Regulations. Travel expenses for receiving market inspections shall be collected in accordance with Federal Agency-issued instructions, except that a different travel expense rate may be used with the written concurrence of the Federal Agency.
 - d. The Federal Agency shall collect the fees and reimburse the State Agency from the Federal Trust Fund Account for the costs incurred by the State Agency in performing receiving market inspections at Federal markets. Payment or credit to the State Agency shall equal the salaries, benefits, and expenses of the inspectors making such inspections.
 - e. The State Agency shall collect the fees for receiving market inspections performed by Federally licensed market inspectors in Federal-State markets within the State and reimburse to the Federal Agency X percent of such collections, except that only the base portion of fees collected for work during overtime or holiday periods shall be subject to this assessment. The State Agency shall collect and reimburse the Federal Agency 92 percent of the fees collected for receiving market inspections performed by the Federal Supervising Inspector in Federal-State markets within the State, and an amount equal to the travel expenses collected for receiving market inspections performed by the Federal Supervising Inspector in Federal-State markets.
3. Unless otherwise specified, State Agency payments to the Federal Agency shall be made within 60 days following the end of each quarter. Payments shall be by electronic transfer or by check or money order drawn to the order of and mailed to the Agricultural Marketing Service in Washington, D.C. Federal Agency payments to the State Agency shall be made within 60 days following the end of each quarter by electronic transfer or by check drawn to the order of the State Agency and mailed to an address designated by the State Agency.
4. If the Federal Agency discontinues assessments on the shipping point inspection revenue of the State Agency and implements administrative fees assessed upon users of Federal-State shipping point inspection services performed under this Agreement, the State Agency, with 90 days advance written notice from the Federal Agency, shall:
- a. Invoice users of Federal-State shipping point inspection services performed under this Agreement for a USDA administrative fee in accordance with the rates and conditions established by the Federal Agency.
 - b. Collect USDA administrative fees and forward all such fees collected each month to the Federal Agency within 25 days following the end of each month by electronic transfer or by check or money order drawn to the order of the Agricultural Marketing Service.
 - c. Upon implementation of an administrative fee assessed upon users of Federal-State shipping point inspection services, discontinue payments to the Federal Agency on fees collected for shipping point inspection work under paragraph II B 7.
5. Inspection work shall be conducted in accordance with the rules and regulations of the Secretary of Agriculture and Federal Agency-issued instructions. To comply with State law or administrative policies, the State Agency may issue additional and supplemental instructions consistent with Federal regulations and instructions. Copies of such State Agency instructions shall be furnished to the Federal Agency. The

CONTINUATION SHEET - COOPERATIVE AGREEMENT NO. 12-25-A-**, Rev. **

Federal Agency shall be exclusively responsible for interpreting U.S. and international grades, standards, and related operational requirements.

6. The Federal Agency reserves the right to suspend or revoke the license of any licensed inspector when it deems such action is necessary for the good of the service as provided by 7 CFR Part 51 Subpart-Regulations. The Federal Agency shall have the responsibility for investigating suspected or alleged wrongdoing by State Agency employees affecting the technical integrity of work performed under this Agreement. Investigation of all other suspected or alleged wrongdoing by State Agency employees shall be the responsibility of the State Agency. Each party agrees to notify the other of suspected or alleged wrongdoing brought to its attention if the other party has responsibility for investigation and to cooperate with the other party in the investigation. Each party further agrees to promptly notify the other, when possible, of the results of such investigations involving licensees and actions taken against a licensee as a result of such an investigation. The Federal Agency will confer with and furnish to the State Agency a written statement of its reasons for any such actions. The State Agency will furnish the Federal Supervising Inspector with a written statement of its reasons for the dismissal of any licensed inspector whose dismissal has not been recommended or whose license has not been withdrawn by the Federal Agency.

7. Disposition of samples of fresh fruits, vegetables and nuts acquired for analysis, grade determination, and/or display purposes by Federally licensed inspectors shall be according to 7 CFR Part 51 Subpart-Regulations and Federal Agency-issued instructions.

8. The State Agency may, upon request of the Federal Agency, procure inspection equipment and transfer it on a reimbursable basis to other States who conduct similar inspection programs.

3rd parties 9. The State Agency may utilize other parties acceptable to USDA to conduct services under this Agreement in accordance with USDA's Uniform Federal Assistance Regulations, provided that the State Agency remains fully accountable for all responsibilities assigned to the State Agency under this Agreement, whether performed by the State Agency or the other party. If the other party is a non-profit organization or an institution of higher education, the frequency of audit for that party shall be once a year when fees collected by the party total \$100,000 or more, once every two years when fees collected total \$25,000 or more up to \$100,000, and audits shall not be required when fees collected total less than \$25,000.

10. The term "State Agency employees" or "employees" as used in this agreement means individuals employed by the State Agency or assigned to the work by the State Agency.

11. No member of Congress or resident commissioner shall be admitted to any share or part of this Agreement or to any benefit to arise therefrom, unless it be made with a corporation for its general benefit.

12. All aspects of this Agreement shall be done according to all applicable parts of USDA's Uniform Federal Assistance Regulations (7 CFR 3015 *et seq.*) or as they may be later revised, and successive published regulations as appropriate, hereby incorporated by reference and made part of this Agreement. The State Agency confirms that it understands and is bound by the above regulations, a copy of which is attached.

13. The following are attached and made a part of this Agreement:

- a. Attachment 1, "Equal Opportunity Clause."
- b. Standard Form 424B, "Assurances - Nonconstruction Programs."
- c. Form AD-1047, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions."

CONTINUATION SHEET - COOPERATIVE AGREEMENT NO. 12-25-A-, Rev. ****

d. Form AD-1048, Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions." Note: The recipient is responsible for obtaining the signatures and retaining the certificates, if warranted, from lower tier recipients or contractors as defined in 7 CFR 3017.

e. Form AD-1049, "Certification Regarding Drug-Free Workplace Requirements (Grants) Alternative I - For Grantees Other Than Individuals."

14. Each party to this Agreement shall be responsible for, and assumes liability for, any decisions made by such party pursuant to this Agreement and any actions taken pursuant to such decisions. Furthermore, neither party shall be responsible for, and assumes no liability for, decisions made by the other party under the terms of this Agreement.

15. Subject to the availability of funds in the Federal Trust Fund Account and the continuation of the necessary legal authority, this Agreement shall continue in force until terminated. The participation of the Federal or State Agency may be terminated by mutual written consent or by either Agency giving sixty (60) days written notice to the other Agency.

16. If this Agreement is terminated:

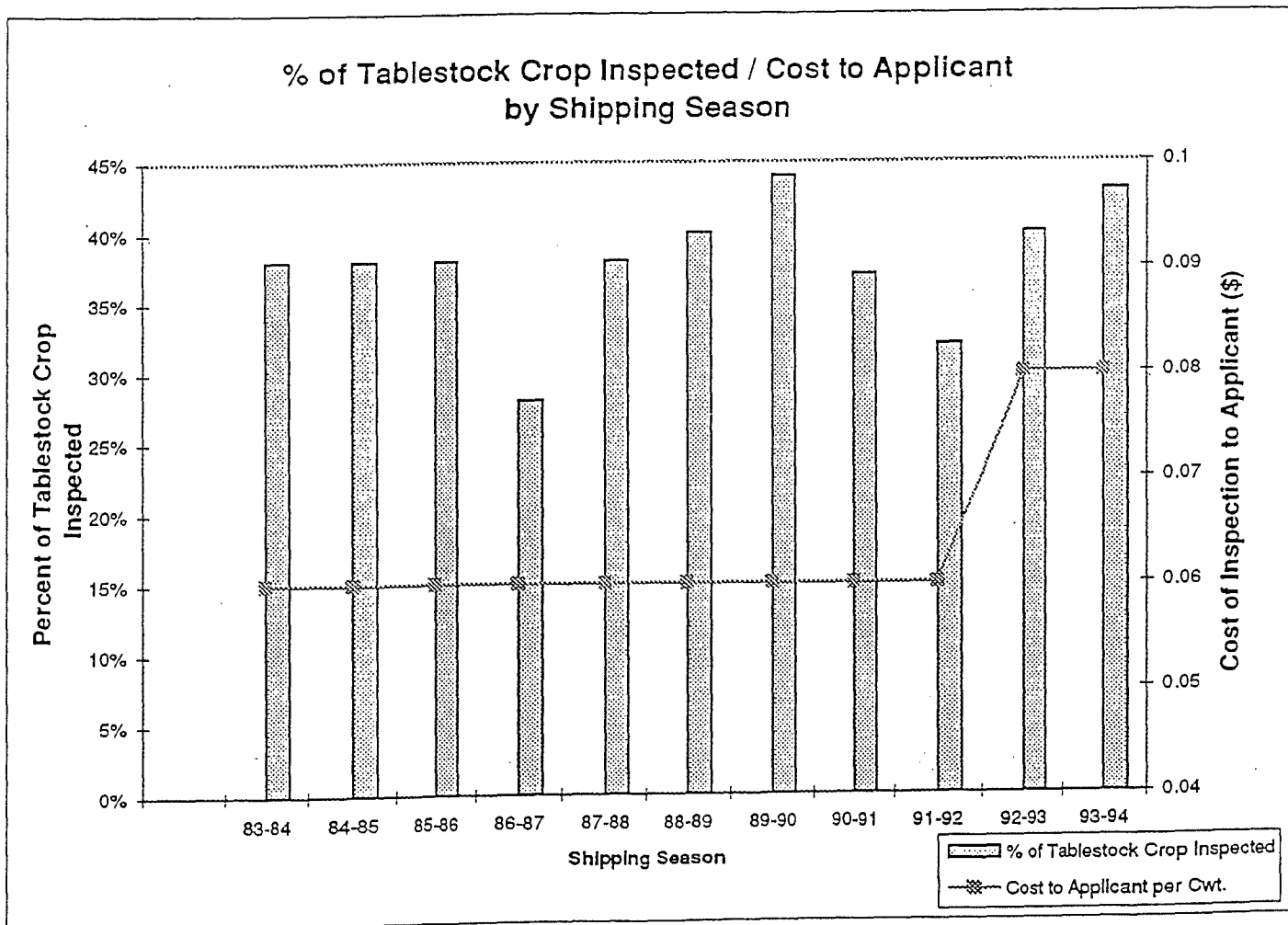
a. User fees deposited to the credit of the Federal Trust Fund will continue to be available for disbursement as provided for in this Agreement, and any remaining unobligated balance and any assets purchased from such account shall be available for use in any inspection and grading program of the Federal Agency.

b. All user fees collected on behalf of the Federal-State Inspection Service, except a reasonable amount necessary to settle outstanding obligations, will be immediately transferred to any succeeding entity with which the Federal Agency has established a cooperative agreement to provide for the inspection of fresh fruits, vegetables, and other products in the State. If no agreement is entered into with such a succeeding entity and inspection services are then being provided in the State by the Federal Agency or by another department or agency within the Federal government, all such funds or property will immediately revert to the Federal Agency for disposition into a Federal Trust Fund Account for the inspection of fresh fruits, vegetables, and other products within the State. If there is no Federal inspection provided in the State by the Federal Agency or by another department or agency within the Federal government following one year from the termination of this Agreement, all remaining funds, accrued interest and/or property will revert to the State Agency for prompt pro-rata distribution by the State Agency to persons who received inspection service from the Federal-State Inspection Service within three years prior to the termination of this Agreement. Real property, equipment, supplies, and all other assets acquired from Federal-State user fees shall be disposed of in accordance with USDA's Uniform Federal Assistance Regulations.

Appendix B-5(a)

HISTORICAL DATA ON USE OF INSPECTION SERVICE AND INSPECTION FEES

Shipping Season	% of Tablestock Crop Inspected	Cost to Applicant per Cwt.
83-84	38%	\$ 0.06
84-85	38%	\$ 0.06
85-86	38%	\$ 0.06
86-87	28%	\$ 0.06
87-88	38%	\$ 0.06
88-89	40%	\$ 0.06
89-90	44%	\$ 0.06
90-91	37%	\$ 0.06
91-92	32%	\$ 0.06
92-93	40%	\$ 0.08
93-94	43%	\$ 0.08



Prepared by the Office of Policy and Legal Analysis.

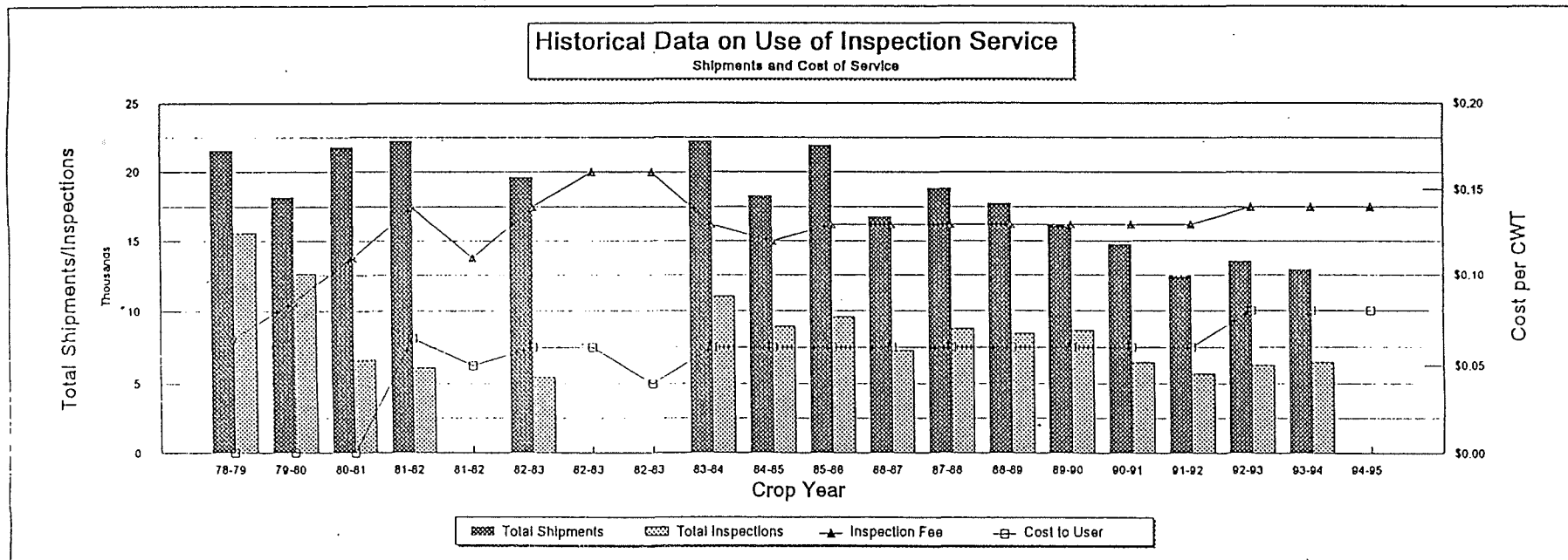
Data provided by the Department of Agriculture, Food and Rural Resources.

Historical Data on Use of Inspection Service Relative to Fee Changes

Shipping Season	Total Cost Per Cwt.	Cost to Applicant Per Cwt.	Total Shipments 500 Cwt Units	Total Inspections	% Inspected
78-79	\$0.065	N/A	21,586	15,600	80%
79-80	\$0.085	N/A	18,201	12,621	53%
80-81	\$0.110	N/A	21,808	6,652	25%
81-82	\$0.140	\$0.065	22,223	8,114	22%
81-82	\$0.110	\$0.050			
82-83	\$0.140	\$0.060	19,630	5,470	18%
82-83	\$0.160	\$0.060			
82-83	\$0.160	\$0.040			
83-84	\$0.130	\$0.060	22,234	11,051	38%
84-85	\$0.120	\$0.060	18,294	8,922	38%
85-86	\$0.130	\$0.060	21,936	9,589	38%
86-87	\$0.130	\$0.080	18,811	7,301	28%
87-88	\$0.130	\$0.060	18,859	8,772	38%
88-89	\$0.130	\$0.060	17,761	8,461	40%
89-90	\$0.130	\$0.060	16,116	8,667	44%
90-91	\$0.130	\$0.060	14,767	6,483	37%
91-92	\$0.130	\$0.060	12,410	5,705	32%
92-93	\$0.140	\$0.080	13,523	6,280	40%
93-94	\$0.140	\$0.080	12,905	6,489	43%
94-95	\$0.140	\$0.080			

Note:

1. 80-81 season a \$5.00 energy fee was charged.
2. Starting in 90-91 a \$3.00 certificate charge was added.
3. Duplicate seasons are listed due to fee changes.



Source: Maine Department of Agriculture, Food and Rural Resources, Division of Quality Assurance.

Appendix B-6

Potato Inspection Fees Maine 1994

Tablestock Potatoes Non-Maine Bag	\$.14/cwt plus \$3 certificate charge
Tablestock Potatoes Maine Bag	\$.08/cwt fee paid after \$.06 subsidy
Processing Potatoes	Processing plant pays weekly contract fee per inspector. Plant estimates its cost at \$.05/cwt and splits this cost with grower. Grower pays \$.025/cwt.
Seed Potatoes	\$13/acre during growing season plus \$.10/cwt for bagged shipping inspection or \$.08/cwt for bulk shipping inspection

Contract Inspection Fees Fee per 39 hour week, per inspector

Packing House Non-Maine Bag	\$721.50
Packing House Maine Bag	\$448.50 with maximum subsidy
Processing Plant	\$690.30 per inspector \$510.90 per sampler

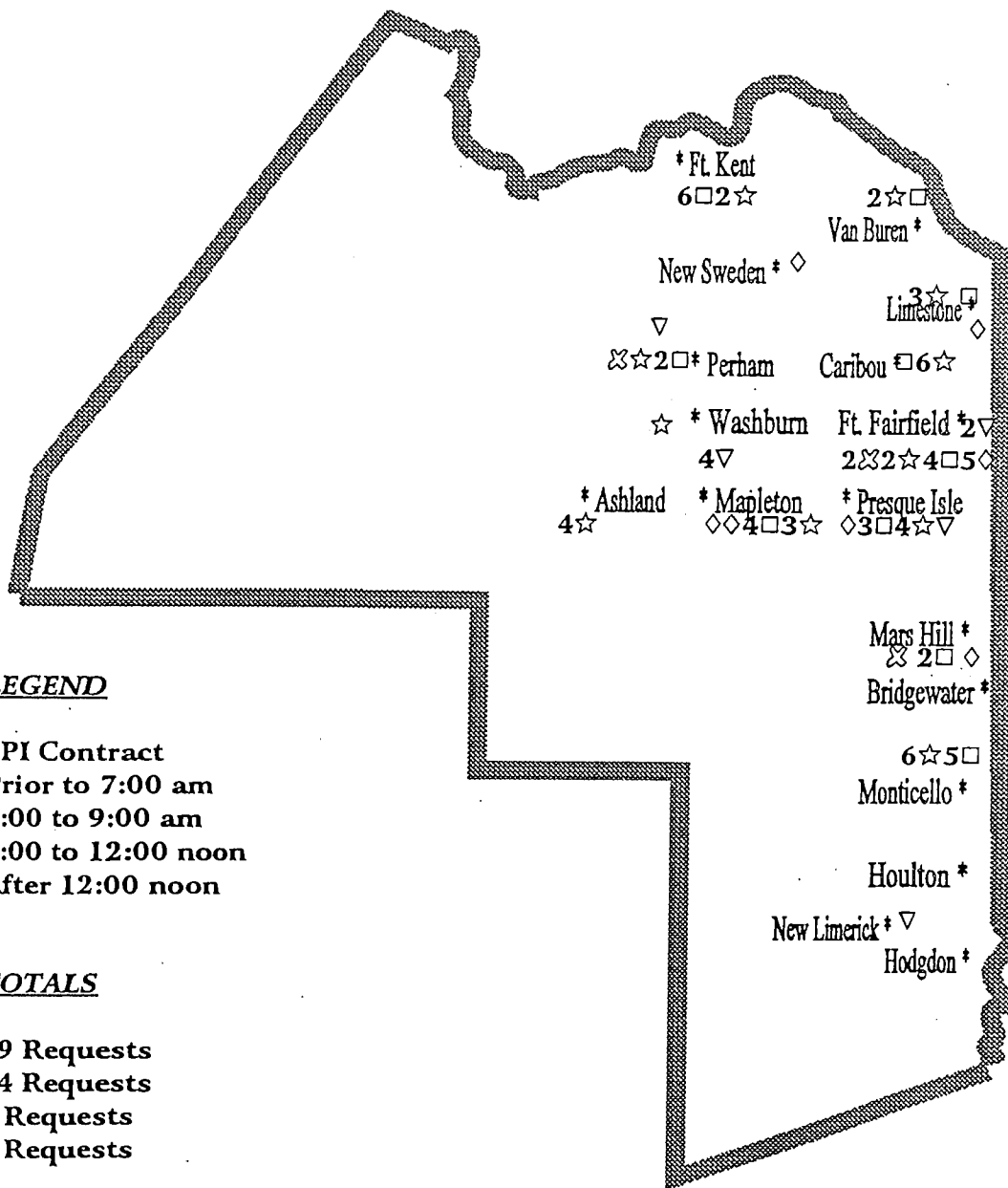
Appendix B-7

Comparison of Potato Inspection Programs Aug-94

State	Mandatory Inspection	% of Tblstk Inspected	Contract Price	On Call Price	Subsidy
California*	No		varies from a \$224/wk minimum based on reduced on-call fees	\$28/hr. \$.08/cwt.	None
Colorado	Yes	100%		\$.775/cwt. \$39/500cwt.	\$200,000 annually
Idaho	Yes	100%	\$620/wk guarantee based on \$.065.cwt., \$32.50/cwt multi-tiered fee system	\$15.50/hr.	None
Maine	No	32-44%	\$721/wk for 39 hr. wk. \$18.50/hr.	\$.14/cwt. \$73/500 cwt	FY 94 \$95,652
Michigan	No	30%	\$500/wk for 40 hr. wk. travel expenses if 40 hr.wk (\$.32/mile)	\$16.50/hr. \$24.75 O.T. min.charge \$55 \$.12/cwt.	Yes approx. 40% of budget
Penn.*	No		\$460/wk. for 40 hr. wk.	\$19/hr plus \$.26/mile	None
Wisconsin	No	50%	\$880/wk. for 40 hr. wk. \$.11/cwt	\$.15/cwt	None
* These states contract with non-governmental agencies to seasonally provide licensed federal-state inspectors.					

Federal State Inspection Service

Week of 10/31-11/4/94



LEGEND

- ◇ SPI Contract
- Prior to 7:00 am
- ☆ 7:00 to 9:00 am
- ⊗ 9:00 to 12:00 noon
- ▽ After 12:00 noon

TOTALS

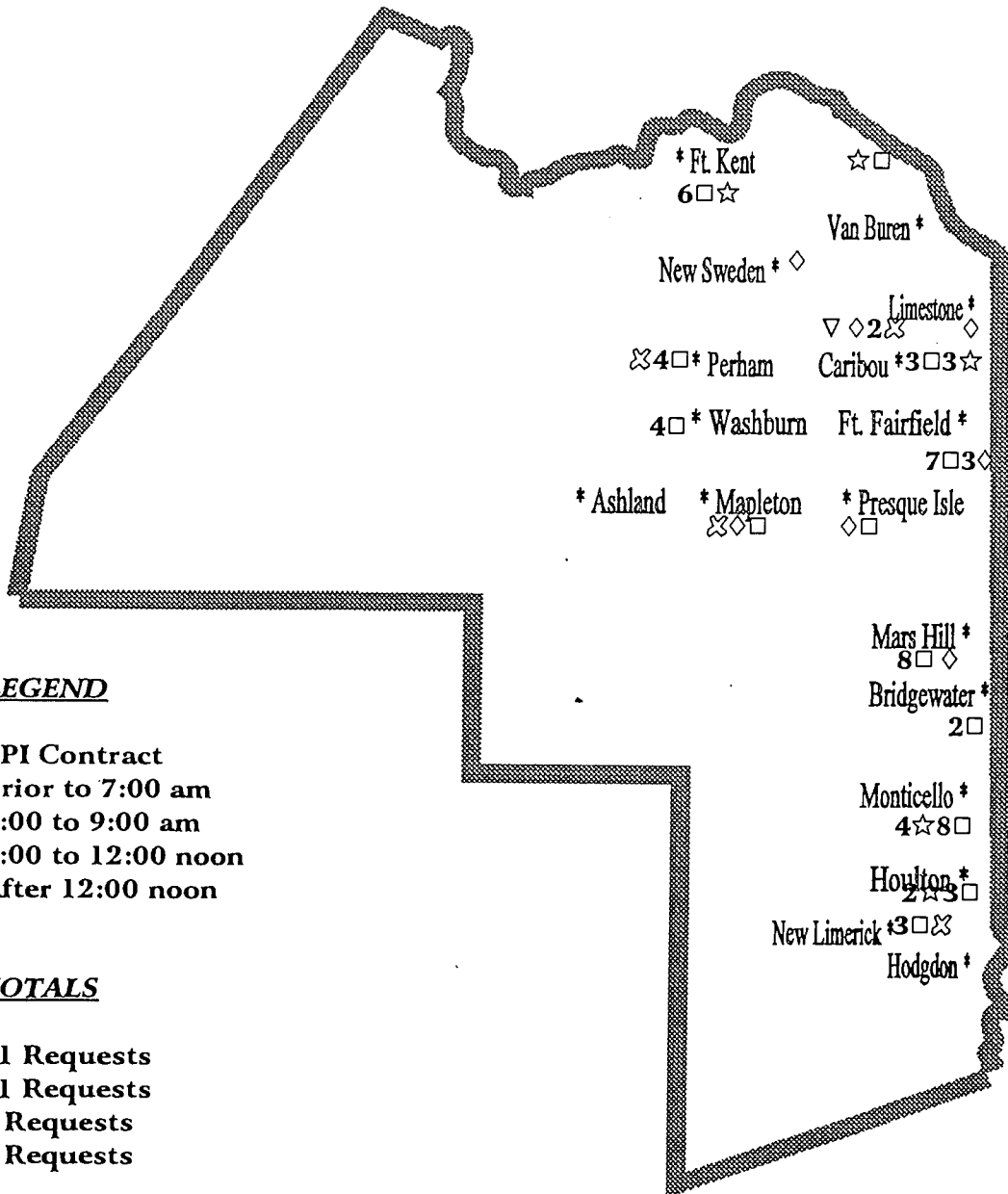
- 29 Requests
- ☆ 34 Requests
- ⊗ 4 Requests
- ▽ 9 Requests

NOTES

6-7 Non Contract Inspectors—76 Applicants & 103 Inspections
 11 SPI Contracts & 123 Inspections

Federal State Inspection Service

Week of 2/6-2/10/95



PERFECT INSPECTION SERVICE

VISION STATEMENT

The U.S. and Maine Departments of Agriculture cooperatively anticipate the future needs of its customers, initiate change within the program to meet customer needs, and strive to exceed their expectations.

KEY COMPONENTS:

- Industry commitment to quality through inspection.
- Commitment by all parties to work together to achieve common goals.
- Provides federal paper.
- Maintains adequate staffing levels to respond to all requests in a timely manner.
- Ability to adjust inspector schedules to compensate for unpredictable shipping patterns.
- Affordable in terms of base, overtime, and holiday rates.
- Maintains inspector uniformity.
- Merits industry confidence.
- Ability to provide full time seasonal, part time seasonal or intermittent staff, aligned with highly unpredictable staffing patterns.
- Acknowledgement by staff that the nature of the work is not predictable, and a commitment to flexibility in meeting the ever changing needs within the industry.

BARRIERS:

- Lack of usage (approximate 40% usage rate).
- Unpredictable usage.
- Cost of state system.
- Overtime charges (1-1/2 times).
- Holiday charges (2-1/2 times).
- Inflexibility of state system.
- Lack of a consistent inspection subsidy.

RECOMMENDATIONS:

- Encourage industry to use inspection.
- Encourage use of contract inspection by providing financial incentives to contractors when non-contract inspection work is done by the contract inspector.
- Encourage sharing of contracts.
- Encourage early notification of inspection service by providing financial incentives.
- Provide flexible scheduling of inspectors with 40 hours Monday through Saturday.
- Charge higher rates for sporadic use.
- Charge industry and pay staff overtime after 40 hours, worked in a week, versus overtime after 8 hours worked in a day.
- Provide statutory authority to adopt rules requiring all shipments of potatoes over 10,000 pounds labeled U.S. No. 1 to be inspected.
- Pay inspectors overtime in comp-time versus money.

- Eliminate retirement surcharge.
- Staff remote areas with intermittent or contract employees.
- Protect inspection account from budget balancing efforts i.e. .09% and transfer of savings from shutdown and discretionary days to general fund.
- Provide adequate subsidy to cover costs of state system or consider privatization.

SUMMARY:

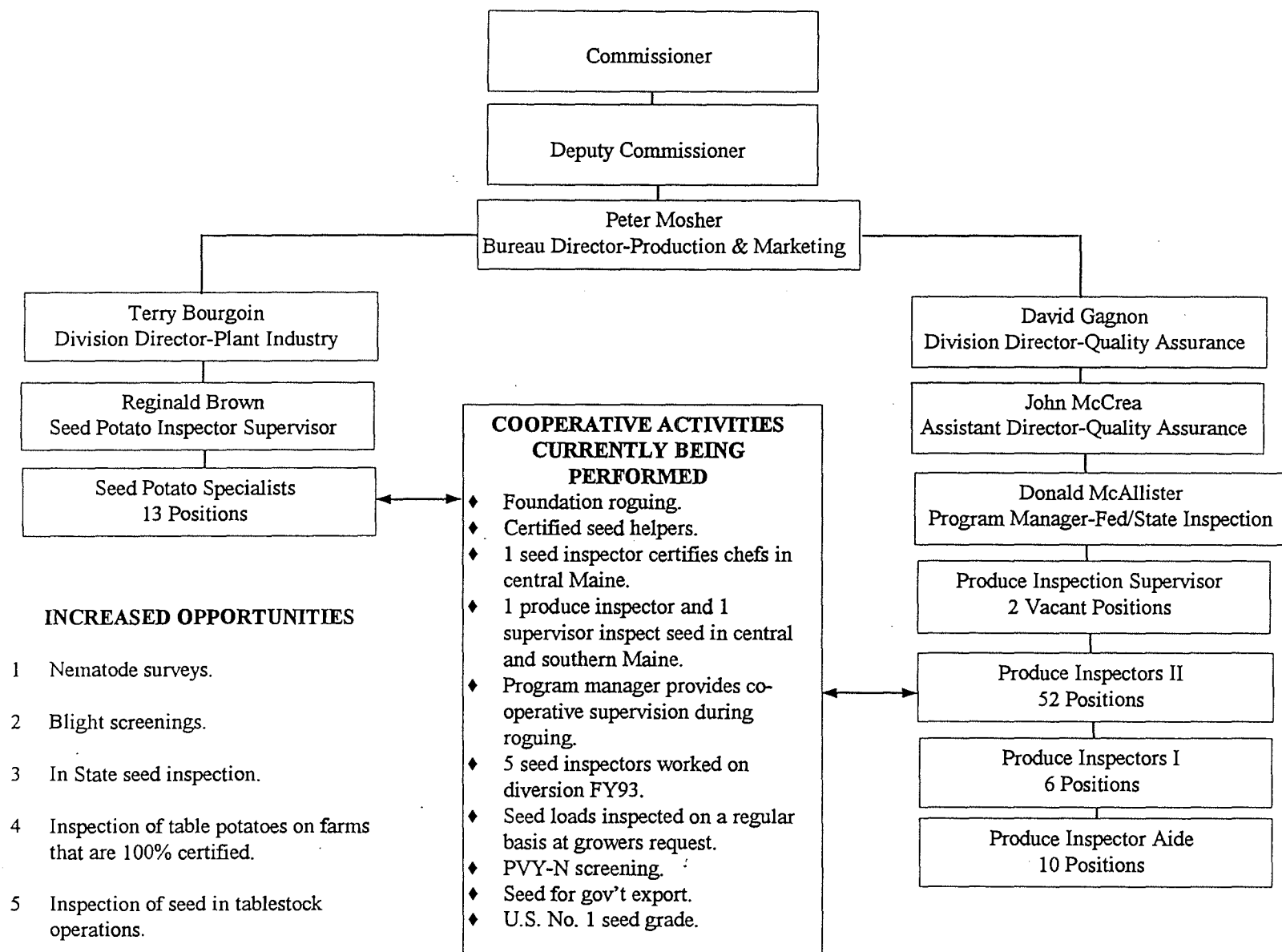
The Department is committed to providing an effective, efficient, unbiased customer oriented Quality Control Inspection Service to the agricultural community to ensure that products shipped to market are of high quality, fostering increased demand and increased profits for Maine producers.

The Department will remain flexible in considering all inspection options available as long as the following objectives are maintained:

1. Federal paper is provided.
2. Program integrity is protected.
3. Industry quality control needs are met.
4. Changes in the potato inspection portion of the program should not negatively impact other segments.

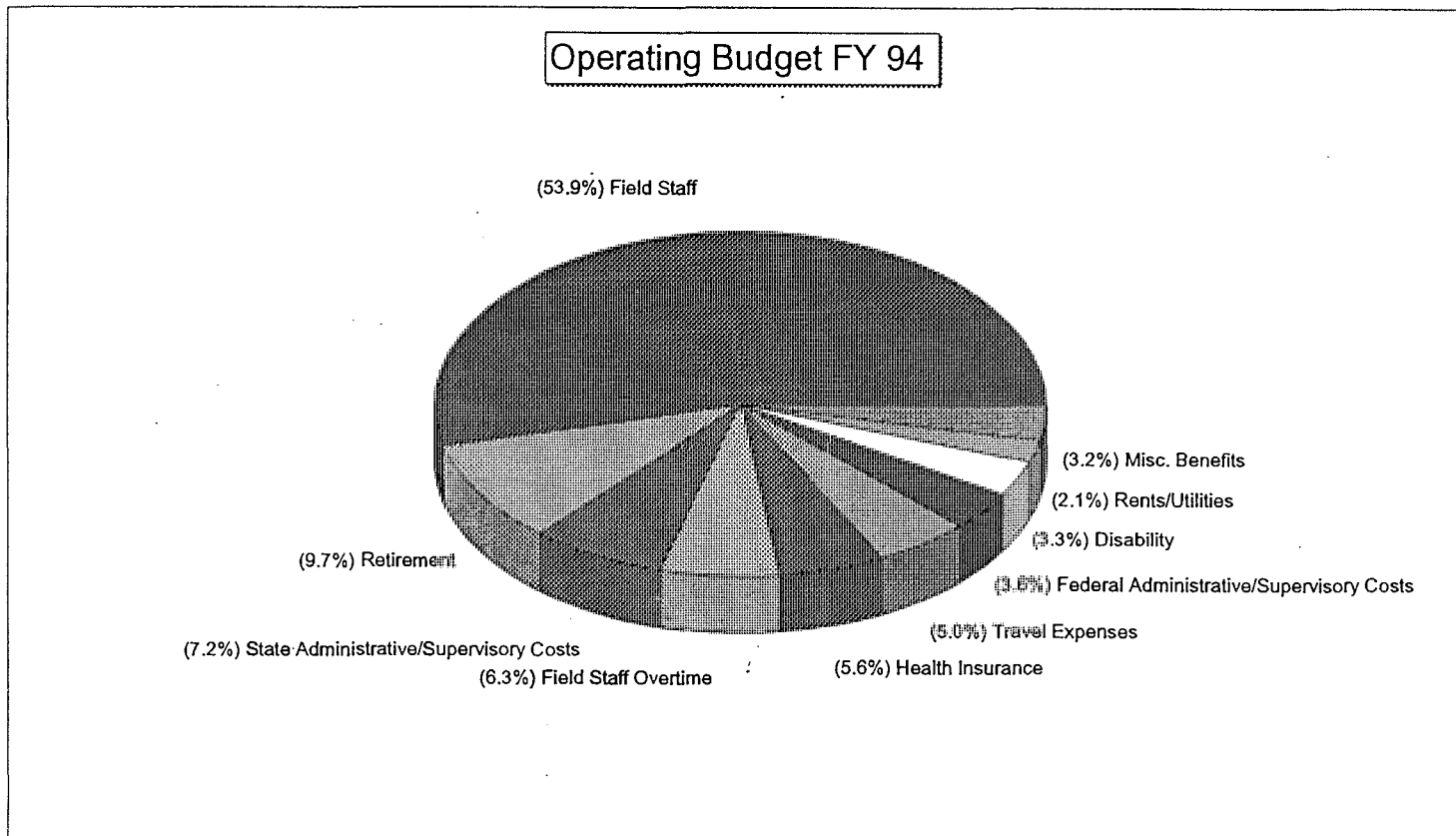
Source: Division of Quality Assurance
Maine Department of Agriculture, Food and Rural Resources

MAINE DEPARTMENT OF AGRICULTURE



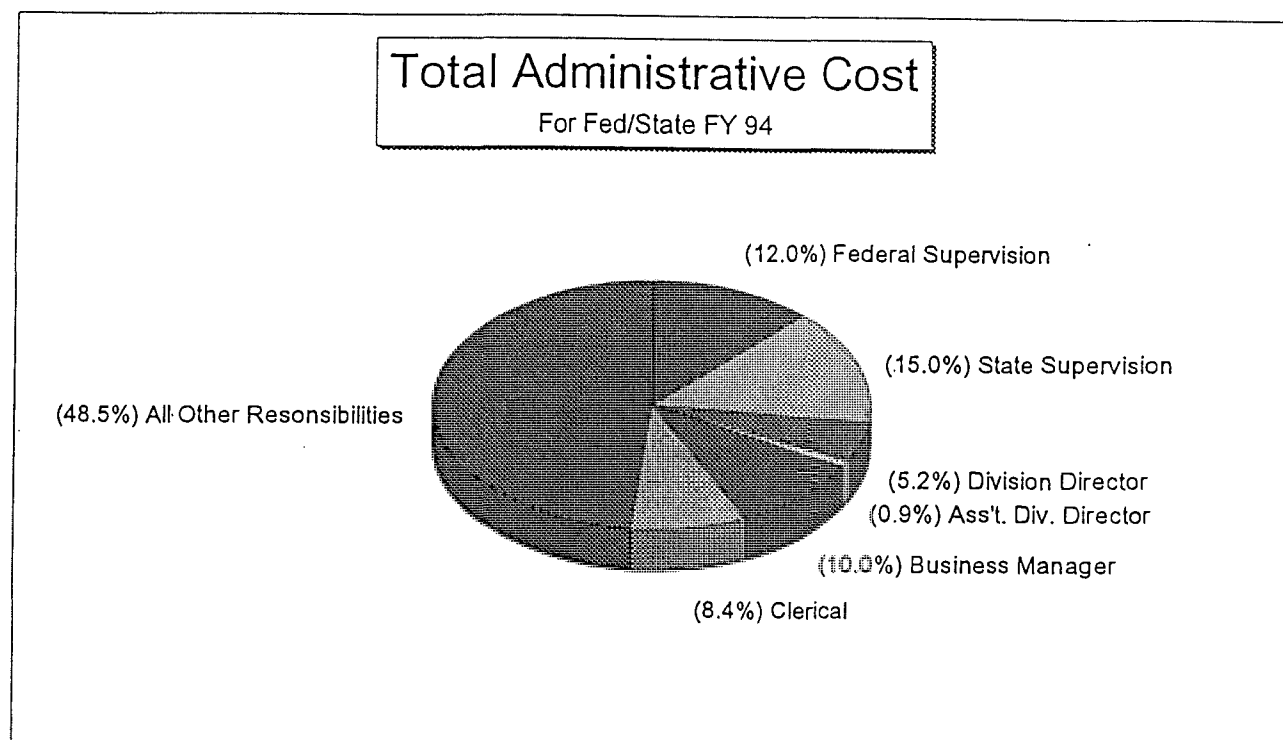
FRUIT & VEGETABLE INSPECTION PROGRAM OPERATING BUDGET FY 94

Field Staff	\$381,906	53.9%
Retirement	\$68,666	9.7%
State Administrative/Supervisory Costs	\$51,059	7.2%
Field Staff Overtime	\$44,336	6.3%
Health Insurance	\$39,732	5.6%
Travel Expenses	\$35,694	5.0%
Federal Administrative/Supervisory Costs	\$25,862	3.6%
Disability	\$23,544	3.3%
Rents/Utilities	\$14,876	2.1%
Misc. Benefits	\$22,933	3.2%
	<u>\$708,608</u>	<u>100%</u>



TOTAL ADMINISTRATIVE COST FY 94

POSITIONS	TOTAL COSTS	FED/STATE RELATED COSTS
Federal Supervision	\$25,862	\$25,862
State Supervision	\$40,122	\$32,392
Division Director	\$55,577	\$11,115
Ass't. Div. Director	\$40,122	\$2,006
Business Manager	\$35,784	\$21,470
Clerical	\$18,125	\$18,125
All Other Resonsibilities		\$104,621
	<u>\$215,592</u>	



Note: Administrative, supervisory and clerical costs attributable to F/S inspection. All funding sources, including general fund, staff time adjusted to reflect other responsibilities of administrative supervisory personnel.

Appendix B-13

Maine Potatoes

Crop Year	Average Yield CWT per Acre	Total Production 000's of CWT	Shrink 000's of CWT	Shrink as a % of Production
1989	275	22,000	1,650	7.5
1990	270	20,520	1,700	8.3
1991	230	18,170	1,470	8.1
1992	300	24,300	5,940	24.4
1993	255	20,000	3,370	16.9
5-Year Avg.	266	20,998	2,826	13.04

Alternative Methods for Assessing Inspection Fees

Per Acre Charge

- | | |
|---|---------|
| 1. Rate per acre charge with no subsidy at current usage. | \$32.66 |
| 2. Rate if all tablestock and processing acres were assessed. | \$20.00 |
| 3. Rate if all acreage including seed were assessed. | \$18.75 |
| 4. Rate for all acreage with current subsidy of \$200,000. | \$15.00 |

With 2.16 acres per 500 cwt load after shrink, the cost per load and annual cost for a 200 acre farm is listed below.

Proposal	500 cwt Load Cost	Annual Cost
#1	\$70.55	\$6,518.82
#2	\$43.20	\$3,991.68
#3	\$40.50	\$3,742.20
#4	\$32.40	\$2,993.76

Note: Per acre charges are estimates based on
projected budget needs.

Source: Department of Agriculture, Food and Rural Resources, 1994.



NATIONAL ASSOCIATION OF STATE DEPARTMENTS OF AGRICULTURE

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South Carolina

President-Elect
Alan T. Tracy
Wisconsin

President
Bruce Andrews
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Vice President
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Northeastern Region
John R.H. Blum
Connecticut

Southern Region
Bob Crawford
Florida

At-Large
Stephen H. Taylor
New Hampshire

Midwestern Region
Becky Doyle
Illinois

Western Region
Frank A. DuBois
New Mexico

MEMORANDUM

DATE: December 13, 1994

TO: Commission to Study Potato Quality Issues

FROM: David L. Bracht
Director, Management and Finance

RE: Privatization Proposal

Thank you for asking NASDA to take part in the Commission review of potato quality issues in the State of Maine. Attached is some information regarding NASDA and a draft proposal for your review.

The proposal and draft agreement was initially prepared at the request the Department of Agriculture of the State of Maine, and has been updated to reflect the following assumptions.

- 35,000 total employee hours at \$9.00/hour salary.
- Peak employment of 25 inspectors.
- Direct costs and startup costs associated with program directly reimbursed to NASDA on an actual cost basis.
- Indirect costs paid by NASDA reimbursed under quarterly management fee if \$3,875.
- Workers compensation, liability insurance and unemployment insurance vary directly as a function of salaries paid.
- Supervision, scheduling, evaluation and training for NASDA inspectors provided by state program staff.
- Approval of expenditures, payroll input and personnel file maintenance provided by state program staff.
- Software for input and transmittal of payroll and personnel information provided by NASDA.

Richard W. Kirchhoff, Executive Vice President & Chief Executive Officer

1156 15th Street, N.W. Suite 1020 Washington, DC 20005 (202) 296-9680 (202) 296-9686 fax

Appendix C-2

DRAFT 12/12/94

Agreement
between the
Maine Department of Agriculture, Food and Rural Resources
(hereinafter called the "State Agency")
and the
National Association of State Departments of Agriculture, Inc.
(hereinafter called the "Association")

1. Title of Agreement: Inspection of Fresh Fruits, Vegetables and Other Products.
2. Objective: To make the inspection service for fresh fruits, vegetables and other products, more widely available to growers, shippers, processors and receivers than would be possible without the aid and cooperation of the State Agency and the Association.
3. Statement of Work: This Agreement shall be carried out by the organizational units or officials of the State Agency and the Association in the manner and subject to the conditions provided in the Statement of Work attached hereto and made part of this Agreement.
4. Legal Authority: Applicable statutes of the State of Maine and paragraph II.C.9. of the Cooperative Agreement No. 12-25-A-23 (Revision 3) effective July 1, 1993 (hereinafter called the "Cooperative Agreement"), between the State Agency and the Agricultural Marketing Service, United States Department of Agriculture (hereinafter called the "Federal Agency").
5. Effective Date:
6. Approvals:

This Agreement is hereby approved for the State Agency.

Done at _____ on _____
City and State Date

by _____
Signature

Title

This Agreement is hereby approved for the Association.

DRAFT 12/12/94

Done at _____ on _____
City and State Date

by _____
Signature

Title

Statement of Work

This Statement of Work is part of the Agreement between the Maine Department of Agriculture, Food and Rural Resources and the National Association of State Departments of Agriculture, effective _____, 19____, having the title Inspection of Fresh Fruits, Vegetables and Other Products.

- I. Introduction: State Agency and Association employees designated to perform work functions under this Agreement shall be as follows:
 - A. For the State Agency: A Branch Chief, Program Supervisors, State Supervisor, and such other Federally licensed inspectors as may be employed or assigned to the work by the State Agency.
 - B. For the Association: Seasonal inspectors licensed by the Federal Agency as provided by the Cooperative Agreement. These inspectors shall be employees of the Association and in no event shall be employees of the State Agency. The Association shall also employ necessary administrative personnel to perform recordkeeping and similar functions with respect to hiring and payroll, and to carry out space management and procurement activities necessary to the work performed under this Agreement.
- II. Responsibilities:
 - A. The State Agency will:
 - 1. Provide for licensing of the inspectors by the Federal Agency to perform work under the terms of this Agreement. The State Agency shall make recommendations to the Association regarding the selection, assignment, reassignment, or release of such inspectors. Such inspectors shall be supervised directly by State Agency supervisory personnel. The State Agency shall have the primary responsibility for recommendations concerning the recruitment and selection of inspectors.
 - 2. Provide suitable office space, equipment, and clerical services for activities relative to the inspection of fresh fruits and vegetables under this Agreement.
 - 3. Reimburse the Association for the salaries and related expenses of inspectors employed or assigned to work under this Agreement. Transmittal of the payroll information by the State Agency to the Association or its agent shall be deemed authorization for payment of salary and related expenses to the inspectors. The State Agency shall

transfer funds for payment of such salary and related expenses to the Association at least one day prior to the regularly scheduled payroll date.

4. Review on a continual basis all Association activities performed in connection with this Agreement, including inspection functions of Association-employed inspectors to assure compliance by such inspectors with applicable State Agency and Federal regulations and requirements.
5. Reimburse the Association for all direct costs incurred as a result of carrying out the purposes of this Agreement. The State Agency will be billed by the Association on a regular basis and payment shall be made in a timely manner by the State Agency, whether those expenses are incurred before or after the termination of this Agreement.
6. Pay to the Association a management fee as reimbursement for all general overhead expenses incurred by the Association as a result of administering this Agreement. The State Agency will pay a fee of \$XXXXXXXX per quarter, at the beginning of each calendar quarter.

B. The Association will:

1. Employ such inspectors as may be necessary for the completion of the activities required under the agreement and pay the salaries and related expenses of such inspectors from funds provided pursuant to Part II.A.3. and Part II.A.5. The Association, in its sole discretion, may consider the recommendation of the State Agency in employing such inspectors.
2. Submit to the State Agency, not more than monthly, written notification of costs incurred in carrying out its responsibilities. The costs of one two-week period shall not exceed \$XXXXXXXX. The foregoing may be changed by mutual agreement of the State Agency and Association. Total annual disbursement of funds from the State Agency to the Association shall not exceed \$XXXXXXXX.
3. Maintain a complete accounting of costs incurred for work performed under this Agreement. The Association shall furnish the State and State Agency with an annual report of disbursements made.

C. It is mutually understood and agreed that:

1. Inspection work shall be conducted in accordance with the rules and regulations of the Secretary of Agriculture and Federal Agency-issued instructions, but the State Agency reserves the right to issue any additional and supplemental instructions not inconsistent with Federal rules and

regulations as may be necessary to comply with State laws or administrative policies of the State in the conduct of this work.

2. No member of Congress or resident commissioner shall be admitted to any share or part of this Agreement or to any benefit to arise therefrom, unless it be made with a corporation for its general benefit.
3. Participation of the Association may be terminated by mutual agreement between the State Agency and the Association or by either party giving thirty (30) days written notice to the other party.
4. If this Agreement is terminated, all funds and property held by the Association and pursuant to this agreement, except a reasonable amount necessary to settle outstanding charges, will be transferred to the State Agency or a succeeding entity designated by the State Agency.
5. A budget for this program will be developed and adjusted by mutual agreement between the State Agency and the Association annually.
6. Each party to this agreement shall be responsible for, and hereby assumes liability with respect to, any decisions made by such party pursuant to this Agreement and any actions taken pursuant to such decisions. Furthermore, each party shall not be responsible for, and assumes no liability with respect to, decisions made by any other party under the terms of this Agreement. Notwithstanding the foregoing, the State Agency shall assume all liability and hold the Association harmless from liability, penalties, claims, suits, losses or damages arising out of actions taken by inspectors of the Association under supervision of State Agency employees.

-END-

Appendix C-3

MAINE POTATO INSPECTION

NASDA Draft Proposal - 12/13/94

ESTIMATED DIRECT COSTS

SALARIES	35,000 Hrs @	\$9.00 /Hr	315,000
UNEMPLOYMENT INSURANCE			8,000
MILEAGE REIMBURSEMENT			30,000
WORKERS COMPENSATION	\$2.65 /\$100 SALARY		8,348
LIABILITY INSURANCE			2,253
PAYROLL PROCESSING			2,500
AUDIT/COMPILATION			1,500
TOTAL ANNUAL DIRECT COSTS			367,601

ESTIMATED INDIRECT COSTS

ANNUAL MANAGEMENT FEE	15,500
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ESTIMATED SETUP COSTS(ONE-TIME)

PAYROLL	750
LEGAL	1,500
TOTAL STARTUP	2,250

TOTAL PROGRAM COSTS

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\$385,351

Proposed Legislation

An Act to Prohibit Retirement Contributions by Commodity Group Employees from Being Applied Towards The Unfunded Liability of the State Retirement System

Sec. 1. 5 MRSA, §17151, sub-§2 is amended to read:

2. **Intent.** It is the intent of the Legislature that there must be appropriated and transferred annually to the retirement system the funds necessary to meet the system's long-term and short-term financial obligations based on the actuarial assumptions established by the board upon the advice of the actuary, except that for fiscal year 1991-92 the annual appropriation must be \$73,500,000 less than the amount that would otherwise be applied toward the unfunded liability of the system. It is the intent of the Legislature that the amount of the reduction, together with the balance of the unfunded liability in the retirement system on July 1, 1993, must be placed on a 27-year amortization schedule. Funds that have been appropriated must be considered assets of the retirement system.

A. The goal of the actuarial assumptions is to achieve a fully funded retirement system.

B. The retirement system's unfunded liability for persons formerly subject to the Maine Revised Statutes of 1944, chapter 37, sections 212 to 220 must be repaid to the system from annual appropriations over the funding period of the retirement system.

C. This section may not be construed to require the State to appropriate and transfer funds to meet the obligations of participating local districts to the retirement system.

D. Beginning in fiscal year 1996, no portion of the retirement contributions of a person who is employed by an agricultural commodity group and who is paid entirely from state other special revenues may be applied towards the unfunded liability of the system.

STATEMENT OF FACT

This bill prohibits retirement contributions by commodity group employees who are paid entirely from other special revenues from being applied towards the unfunded liability of the state retirement system. This bill takes effect beginning in fiscal year 1996.

#6905NRG

Proposed Legislation

An Act Regarding the Inspection of Maine Potatoes

Sec. 1. 7 MRSA §441, is amended to read:

§441. Rules

The commissioner may prescribe, in a manner consistent with the Maine Administrative Procedure Act, ~~rules and regulations~~ for carrying out this subchapter, including the fixing of fees to be charged any individual, firm or organization requesting an inspection pursuant to section 446 ~~or receiving an inspection pursuant to section 951~~. These fees shall, as nearly as possible, cover the costs of the inspection services for the commodity inspected. All fees collected shall be paid by the commissioner to the Treasurer of State and are appropriated for the purposes of this subchapter. Any unexpended balance from the funds thus appropriated shall not lapse, but shall be carried forward to the same fund for the next fiscal year.

Sec. 2. 7 MRSA §951, is amended by adding at the end 3 new paragraphs to read:

Notwithstanding the provisions of article 4, the commissioner may require after consultation with the Maine Potato Board, by rules adopted pursuant to the Maine Administrative Procedure Act, the inspection of all or a portion of consumer packs of potatoes for conformity with the U.S. #1 grade or other grades. Inspection under any rule adopted pursuant to this section must be performed by a licensed federal-state potato inspector, state potato inspector or seed potato inspector. At the request of and in consultation with the Maine Potato Board, the commissioner shall initiate rulemaking to require inspection of consumer packs of potatoes.

A person who violates rules adopted under this section commits a civil violation for which a forfeiture not to exceed \$1,000 for the first offense and \$2,000 for any subsequent offense may be adjudged.

STATEMENT OF FACT

This bill is legislation recommended by the Commission to Study Potato Quality Issues. This bill establishes the legal authority for the Commissioner of Agriculture, Food and Rural Resources to require through rulemaking inspection for specific grades of consumer packs of Maine potatoes. The Commissioner must initiate rulemaking to require inspection at the request of the Maine Potato Board.