

# Colorado Department of Agriculture

## Plant Industry Division

### Rules and Regulations Pertaining to the Administration and Enforcement of the Colorado Seed Act

#### 8 CCR 1203-6

#### Part 1. DEFINITION AND CONSTRUCTION OF TERMS.

- 1.1. As used in these rules, the singular includes the plural, the masculine gender includes the feminine and neuter, and vice versa. All terms used in these rules shall have the meaning set forth for such terms in the Act.
- 1.2. As used in these rules, unless the context otherwise requires:
  - (a) "Adulterated" refers to
    - (1) Any seed whose purity deviates beyond the accepted tolerances from the professed purity stated on its labeling or under which it is sold; or
    - (2) Any seed whose components or their relative proportions differ from those stated on its labeling; or
    - (3) Any substance which has been substituted wholly or in part for a seed; or
    - (4) Any seed from which any valuable constituent has been wholly or partly abstracted; or
    - (5) Any seed in which any contaminant is present in an amount which is determined by the Commissioner to be a hazard.
  - (b) "Agricultural seed" means: the seed of grass, forage, cereal, and fiber crops; and other kinds of seeds commonly recognized within this state as agricultural, field, or turf seeds; and mixtures of such seeds.
  - (c) "Engaged in the business of conditioning seed" means: conditioning seed in Colorado in return for money or anything of value, including goods or services.
  - (d) "Engaged in the business of labeling seed" means: labeling seed for sale in Colorado in return for money or anything of value, including goods or services.
  - (e) The term "farmer seed labeler" is limited to those persons who label only the seed produced for sale in Colorado on property in Colorado owned or rented by such person or such person's employer. Any person who labels, in addition to seed produced for sale in

Colorado on property in Colorado owned or rented by such person or such person's employer, other seed is a "seed labeler".

- (f) "Hybrid seed" means: the first generation seed of a cross produced by controlling the pollination and by combining (1) two or more inbred lines; (2) one inbred or a single cross with an open-pollinated variety; or (3) two varieties or species, except open-pollinated varieties of corn (*Zea mays*). The second generation and subsequent generations from such crosses shall not be regarded as hybrids. Hybrid designations shall be treated as variety names.
- (g) The term "misbranded" shall apply:
  - (1) To any seed if it's labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;
  - (2) To any seed:
    - (I) If it is an imitation of or is offered for sale under the name of another seed;
    - (II) If any word, statement, or other information required by this article or rules adopted under this article to appear on the labeling is not prominently placed thereon with such conspicuousness, as compared with other words, statements, designs, or graphic matter in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;
- (h) "Mixture" means: seed consisting of more than one kind, each in excess of five percent by weight of the whole.
- (i) "Produces seed for sale" means: producing seed for exchange in Colorado for money or anything of value, including goods or services.
- (j) "Tetrazolium Test (TZ)": a biochemical seed viability test using the compound 2,3,5 triphenyl tetrazolium chloride (TTC), as specified in Part II, Tetrazolium Testing Handbook, Contribution Number 29, to the handbook on Seed Testing, prepared by the Tetrazolium subcommittee of the Association of Official Seed Analysts, 2008 edition.

(As to incorporation of materials see Part 14.)

## **Part 2. THE REGISTRATION SYSTEM.**

- 2.1. Each applicant for a registration shall submit a signed, complete, accurate, and legible application, on a form provided by the Commissioner, which shall include, at a minimum: the name and address of the business, the name under which the business will operate (the doing business as name), the name of the person who is the primary contact, the address and telephone number of the location where the records are to be kept, and any other information required on the form.

- 2.2. In addition to the form approved by the Commissioner, each applicant for a registration or applicant for renewal of a registration, shall submit the registration fee set by the Commissioner. If the registration fee does not accompany the application, the application for registration or renewal of a registration may be denied.
- 2.3. Repealed.
- 2.4. Each applicant shall submit to the Commissioner the name under which the business will operate. If the registrant operates under more than one name, each such name shall be listed with the Commissioner.
- 2.5. The annual registration fee for seed labelers shall be \$300.00.
- 2.6. The annual registration fee for custom seed conditioners shall be \$300.00.
- 2.7. The annual registration fee for farmer seed labelers shall be \$75.00.
- 2.8. The annual registration fee for retail seed dealers shall be \$50.00.
- 2.9. The annual registration fee for a second business location for seed labelers, custom seed conditioners, farmer labelers, and retail dealers shall be \$25.00.
- 2.10. Each applicant for renewal of a registration shall annually submit a signed, complete, accurate, and legible application on a form provided by the Commissioner, which shall include, at a minimum: the name and address of the business, the name of the person who is the primary contact, the address and telephone number of the location where the records are to be kept, and any other information required on the form.
- 2.11. A registrant who conducts business at two or more business locations shall obtain a registration for each location at which it employs one or more permanent employees engaged in the business for which the registrant is registered. For purposes of this paragraph, "business locations" means any physical location at or through which the functional operations of business regularly occur, including, but not limited to, financial transactions, arrangement of contracts, or assignment of work, and excluding buildings or locations used solely for storage of equipment or supplies or telephone answering services.

### **Part 3. LABEL REQUIREMENTS FOR AGRICULTURAL, VEGETABLE, AND FLOWER SEEDS.**

Each container of agricultural, vegetable, and flower seeds which is sold, offered for sale, or exposed for sale, or transported within this State for sowing purposes shall bear thereon or have attached thereto in a conspicuous place a plainly written or printed label or tag in the English language, giving the following information, which statement shall not be modified or denied in the labeling or on another label attached to the container:

- 3.1. For all seeds, if a tetrazolium test is used in place of a germination test, the following statement shall appear on the label, "This lot of seed was tested for viability using a tetrazolium test (TZ) in place of a germination test."

- 3.2. For all treated agricultural, vegetable, and flower seeds (for which a separate label may be used):
- (a) A word or statement indicating that the seed has been treated.
  - (b) The commonly accepted coined, chemical or abbreviated chemical (generic) name of the applied substance or description of the process used.
  - (c) If the substance in the amount present with the seed is harmful to human or other vertebrate animals, a caution statement such as "Do not use for food, feed, or oil purposes". The caution for mercurials and similarly toxic substances shall be a poison statement or symbol.
  - (d) If the seed is treated with an inoculant, the date beyond which the inoculant is not to be considered effective (date of expiration).
- 3.3. For agricultural seeds, except for agricultural seed mixtures as provided in Part 3.4; and for hybrids which contain less than 95% hybrid seed as provided in Part 3.10:
- (a) The name of the kind or kind and variety for each agricultural seed component present in excess of 5 percent of the whole and the percentage of weight of each. If the variety of those kinds generally labeled as to variety is not stated, the label shall show the name of the kind and the words, "Variety Not Stated" or "VNS". Hybrids shall be labeled as hybrids.
  - (b) Lot number or other lot identification.
  - (c) Origin (state or foreign country), if known, except of hybrid corn. If the origin is unknown, the fact shall be stated.
  - (d) Percentage by weight of all weed seeds.
  - (e) The name and rate of occurrence per pound of each kind of restricted noxious weed seed present.
  - (f) Percentage by weight of agricultural seeds (which may be designated as "crop seeds") other than those required to be named on the label.
  - (g) Percentage by weight of inert matter.
  - (h) For each named agricultural seed:
    - (1) Percentage of germination, exclusive of hard or dormant seed,
    - (2) Percentage of hard or dormant seeds, if present,
    - (3) The calendar month and year the test was completed to determine such percentages.

(Following (1) and (2) above, the “total germination and hard or dormant seed” may be stated as such, if desired.)

- (i) Name and address of the person who labeled said seed, or who sells, offers or exposes said seed for sale within this State.

3.4. For seed mixtures of agricultural seeds.

- (a) The word “mixed” or “mixture” shall be stated with the name of the mixture.
- (b) The heading “Pure Seed” and “Germination” or “Germ” shall be used in the proper places.
- (c) Commonly accepted name of kind or kind and variety of each agricultural seed component in excess of five percent of the whole, and the percentage by weight of each in order of its predominance and in columnar form. If the variety of those kinds generally labeled as to variety is not stated, the label shall show the name of the kind and the words “Variety Not Stated” or “VNS”.
- (d) Percentage by weight of agricultural seed other than those required to be named on the label (which shall be designated as “crop seed”).
- (e) Percentage by weight of inert matter. Except for coating material, fertilizer and mulch, as provided by Parts 3.5 and 3.11, foreign material not common to agricultural seed shall not be added to inert matter.
- (f) Percentage by weight of all weed seeds.
- (g) The name and rate of occurrence per pound of each kind of restricted noxious weed seed present.
- (h) For each agricultural seed named under (c) above:
  - (1) Percentage of germination, exclusive of hard or dormant seed;
  - (2) Percentage of hard or dormant seed, if present;
  - (3) Calendar month and year the test was completed to determine such percentages. Oldest test date shall be used.
- (i) Name and address of the person who labeled said seed, or who sells, offers or exposes said seed for sale within the State.
- (j) Lot number or other lot identification.
- (k) Origin (state or foreign country), if known, of each agricultural seed component. If the origin is unknown, the fact shall be stated.

3.5. For agricultural seeds that are coated:

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- (a) Percentage by weight of pure seeds with coating material removed.
  - (b) Percentage by weight of coating material.
  - (c) Percentage by weight of inert material exclusive of coating material.
  - (d) Percentage of germination is to be determined on 400 pellets with or without seeds.
  - (e) In addition to the provisions of this section, labeling of coated seed shall comply with the requirements of Parts 3.2, 3.3, and 3.4.
- 3.6. For vegetable seeds in packets as prepared for use in home gardens or household plantings or vegetable seeds in preplanted containers, mats, tapes, or other planting devices:
- (a) Name of kind and variety of seed.
  - (b) Lot identification, such as by lot number or other means.
  - (c) The year for which the seed was packed for sale as “Packed for \_\_\_\_\_” or the percentage germination and the calendar month and year the test was completed to determine such percentage.
  - (d) Name and address of the person who labeled said seed or who sells, offers, or exposes said seed for sale within this State.
  - (e) For seeds which germinate less than the standard established by Part 8 of these rules:
    - (1) Percentage of germination, exclusive of hard or dormant seed;
    - (2) Percentage of hard or dormant seed, if present,
    - (3) The words “Below Standard” in not less than 8-point type.
  - (f) For seeds placed in a germination medium, mat, tape, or other device in such a way as to make it difficult to determine the quantity of seed without removing the seeds from the medium, mat, tape or device, a statement to indicate the minimum number of seeds in the container.
- 3.7. For vegetable seeds in containers other than those prepared for use in home gardens or household plantings and other than preplanted containers, mats, tapes, or other planting devices:
- (a) The name of each kind and variety present in excess of 5 percent and the percentage by weight of each in order of its predominance.
  - (b) Lot number or other lot identification.
  - (c) For each named vegetable seed:
    - (1) Percentage germination exclusive of hard or dormant seed;

- (2) Percentage of hard or dormant seed, if present,
- (3) The calendar month and year the test was completed to determine such percentages.

(Following (1) and (2) the “total germination and hard or dormant seed” may be stated as such, if desired.)

- (d) Name and address of the person who labeled said seed, or who sells, offers or exposes said seed for sale within this State.
- (e) The labeling requirements for vegetable seeds in containers of more than one pound shall be deemed to have been met if the seed is weighed from a properly labeled container in the presence of the purchaser.

3.8. For flower seeds in containers prepared for use in home gardens or household plantings or flower seeds in preplanted containers, mats, tapes, or other planting devices:

- (a) For all kinds of flower seeds:
  - (1) The name of the kind and variety or a statement of type and performance characteristics as required by Part 4 of these rules;
  - (2) The calendar month and year the seed was tested or the year for which the seed was packaged; and
  - (3) The name and address of the person who labeled said seed, or who sells, offers, or exposes said seed for sale within this State.
- (b) For seeds of those kinds for which standard testing procedures are prescribed and which germinate less than the germination standard last established under the provisions of these rules:
  - (1) Percentage of germination exclusive of hard or dormant seeds, and
  - (2) The words “Below Standard” in not less than 8-point type.
- (c) For seeds placed in a germination medium, mat, tape, or other device in such a way as to make it difficult to determine the quantity of seed without removing the seeds from the medium, mat, tape, or device, a statement to indicate the minimum number of seeds in the container.

3.9. For flower seeds in containers other than those prepared for use in home flower gardens or household plantings and other than preplanted containers, mats, tapes, or other planting devices:

- (a) The name of the kind and variety or a statement of type and performance characteristics as required by Part 4 of these rules.
- (b) The lot number or other lot identification;

- (c) The calendar month and year that the seed was tested;
- (d) The name and address of the person who labeled said seed or who sells, offers, or exposes said seed for sale within this State, and
- (e) For those kinds of seed for which standard testing procedures are prescribed:
  - (1) Percentage germination exclusive of hard or dormant seed, and,
  - (2) Percentage of hard or dormant seed, if present,

3.10. For agricultural and vegetable hybrid seed which contain less than 95% hybrid seed:

- (a) Kind or variety must be labeled as "hybrid".
- (b) The percent or range of percent which is hybrid shall be labeled parenthetically in direct association following named variety; i.e. - Comet (85% Hybrid or 75% - 85%).
- (c) Varieties in which the pure seed contain less than 75% hybrid seed shall not be labeled hybrids.

3.11. For combination mulch, seed and fertilizer products:

- (a) The word "combination" followed by the words "mulch - seed - fertilizer (if appropriate)" must appear on the upper 30% of the principal display panel. The word "combination" must be the largest and most conspicuous type on the container, equal to or larger than the product name. The words "mulch seed - fertilizer" shall be no smaller than one-half the size of the word "combination" and in close proximity to the word combination. These products shall contain a minimum of 70% mulch. The word "mulch" as used herein shall mean "a protective covering of any suitable substance placed with seed which acts to retain sufficient moisture to support seed germination and sustain early seedling growth and aid in the prevention of the evaporation of soil moisture, the control of weeds and the prevention of erosion."
- (b) Agricultural, lawn and turf seeds placed in a germination medium, mat, tape or other device or mixed with mulch shall be labeled as follows:
  - (1) Product name.
  - (2) Lot number.
  - (3) Percentage by weight of pure seed of each kind and variety named which may be less than 5% of the whole.
  - (4) Percentage by weight of other crop seeds.
  - (5) Percentage by weight of inert matter which shall not be less than 70%.
  - (6) Percentage by weight of weed seeds.

- (7) Name and number of noxious weed seeds per pound, if present.
- (8) Percentage of germination (and hard or dormant seed if appropriate) of each kind or kind and variety named and date of test.
- (9) Name and address of labeler.
- (10) Origin (state or foreign country), if known, of each agricultural seed component. If the origin is unknown, the fact shall be stated.

**Part 4. LABELING KIND AND VARIETY OR TYPE AND PERFORMANCE CHARACTERISTICS OF FLOWER SEED.**

- 4.1. Flower seeds shall be labeled with the name of the kind and variety or a statement of type and performance characteristics. This requirement shall be met as follows:
- (a) For seeds of plants grown primarily for their blooms or ornamental value:
    - (1) If the seeds are of a single named variety, the kind and variety shall be entered, for example — “Marigold, Butterball”.
    - (2) If the seeds are of a single type and color for which there is no specific variety name, the type of plant (if significant), and the type and color of bloom shall be indicated, for example, - “Scabiosa, Tall, large Flowered, Double, Pink”.
    - (3) If the seeds consist of an assortment or mixture of colors or varieties of a single kind, the kind name, the type of plant (if significant), and the type or types of bloom shall be indicated. In addition, it shall be clearly indicated that the seed is mixed or assorted. An example of labeling such a mixture or assortment is - “Marigold, Dwarf Double French, Mixed Colors”.
    - (4) If the seeds consist of an assortment or mixture of kinds or kinds and varieties, it shall be clearly indicated that the seed is assorted or mixed and the specific use of the assortment or mixture shall be indicated, for example - “Cut Flower Mixture”, or “Rock Garden Mixture”. Such statements as “Wild Flower Mixture”, “General Purpose Mixture”, “Wonder Mixture”, or any other statement which fails to indicate the specific use of the seed shall not be considered as meeting the requirements of this provision unless the specific use of the mixture is also stated. The kind or kind and variety names in excess of 5.0% shall be listed in the order of their predominance giving the percentage by weight of each. Components of less than 5.0% shall be listed but need not be in order of predominance. A single percentage by weight shall be given for these components.
  - (b) For seeds of plants grown for ornamental purposes other than their blooms, the kind and variety shall be stated, or the kind shall be stated together with a descriptive statement concerning the ornamental part of the plant, for example - “Ornamental Gourds, Small Fruited, Mixed”.

**Part 5. KINDS OF FLOWER SEEDS SUBJECT TO GERMINATION LABELING REQUIREMENTS AND GERMINATION STANDARDS FOR FLOWER SEEDS.**

5.1. The kinds of flowers seeds listed below are those for which standard testing procedures have been prescribed (except those kinds preceded by an asterisk) and which are required to be labeled in accordance with the germination labeling provisions of these rules. The percentage listed opposite each kind is the germination standard for that kind. The percentage germination is the total of percentage germination and percentage hard or dormant seed.

<b>Kind</b>	<b>%</b>
Achillea (yarrow) - <u>Achillea</u> spp.	50
African Daisy (cape-marigold) - <u>Castalis tragus</u> (syn. <u>Dimorphotheca aurantiaca</u> , <u>D. sinuata</u> )	55
African Violet - <u>Saintpaulia</u> spp.	30
Ageratum - <u>Ageratum houstonianum</u>	60
Agrostemma (rose campion) - <u>Lychnis coronaria</u>	65
Alyssum - <u>Alyssum</u> spp., <u>Lobularia maritima</u>	60
Amaranth - <u>Amaranthus</u> spp.	65
Anagallis (pimpernel) - <u>Anagallis arvensis</u> , <u>A. coerulea</u> , <u>A. grandiflora</u>	60
Anemone - <u>Pulsatilla vulgaris</u>	55
Angel's Trumpet - <u>Burgmansia arborea</u>	60
Arabis (Rockcress) - <u>Arabis alpina</u>	60
Arctotis (African-lilac daisy) - <u>Arctotis stoechadifolia</u> var. <u>grandis</u>	45
Armeria - <u>Armeria</u> spp.	55
Asparagus, Fern - <u>Asparagus setaceus</u>	50
Asparagus, Sprenger - <u>Asparagus densiflorus</u> cv. Sprengeri	55
Aster, China - <u>Callistephus chinensis</u> ; except Pompon, Powderpuff and Princess types	55
Aster, China - <u>Callistephus chinensis</u> ; Pompon, Powderpuff and Princess types	50
Aubrieta (purple rock cress) - <u>Aubrieta deltoidea</u>	45
*Baby Smilax - <u>Asparagus asparagoides</u>	25
Balsam - <u>Impatiens balsamina</u>	70
Begonia (fibrous rooted) - <u>Begonia</u> spp.	60
Begonia (tuberous rooted) - <u>Begonia</u> spp.	50
Bells-of-Ireland - <u>Molucella laevis</u>	60
Black-eyed-Susan - <u>Rudbeckia hirta</u>	60
Brachycome (swan river daisy) - <u>Brachycome iberidifolia</u>	60
Browallia - <u>Browallia elata</u> and <u>B. speciosa</u>	65
Bupthalmum (willowleaf oxeye) - <u>Bupthalmum salicifolium</u>	60
Calceolaria - <u>Calceolaria</u> spp.	60
Calendula - <u>Calendula officinalis</u>	65
California-poppy - <u>Eschscholzia californica</u>	60
Campanula:	
Canterbury Bells - <u>Campanula medium</u>	60
Cup and Saucer Bellflower - <u>Campanula medium</u> cv. <u>Calycanthemum</u>	60
Carpathian Bellflower - <u>Campanula carpatica</u>	50
Peach Bellflower - <u>Campanula persicifolia</u>	50

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Candytuft, Annual - <u>Iberis amara</u> , <u>I. umbellata</u>	65
Candytuft, Perennial - <u>Iberis gibraltarica</u> , <u>I. sempervirens</u>	55
Castorbean - <u>Ricinus communis</u>	60
Cathedral Bells - <u>Cobaea scandens</u>	65
Celosia - <u>Celosia argentea</u>	65
Centaurea:	
Basket Flower - <u>Centaurea americana</u>	60
Cornflower (bachelor's button) - <u>Centaurea cyanus</u>	60
Dusty-miller - <u>Centaurea cineraria</u>	60
Royal Centaurea - <u>Centaurea imperialis</u>	60
Sweet Sultan - <u>Amberboa moschata</u>	60
Velvet Centaurea - <u>Centaurea gymnocarpa</u>	60
Cerastium (Snow-in-summer) - <u>Cerastium tomentosum</u>	65
*Chickweed, Tarus - <u>Cerastium biebersteinii</u>	65
Chinese Forget-me-not - <u>Cynoglossum amabile</u>	55
Chrysanthemum, Annual (not: painted daisy) - <u>Chrysanthemum carinatum</u>	40
Chrysanthemum, Garland - <u>Chrysanthemum coronarium</u>	40
Cineraria - <u>Senecio cruentus</u>	60
Clarkia - <u>Clarkia unguiculata</u>	65
Cleome - <u>Cleome hassleriana</u>	65
Coleus - <u>Coleus blumei</u>	65
Columbine - <u>Aquilegia</u> spp.	50
Coneflower, Purple - <u>Echinacea purpurea</u>	60
Coral Bells - <u>Heuchera sanguinea</u>	55
Coreopsis, Lance-leaved (tickseed) - <u>Coreopsis lanceolata</u>	40
Coreopsis, Plains (calliopsis) - <u>Coreopsis tinctoria</u> (syn. <u>C. bicolor</u> )	65
Corn, Ornamental - <u>Zea mays</u> subsp. <u>mays</u>	75
Cosmos:	
Sensation, Mammoth and Crested types - <u>Cosmos bipinnatus</u>	65
Klondyke type - <u>Cosmos sulphureus</u>	65
Crossandra - <u>Crossandra infundibuliformis</u>	50
Dahlia - <u>Dahlia</u> spp.	55
*Daylily - <u>Hemerocallis</u> spp.	45
Delphinium, Perennial:	
Cardinal Larkspur - <u>Delphinium cardinale</u>	55
Chinensis types, Belladonna types and hybrids - <u>D. elatum</u>	55
Dianthus:	
Carnation - <u>Dianthus caryophyllus</u>	60
China Pinks - <u>Dianthus chinensis</u>	70
Grass Pinks - <u>Dianthus plumarius</u>	60
Maiden Pinks - <u>Dianthus deltoides</u>	60
Sweet William - <u>Dianthus barbatus</u>	70
Sweet Wivelsfield - <u>Dianthus X allwoodi</u>	60
Didiscus (blue lace flower) - <u>Trachymene coerulea</u>	65
Doronicum (leopard's bane) - <u>Doronicum orientale</u>	60
Dracaena - <u>Cordyline australis</u>	55
*Dragon Tree - <u>Dracaena draco</u>	40

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English Daisy - <u>Bellis perennis</u>	55
Flax:	
Flowering Flax - <u>Linum grandiflorum</u>	60
Golden Flax - <u>Linum flavum</u>	60
Scarlet flax - <u>Linum grandiflorum</u> cv. Rubrum	60
Lewis flax (blue flax) - <u>Linum lewisii</u>	60
Perennial Flax (blue flax) - <u>Linum perenne</u>	60
*Flowering Maple - <u>Abutilon</u> spp.	35
Foxglove - <u>Digitalis</u> spp	60
Gaillardia: (indian blanketflower, blanketflower, firewheel)	
Gaillardia, Annual - <u>Gaillardia pulchella</u>	45
Gaillardia, Perennial - <u>Gaillardia aristata</u>	45
Gerbera (transvaal daisy) - <u>Gerbera jamesonii</u>	60
Geum - <u>Geum</u> spp.	55
Gilia - <u>Gilia</u> spp.	65
Gloxinia - <u>Sinningia speciosa</u>	40
Godetia - <u>Clarkia concinna</u>	65
Gourds:	
Yellow flowered - <u>Cucurbita pepo</u>	70
White flowered - <u>Lagenaria siceraria</u>	70
Dishcloth Gourd (luffa sponge) - <u>Luffa aegyptiaca</u>	70
Gypsophila:	
Annual Baby's-Breath - <u>Gypsophila elegans</u>	70
Perennial Baby's-Breath - <u>Gypsophila paniculata</u> , <u>G. pacifica</u> , <u>G. repens</u>	70
Helenium - <u>Helenium autumnale</u>	40
Helichrysum - <u>Helichrysum bracteatum</u>	60
Heliopsis - <u>Heliopsis helianthoides</u>	55
Heliotrope - <u>Heliotropium</u> spp.	35
Helipterum (Acroclinium) - <u>Helipterum roseum</u>	60
Hesperis (sweet rocket, dame's rocket) - <u>Hesperis matronalis</u>	65
Hollyhock - <u>Alcea rosea</u>	65
Hunnemania (mexican tulip poppy) - <u>Hunnemania fumariifolia</u>	60
Hyacinth Bean - <u>Lablab purpureus</u>	70
Impatiens - <u>Impatiens hostii</u> , <u>I. sultani</u>	55
Ipomea:	
Cypress Vine - <u>Ipomea quamoclit</u>	75
Moonflower - <u>Ipomea alba</u>	75
Morning Glories, Cardinal Climber, Hearts and Honey Vine - <u>Ipomea</u> spp	75
Jerusalem Cross (maltese cross) - <u>Lychnis chalcedonica</u>	70
Job's Tears - <u>Coix lacryma-jobi</u>	70
Larkspur, Annual - <u>Consolida ajacis</u> (syn. <u>Delphinium ajacis</u> , <u>D. ambiguum</u> )	60
Lantana - <u>Lantana camara</u>	35
Lilium (regal lily) - <u>Lilium regale</u>	50
Linaria - <u>Linaria</u> spp.	65
Lobelia, Annual - <u>Lobelia erinus</u>	65
Lunaria, Annual - <u>Lunaria annua</u>	65
Lupine - <u>Lupinus</u> spp.	65

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Marigold - <u>Tagetes</u> spp	65
Marvel of Peru (four-o'clock) - <u>Mirabilis jalapa</u>	60
Matricaria (feverfew) - <u>Tanacetum parthenium</u>	60
Mignonette - <u>Reseda odorata</u>	55
Myosotis (forget-me-not) - <u>Myosotis alpestris</u> , <u>M. sylvatica</u> , <u>M. scorpioides</u>	50
Nasturtium - <u>Tropaeolum</u> spp.	60
Nemesia - <u>Nemesia</u> spp.	65
Nemophila (baby-blue-eyes) - <u>Nemophila menziesii</u>	70
Nemophila, Spotted (five-spot) - <u>Nemophila maculata</u>	60
Nicotiana - <u>Nicotiana alata</u> , <u>N. X sanderae</u> , <u>N. sylvestris</u>	65
Nierembergia - <u>Nierembergia</u> spp.	55
Nigella (love-in-a-mist) - <u>Nigella damascena</u>	55
Ox-eye daisy - <u>Leucanthemum vulgare</u> (syn. <u>Chrysanthemum leucanthemum</u> )	60
Painted Daisy - <u>Chrysanthemum coccineum</u>	60
Pansy - <u>Viola tricolor</u>	60
Penstemon - <u>Penstemon barbatus</u> , <u>P. grandiflorus</u> , <u>P. laevigatus</u> , <u>P. hirsutus</u>	60
Petunia - <u>Petunia</u> spp.	45
Phacelia - <u>Phacelia campanularia</u> , <u>P. minor</u> , <u>P. tanacetifolia</u>	65
Phlox, Annual - <u>Phlox drummondii</u> all types and varieties	55
Physalis (husk tomato, Chinese lanternplant) - <u>Physalis</u> spp.	60
Platycodon (balloon flower) - <u>Platycodon grandiflorus</u>	60
Plumbago, Cape - <u>Plumbago auriculata</u>	50
*Ponytail - <u>Beaucarnea recurvata</u>	40
Poppy:	
Shirley Poppy (corn poppy) - <u>Papaver rhoeas</u>	60
Iceland Poppy - <u>Papaver nudicaule</u>	60
Oriental Poppy - <u>Papaver orientale</u>	60
Tulip Poppy - <u>Papaver glaucum</u>	60
Portulaca (rose moss) - <u>Portulaca grandiflora</u>	55
Primula (primrose) - <u>Primula</u> spp.	50
Pyrethrum (painted daisy) - <u>Chrysanthemum coccineum</u>	60
Salpiglossis - <u>Salpiglossis sinuata</u>	60
Salvia:	
Scarlet Sage - <u>Salvia splendens</u>	50
Mealycup Sage (blue bedder) - <u>Salvia farinacea</u>	50
Saponaria - <u>Saponaria ocymoides</u> , <u>Vaccaria hispanica</u>	60
Scabiosa: (pincushion flowers)	
Scabiosa, Annual (mourning-bride) - <u>Scabiosa atropurpurea</u>	50
Scabiosa, Perennial - <u>Scabiosa caucasica</u>	40
Schizanthus (butterfly flower) - <u>Schizanthus</u> spp	60
Sensitive Plant (mimosa) - <u>Mimosa pudica</u>	65
Shasta Daisy - <u>Leucanthemum X superbum</u> , <u>L. vulgare</u>	65
Silk Oak - <u>Grevillea robusta</u>	25
Snapgragon - <u>Antirrhinum</u> spp.	55
Solanum - <u>Solanum</u> spp.	60
Statice - <u>Limonium sinuatum</u> , <u>Psylliostachys suworonii</u>	50
Stocks:	

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	Common - <u>Matthiola incana</u>	65
	Evening Scented - <u>Matthiola logipetala</u> subsp. <u>bicornis</u>	65
	Summer Cypress - <u>Kochia scoparia</u> cv. <u>Trichophylla</u>	55
	Sunflower - <u>Helianthus</u> spp	70
	Sunrose - <u>Helianthemum</u> spp	30
	Sweet Pea:	
	Annual (other than dwarf bush) - <u>Lathyrus odoratus</u>	75
	Annual (dwarf bush) - <u>Lathyrus odoratus</u>	65
	Perennial - <u>Lathyrus latifolius</u>	75
	Tahoka Daisy - <u>Machaeranthera tanacetifolia</u>	60
	Thunbergia (black-eyed Susan vine) - <u>Thunbergia alata</u>	60
	Torch Flower (Mexican sunflower) - <u>Tithonia rotundifolia</u>	70
	Torenia (wishbone flower) - <u>Torenia fournieri</u>	70
	Tritoma (red-hot-poker, poker plant) - <u>Kniphofia</u> spp.	65
	Verbena, Annual - <u>Verbena</u> X <u>hybrida</u>	35
	Vinca - <u>Catharanthus roseus</u>	60
	Viola (Johnny-jump-up) - <u>Viola cornuta</u>	55
	Virginian Stocks - <u>Malcolmia maritima</u>	65
	Wallflower - <u>Cheiranthus cheiri</u>	65
	Yucca (Adam's needle) - <u>Yucca filamentosa</u>	50
	Zinnia:	
	Zinnia (except Creeping) - <u>Zinnia augustifolia</u> , <u>Z. violacea</u> , <u>Z. grandiflora</u> , <u>Z. haageana</u> , <u>Z. peruviana</u> , <u>Z. acerosa</u>	65
	Zinnia, Creeping - <u>Sanvitalia procumbens</u>	50
	All other kinds	50

- 5.2. A mixture of kinds of flower seeds will be considered to be below standard if the germination of any kind or combination of kinds constituting 25 percent or more of the mixture by number is below standard for the kind or kinds involved.

## Part 6. LABEL REQUIREMENTS FOR TREE AND SHRUB SEEDS.

Each container of tree and shrub seed which is sold, offered for sale, or exposed for sale, or transported within this State for sowing purposes shall bear thereon or have attached thereto in a conspicuous place a plainly written or printed label or tag in the English language, giving the following information, which statement shall not be modified or denied in the labeling or on another label attached to the container — except that labeling of seed supplied under a contractual agreement may be by invoice accompanying the shipment or by analysis tag attached to said invoice if each bag or other container is clearly identified by a lot number stenciled on the container or if the seed is in bulk. Each bag or container that is not so identified must carry complete labeling.

- 6.1. For all tree and shrub seeds:
- (a) Common name of the species of seed (and subspecies, if appropriate).
  - (b) The scientific name including the genus, species, and subspecies, (if appropriate).
  - (c) Lot number or other lot identification.

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- (d) Origin.
- (e) Purity as a percentage of pure seed by weight.
- (f) For all species the following:
  - (1) Percentage germination exclusive of dormant or hard seed.
  - (2) Percentage of dormant or hard seed, if present.
  - (3) The calendar month and year test was completed to determine such percentages.
- (g) The name and address of the person who labeled said seed or who sells, or offers or exposes for sale, said seed within this State.

## **Part 7. NOXIOUS WEED LIST.**

### 7.1. Prohibited (primary) noxious weeds:

- Anoda, spurred (Anoda cristata)
- Bindweed, field (Convolvulus arvensis)
- Bouncingbet (Saponaria officinalis)
- Camelthorn (Alhagi pseudalhagi)
- Chamomile, scentless (Anthemis arvensis)
- Cinquefoil, sulfur (Potentilla recta)
- Clematis, Chinese (Clematis orientalis)
- Daisy, oxeye (Chrysanthemum leucanthemum)
- Goatgrass, jointed (Aegilops cylindrica)
- Halogeton (Halogeton glomeratus)
- Horsenettle, Carolina (Solanum carolinense)
- Horsenettle, white (Solanum elaeagnifolium)
- Houndstongue (Cynoglossum officinale)
- Johnsongrass (Sorghum halepense)

Knapweed, black (*Centaurea nigra*)

Knapweed, diffuse (*Centaurea diffusa*)

Knapweed, Russian (*Acroptilon repens*) (syn. *Centaurea repens*)

Knapweed, spotted (*Centaurea maculosa*)

Knapweed, squarrose (*Centaurea virgata*)

Loosestrife, purple (*Lythrum salicaria*) and (*Lythrum virgatum*)

Mallow, Venice (*Hibiscus trionum*)

Medusahead (*Taeniatherum caput-medusae*)

Millet, wild proso (*Panicum miliaceum* subsp. *ruderales*)

Nutsedge, yellow (*Cyperus esculentus*)

Povertyweed, silverleaf (*Ambrosia tomentosa*) (syn. *Franseria discolor*)

Povertyweed, woollyleaf (*Ambrosia grayi*) (syn. *Franseria tomentosa*)

Rocket, Dame's (*Hesperis matronalis*)

Rue, African (*Peganum harmala*)

Sage, Mediterranean (*Salvia aethiopis*)

Saltcedar (*Tamarix parviflora*) and (*Tamarix ramosissima*)

Skeletonweed, rush (*Chondrilla juncea*)

Sorghum alnum (*Sorghum alnum*)

Sowthistle, perennial (*Sonchus arvensis*)

Spurge, cypress (*Euphorbia cyparissias*)

Spurge, leafy (*Euphorbia esula*)

Spurge, myrtle (*Euphorbia myrsinites*)

St. Johnswort, common (*Hypericum perforatum*)

Starthistle, yellow (*Centaurea solstitialis*)

Tarweed, coast (Madia sativa)

Thistle, Canada (Cirsium arvense)

Thistle, musk (Carduus nutans)

Thistle, plumeless (Carduus acanthoides)

Thistle, Scotch (Onopordum acanthium) and (Onopordum tauricum)

Toadflax, Dalmatian (Linaria dalmatica)

Toadflax, yellow (Linaria vulgaris)

Whitetop (Cardaria draba)

Whitetop, hairy (Cardaria pubescens)

Whitetop, tall (Lepidium latifolium)

Woad, Dyer's (Isatis tinctoria)

7.2 Restricted (secondary) noxious weeds:

	<b><u>Limitations in seeds per pound</u></b>
Blueweed ( <u>Helianthus ciliaris</u> )	200
Burdock, common ( <u>Arctium minus</u> )	200
Butterprint or velvet leaf ( <u>Abutilon theophrasti</u> )	10
Dock, curly ( <u>Rumex crispus</u> )	50
Dodder ( <u>Cuscuta</u> spp.)	20
Foxtail, giant ( <u>Setaria faberi</u> )	50
Groundcherry, purple ( <u>Quincula lobata</u> ) (syn. <u>Physalis lobata</u> )	50
Hemlock, poison ( <u>Conium maculatum</u> )	10
Henbane, black ( <u>Hyoscyamus niger</u> )	10
Lettuce, blue ( <u>Latuca tatarica</u> subsp. <u>pulchella</u> ) (syn. <u>Latuca pulchella</u> )	200
Mustard, black ( <u>Brassica nigra</u> )	30
Mustard, India ( <u>Brassica juncea</u> )	30
Mustard, wild ( <u>Sinapsis arvensis</u> ) (syn. <u>Brassica kaber</u> )	30
Oat, wild ( <u>Avena fatua</u> )	10 in barley, oats, wheat, rye and triticale 100 in other seeds
Plantain, buckhorn ( <u>Plantago lanceolata</u> )	100

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Povertyweed, mouse-ear ( <i>Iva axillaris</i> )	200
Puncturevine ( <i>Tribulus terrestris</i> )	50
Quackgrass ( <i>Elytrigia repens</i> ) (syn. <i>Agropyron repens</i> )	50
Sandbur, longspine ( <i>Cenchrus longspinus</i> )	50
Thistle, bull ( <i>Cirsium vulgare</i> )	10

No one lot of seed shall have more than five restricted weeds in the lot.

## Part 8. GERMINATION STANDARDS.

- 8.1 The germination standards for vegetable seed in Colorado, stated as a percentage, shall be as follows:

<u>Kind</u>	<u>%</u>
Anise	50
Artichoke	60
Asparagus	70
Asparagusbean	75
Basil, sweet	70
Beans, garden	70
Bean, Lima	70
Bean, runner	75
Beet	65
Broadbean	75
Broccoli	75
Brussels sprouts	70
Burdock, great	60
Cabbage	75
Cabbage, tronchunda	70
Cantaloupe	75
Caraway	55
Cardoon	60
Carrot	55
Cauliflower	75
Celeriac	55
Celery	55
Chard, Swiss	65
Chervil, salad	65
Chicory	65
Chinese cabbage	75
Chives	50
Citron	65
Collards	80
Coriander	70
Corn, pop	75
Corn, sweet	75

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Cornsalad	70
Cowpea	75
Cress, garden	75
Cress, upland	60
Cress, water	40
Cucumber	80
Dandelion	60
Dill	60
Eggplant	60
Endive	70
Fennel, Florence	60
Fennel, sweet	50
Kale	75
Kale, Chinese	75
Kale, Siberian	75
Kohlrabi	75
Leek	60
Lettuce	80
Marjoram, sweet	50
Melon	75
Muskmelon	75
Mustard	75
Mustard, spinach	75
Okra	50
Onion	70
Onion, Welsh	70
Oregano	60
Pak-Choi	75
Parsley	60
Parsnip	60
Pea	80
Peanut	60
Pepper	55
Pumpkin	75
Radish	75
Rhubarb	60
Roquette	60
Rosemary	30
Rutabaga	75
Sage	60
Salsify	75
Savory, summer	55
Sorrel	65
Soybean	75
Spinach	60
Spinach, New Zealand	40
Squash	75

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Thyme	50
Tomato	75
Tomato, husk	50
Turnip	80
Watermelon	70

- 8.2. The germination standards for all other vegetable and herb seed, for which a standard has not been established, shall be 50%.

**Part 9. STACKING AND LABELING OF SEED LOTS BY DEALERS.**

- 9.1. Seed subject to inspection under the Act shall be stored in such a manner as to permit access for proper sampling of each lot.
- 9.2. Any lot of seed in storage in, or consigned to, a seed cleaning or processing establishment for cleaning and processing, or for sale outside the state only and not offered for sale within the state, shall be plainly labeled showing the specific purpose for which it is held.
- 9.3. Any bulk seed, or any seed in bags, bins, crates or any other sort of storage container, at any establishment that is registered under Section 35-27-111, C.R.S., shall be considered to be offered for sale, unless such seed is labeled as "Not For Sale" or kept in an area of the establishment that is clearly marked and designated for "Not For Sale" seed. The provisions of this rule shall not apply to seed described in Section 35-27-104(1)(c) C.R.S.

**Part 10. THE SAMPLING OF SEED LOTS.**

10.1. General Procedure:

- (a) In order to secure a representative sample, equal portions shall be taken from evenly distributed parts of the quantity of seed to be sampled. Access shall be had to all parts of that quantity.
- (b) For free-flowing seed in bags or bulk, a probe or trier, shall be used. For small free-flowing seed in bags a probe or trier long enough to sample all portions of the bag shall be used.
- (c) Nonfree-flowing seeds, such as certain grass seed, uncleaned seed, or screenings, difficult to sample with a probe or trier, shall be sampled by thrusting the hand into the bulk and withdrawing representative portions.
- (d) Composite samples shall be obtained to determine the quality of a lot of seed, such as the percentages of pure seed, other crop seed, weed seed, inert matter, noxious weed seed, germination, varietal purity, freedom from disease, and effectiveness of seed treatment. Individual bag samples may be obtained to determine whether the seed is of uniform quality.

10.2. Sampling Equipment:

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For sampling seeds in bags a trier long enough to reach all areas in the bag shall be used. The trier shall be so designed that it will remove an equal volume of seed from each part of the bag through which the trier travels. Unless the trier has partitions in the seed chamber it must be inserted into the bags horizontally. Nonfree-flowing seeds difficult to sample with a trier shall be sampled by thrusting the hand into the seed and removing representative portions. When a sample is taken with the hand, insert the hand flat and with the fingers together. Keep the fingers together as the hand is closed and withdrawn. Because of possible segregation, hand samples should be taken from various points in bags or in bulk.

10.3. Obtaining a “Submitted Sample”:

(a) Seed in Bags:

- (1) When more than one core is drawn from a bag, follow different paths. When more than one handful is taken from a bag, take them from well separated points.
- (2) For lots of one to six bags, sample each bag and take a total of at least five cores or handfuls.
- (3) For lots of more than six bags, sample five bags plus at least 10% of the number of bags in the lot. Round numbers with decimals to the nearest whole number. Regardless of the lot size, it is not necessary to sample more than thirty bags.

<b>Examples:</b>								
No. bags in lot	7	10	23	50	100	200	300	400
No. bags to sample	6	6	7	10	15	25	30	30

- (b) Bulk Seed: To obtain a composite sample, take at least as many cores or handfuls as if the same quantity of seed were in bags of an ordinary size. Take the cores or handfuls from well distributed points throughout the bulk.
- (c) Seed in small containers: Seed in small containers shall be sampled by taking entire unopened containers in sufficient number to supply a minimum size sample as required in Part 10.4. The contents of a single container or the combined contents of multiple containers of the same lot shall be considered representative of the entire lot of seed sampled.

10.4. Size of Submitted Sample:

- (a) For the composite sample to test for quality. The following are minimum weights for samples of seed to be submitted for analysis, test or examination.
  - (1) Two ounces (approximately 55 grams) of grass seed not otherwise mentioned, white or alsike clover, or seeds not larger than these.
  - (2) Five ounces (approximately 150 grams) of red or crimson clover, alfalfa, lespedezas, ryegrasses, bromegrasses, millet, flax, rape, or seeds of similar size.
  - (3) One pound of sudangrass, proso, or seeds of similar size.

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- (4) Two pounds (approximately 1,000 grams) of cereals, vetches, sorghums, or seeds of similar or larger size.
  - (5) Vegetable and ornamental seed samples shall consist of at least 800 seeds per sample. If a purity analysis or a noxious weed seed examination is required, the submitted sample shall provide at least the minimum weights of working samples set forth in Association of Official Seed Analysts Rules for Testing Seeds, 2008 edition. (As to incorporation of materials see Part 14.)
  - (6) Tree and shrub seed samples shall consist of at least 600 seeds per sample for germination purposes (1,000 seeds for paired tests). If a purity analysis or a noxious weed seed examination is required, the submitted sample shall provide at least the minimum weights of working samples set forth in Association of Official Seed Analysts Rules for Testing Seeds, 2008 edition. (As to incorporation of materials see Part 14.)
- (b) For individual bag samples to test for uniformity:
- (1) The size of any individual bag sample to determine uniformity in a lot of seed shall be not less than the quantities set out in the column "Minimum Weight for Noxious Weed Seed Examination" for the respective kinds of seed listed in Table 1, found in Association of Official Seed Analysts Rules for Testing Seeds, 2008 edition. (As to incorporation of materials see Part 14.)
  - (2) If the sample drawn is larger than required it shall be thoroughly mixed before it is divided to the desired size.

10.5. Forwarding and Receipt of Official Samples: Before being forwarded to analysis, test, or examination the containers of official samples shall be properly sealed, identified, initialed and dated.

## **Part 11. ANALYSIS AND TESTING OF SEEDS.**

- 11.1. The methods of analyzing and testing seed samples shall be the same as prescribed in the Association of Official Seed Analysts Rules for Testing Seeds, 2008 edition, except that: (As to incorporation of materials see Part 14.)
- a) Kinds of seeds that do not have germination testing protocols in the Association of Official Seed Analysts Rules for Testing Seeds, 2008 edition, may be tested with a tetrazolium test in place of a germination test; and
  - b) Notwithstanding the fact that such protocols exist for Indian ricegrass (*Achnatherum hymenoides*), fourwing saltbrush (*Atriplex canescens*), and chokecherry (*Prunus virginiana*), these kinds of seeds may also be tested with a tetrazolium test in place of a germination test.
- 11.2. Except as provided in Rule 11.3 below, a standard germination test is valid for thirteen (13) months, unless the seed is stored in a hermetically sealed container, in which case it shall be valid for twenty-four (24) months.

- 11.3 Germination tests for seeds of the following kinds of cool season lawn and turf grasses shall be valid for sixteen (16) months, unless hermitically sealed: colonial bentgrass, creeping bentgrass, Kentucky bluegrass, chewings fescue, hard fescue, red fescue, tall fescue, annual ryegrass, intermediate ryegrass, and perennial ryegrass. If the seed is stored in a hermitically sealed container the test shall be valid for twenty-four (24) months.
- 11.4 The time for which a tetrazolium test is valid in place of a germination test shall be thirteen (13) months, unless the seed is stored in a hermetically sealed container, in which case it shall be valid for twenty-four (24) months.

## **Part 12. TOLERANCES.**

- 12.1. Tolerances allow for the variation which may reasonably be expected in results obtained from different analyses or tests of the same lot of seed. They are for the protection of the labeler and shall not be used to show higher quality on the label than is indicated by the test.
- 12.2. Tolerances and methods of determination used in the enforcement of these rules shall be the same as prescribed in the Association of Official seed Analysts Rules for Testing Seeds, 2008 edition. (As to incorporation of materials see Part 14.)

## **Part 13. SALES OF DISEASE FREE SEED BEANS.**

- 13.1. Any beans sold for seed in Mesa, Montrose or Delta County, or any beans sold in any other county intended for planting as seed in Mesa, Montrose or Delta County must be either:
- (a) Certified and labeled as such by an official seed certifying agency, or
  - (b) Accompanied by a phytosanitary certificate issued by a regulatory agency which states that the beans were field inspected during active growth and were apparently free of field exhibited symptoms of seed born diseases.
- 13.2. Any inspections done pursuant to the enforcement of this section of the seed law shall be paid for by the person selling such bean and shall be billed at actual cost for the inspection.

## **Part 14. INCORPORATION BY REFERENCE.**

- 14.1. By these rules and regulations, the Commissioner hereby incorporates by reference into these rules the Association of Official Seed Analysts Rules for Testing Seed, 2008 edition. This incorporation does not include any later amendment to or edition of this publication.
- 14.2. Certified copies of this incorporated material are available for public inspection during regular business hours. This incorporated material may be obtained or examined by contacting Seed Program Coordinator, Division of Plant Industry, Colorado Department of Agriculture, 700 Kipling Street, Suite 4000, Lakewood, Colorado 80215-5894. Further, the incorporated material may be examined at any state publications depository library.

## **Part 15. RECORDS REQUIRED TO BE KEPT.**

- 15.1. Each person whose name appears on a label on a seed container as a handler of the seed in such container shall keep records of the origin, sale, shipping, and disposition of such seed.
- 15.2. Each person acting as a custom seed conditioner shall keep records of the owner of the seed, kind and if known the variety, quantity, and date and place of cleaning for each lot of seed conditioned.

**Part 16. PESTICIDE TREATED ALFALFA SEED AND CLOVER SEED.**

- 16.1 The following provisions apply to alfalfa seed and clover seed resulting from crops treated with any pesticide registered under Section 3 of the Federal Insecticide, Fungicide and Rodenticide Act which requires such rules as a condition of registration for use in alfalfa seed or clover seed production, or any pesticide registered under Section 24(c) of the Federal Insecticide, Fungicide and Rodenticide Act which requires such rules as a condition of registration for use in alfalfa seed or clover seed production.
- 16.2 Every person engaged in the business of seed conditioning shall keep records of individual growers' alfalfa and clover seed dirt weight and clean weight for three (3) years and shall furnish such records to the Commissioner upon request.
- 16.3 All seed screenings shall be disposed of at a controlled dump site, incinerator, or other equivalent disposal site. Every person engaged in the business of seed conditioning shall keep records of seed screening disposal which records shall include the disposal site, method, weight of disposed screenings and date of disposal. Every person engaged in the business of seed conditioning shall keep seed screening disposal records for three (3) years and shall furnish such records to the Commissioner upon request.
- 16.4 All seed shall be conspicuously tagged or labeled with the following statement, "NOT FOR HUMAN CONSUMPTION OR ANIMAL FEED."
- 16.5 No seed tagged as set forth in 16.4 above shall be sold, offered for sale or distributed for human consumption or animal feed.

**Part 17. RESERVED**

**Part 18. RESERVED**

**Part 19. RESERVED**

**Part 20. STATEMENTS OF BASIS AND PURPOSE.**

*The statements of basis and purpose for some rule changes are no longer in the Departments files and are presumably in the state archives.*

**20.1 Emergency Regulation adopted September 17, 1993 - Effective September 17, 1993 Adopted November 19,1993 - Effective December 30,1993**

This copy of the text of the "Rules and Regulations Pertaining to the Administration and Enforcement of the Colorado Seed Act" is provided as a convenience to the public by the Colorado Department of Agriculture and does not constitute an official publication of these Rules. The official version of these Rules is published by the Office of the Secretary of State in the Colorado Code of Regulations at 8 CCR 1203-6 and may be obtained from the following website: <http://www.sos.state.co.us/CCR/Welcome.do>.

The following rules are hereby promulgated under the authority of the Colorado Seed Act pursuant to 35-27-101 through 125, C.R.S., (1993 Supp. as amended by Senate Bill 93-17). These rules are required by the Colorado Seed Act, which was repealed and reenacted by the 1993 State Legislature.

They deal with definitions of certain terms used which are not defined in the Act; the requirements for registration of seed labelers, custom seed conditioners, and retail seed dealers, including the setting of registration fees; label requirements for agricultural, vegetable and flower seeds, including seed mixtures and combination mulch, seed and fertilizer products, performance characteristics of flower seed, and germination standards for flower seeds and for vegetable seeds; label requirements for tree and shrub seeds; the lists of prohibited and restricted noxious weed seeds; seed sampling requirements and procedures; analysis and testing of seeds; tolerances on seed label information; and requirements concerning sales of disease free seed beans.

These rules repeal 8 CCR 1203-6, Parts I through VIII (sic IX) (April 1993), and new rules are adopted in total as follows:

## **20.2 Adopted November 13, 1997 - Effective December 30, 1997**

- (a) These amended rules are adopted pursuant to § 35-27-114 (1)(b), C.R.S. (1995) and pertain to the administration and enforcement of the Colorado Seed Act, §§ 35-27-101 through 125, C.R.S. (1995).
- (b) The purposes of these amended rules are to: update the germination standards for vegetable seed; update incorporation of the *Journal of Seed Technology*, *Seedling Evaluation Handbook* and *Uniform Classification of Weed and Crop Seeds*; delete incorporation of the Federal Seed Act Regulations; and address requirements for pesticide treated alfalfa seed and clover seed.

## **20.3 Adopted February 17, 1998 - Effective March 30, 1998**

- (a) The following rules are hereby promulgated under the authority of the Colorado Seed Act pursuant to §§ 35-27-101 through 125, C.R.S., (1993 Supp. as amended by Senate Bill 93-17). These rules are required by the Colorado Seed Act, which was repealed and reenacted by the 1993 State Legislature. They deal with definitions of certain terms used which are not defined in the Act; the requirements for registration of seed labelers, custom seed conditioners, and retail seed dealers, including the setting of registration fees; label requirements for agricultural, vegetable and flower seeds, including seed mixtures and combination mulch, seed and fertilizer products, performance characteristics of flower seed, and germination standards for flower seeds and for vegetable seeds; label requirements for tree and shrub seeds; the lists of prohibited and restricted noxious weed seeds; seed sampling requirements and procedures; analysis and testing of seeds; tolerances on seed label information; and requirements concerning sales of disease free seed beans. These rules repeal 8 CCR 1203-6, Parts I through VIII (sic IX) (April 1993), and new rules are adopted in total as follows:

## **20.4 Adopted October 2, 2003 - Effective December 1, 2003**

- (a) Statutory Authority: These amendments to the permanent rules pertain to the registration fees of the Colorado Seed Act, §§ 35-27-101 through 125, C.R.S. (2002), and are adopted by the Commissioner of Agriculture pursuant to §§ 35-27-111(4)(a)(I) and 114(1)(b)(VIII), C.R.S.

- (b) Purpose: The purpose of these amendments are to increase the registration fee to allow more funds to be spent on seed sample analysis to verify that seed labeling is in compliance with the Colorado Seed Act and these rules.
- (c) Factual and Policy Issues: The factual and policy issues encountered in the proposal of these permanent rules are as follows:
  - (1) Seed sampling and analysis to determine truth in labeling is an essential consumer and environmental protection function of the seed regulatory program conducted under the Colorado Seed Act. Samples are analyzed to ensure that the labeling components such as pure seed and germination percentage are accurate to protect the consumer. In addition, the analysis can detect any weed seed present in the product to protect both the consumer and the environment. The Colorado Department of Agriculture (CDA) performs the seed sampling and the Colorado State University Seed Laboratory (CSU Laboratory) provides the analysis function through a contract with CDA. CDA does not have qualified staff to conduct seed analysis.
  - (2) Use of the CSU Laboratory provides an objective third party analysis when regulatory action is required because of seed analysis results. It prevents potential conflict of interest concerns that a private laboratory would encounter particularly since companies regulated under the Colorado Seed Act operate many of the private seed laboratories. In addition, it saves CDA costs by not having to develop and conduct a system to provide all of the samples as "blind samples" to a private laboratory to ensure they cannot determine the place the sample was taken from. Other regulatory seed laboratories operated by Departments of Agriculture or Universities in other states have no interest in performing seed analysis for Colorado.
  - (3) The CSU Laboratory revenues have decreased in recent years. This decrease has caused the laboratory to reduce staff to a level that is not sustainable for operation in the long term. To obtain sufficient revenue the Laboratory must raise seed analysis costs to its customers such as the Colorado Department of Agriculture.
  - (4) The Colorado seed industry believes the CSU Laboratory provides an essential function for processing regulatory samples as well as in the education of seed analysts.
  - (5) The Colorado seed industry supports providing increased revenue to the Laboratory through increased charges on seed analysis by the CSU Laboratory.
  - (6) The Colorado seed industry supports an increase in seed registrations fees to pay for the increased charges by the CSU Laboratory.

## **20.5 Adopted December 9, 2008 - Effective January 30, 2009**

### Statutory Authority

These amendments to these rules are proposed for adoption by the Commissioner of the Colorado Department of Agriculture ("CDA") pursuant to his authority under the Colorado Seed Act (the "Act"), § 35-27-114(1)(b), C.R.S.

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## Purpose

The purposes of these proposed rule amendments are as follows;

The purpose of these proposed rules is:

- 1) To adopt a new Rule 1.2 (j), to define a new term, "tetrazolium test".
- 2) To adopt a new Rule, 3.1 requiring that all lots of seed that are being labeled from the results of a tetrazolium test, in place of a germination test, be required to disclose that information on the label.
- 3) To amend existing Rules 7.1 and 7.2 to delete obsolete statements concerning effective dates for certain noxious weeds.
- 4) To amend existing Rule 8.1 to add the term "stated as a percentage" to the introductory header sentence, after the word "Colorado" and add the word "Kind" above the first column and the symbol "%" above the second column.
- 5) To amend existing Rule 8.1 to add 16 kinds of seed and their germination standards.
- 6) To adopt a new Rule 8.2 specifying that all vegetable and herb seeds not listed in 8.1 shall have a specific germination standard of 50%.
- 7) To adopt a new Rule 9.3 to require all seed contained within any building or other structure owned or operated by a seed registrant that is not for sale to be clearly marked as such.
- 8) To adopt a new Rule, 11.1 to update the reference materials for methods of analyzing and testing seed samples to incorporate the most current methods in the Association of Official Seed Analysts Rules for Testing Seeds, 2008 edition.
- 9) To adopt new Rules 11.1(a) and 11.1(b) to specify by rule what kinds of seeds will be allowed to be analyzed with the results of a tetrazolium test.
- 10) To adopt a new Rule 11.2 which states that the time that a germination test is valid is 13 months, unless it is stored in hermetically sealed containers, in which case it shall be valid for 24 months.
- 11) To adopt a new Rule 11.3 specifying what kinds of cool season grasses will be allowed to be labeled as to germination for a period of 16 months instead of the standard 13 months, as allowed under in §35-27-113(1)(a) , C.R.S.
- 12) To adopt a new Rule 11.4 which establishes the length of time during which a tetrazolium test is valid for labeling purposes.
- 13) To amend existing Rule 12 to update the tolerance and methods of determination used in the enforcement of these rules to incorporate the most current tolerances and methods in the Association of Official Seed Analysts Rules for Testing Seeds, 2008 edition.

- 14) To add the title to Part 13, "SALES OF DISEASE FREE SEED BEANS".
- 15) To amend existing Rule 14 to delete references to outdated materials incorporated by reference and replace them with the correct reference.
- 16) To amend Rule 14 to delete outdated references to Section Chief and Plant and Insect Section and to replace them with the term "Seed Program Coordinator".
- 17) To amend existing language in several places to correct typographical errors.

#### Factual and Policy Basis Issues

The factual and policy issues encountered when developing these rules include:

- 1) The proposed new Rule 1.2(j) is necessary because the term, "tetrazolium test", which is used in §35-27-113(1)(a), C.R.S., is not defined in the Act.
- 2) A tetrazolium test is different from a germination test in that a tetrazolium test only determines the percentage of the seeds that are viable (living) rather than the percentage of the seeds that will likely germinate. Prior to the amendment to §35-27-113(1)(a), C.R.S., in 2007, and the implementation in these rule changes, seed could not have been labeled with a tetrazolium test. Because the use of a tetrazolium test will now be allowed for specifically identified seeds; the test is less stringent; and consumers are used to the label data being obtained from a germination test; it is necessary to inform them of this fact so they can make an informed purchasing decision.
- 3) The amended language to Rules 7.1 and 7.2 is necessary because they contain effective dates for certain noxious weeds that are now obsolete and confusing.
- 4) The amended language to 8.2 is necessary to clarify that the figures are stated as percentages in the table below the header sentence.
- 5) The amended language to Rule 8.1 is necessary to update the rule to bring it in conformity with the current list of the kinds of vegetable seeds listed and their germination standards in the Association of Official Seed Analysts Rules for Testing Seeds, 2008 edition.
- 6) The new Rule 8.2 is necessary to specify that all vegetable and herb seeds not listed shall have a designated germination standard since they presently do not. This change is necessary also to bring these rules into conformity with the Recommended Uniform State Seed Law (RUSL), as adopted by the Association of American Seed Control Officials, July 2007 edition, for germination standards for vegetable and herb seeds not listed.
- 7) The proposed new Rule 9.3 is necessary because it will better facilitate inspection and/or sampling of all seed.
- 8) The amended language to Rule 11 is necessary because the old references are obsolete.

- 9) New Rules 11.1(a) and 11.1(b) are necessary because the Commissioner is required to specify by rule which seeds may be analyzed by means of a tetrazolium test. Rule 11.1(a) will allow certain kinds of seeds that presently do not have established germination standards written for them by the Association of Official Seed Analysts Rules for Testing Seeds, 2008 edition, to be analyzed with a tetrazolium test in place of a germination test. Rule 11.1(b) will allow analysis with a tetrazolium test these three kinds of seeds, Indian ricegrass (*Achnatherum hymenoides*), fourwing saltbush (*Atriplex canescens*), and chokecherry (*Prunus virginiana*), that presently do have rules written for them by the Association of Official Seed Analysts Rules for Testing Seeds, 2008 edition, but do not germinate in a timely fashion.
- 10) The proposed new Rule 11.2 is necessary to clarify the valid time for germination tests.
- 11) The proposed new rule 11.3 is necessary due to the new language added to §35-27-113(1)(a), C.R.S. in 2007, which allows specified cool season grasses to be labeled for germination for a period of 16 months instead of the 13 months specified for all other non-hermetically sealed containers. These cool season grasses have been shown to retain the germination for a period longer than 13 months in most cases (i.e. not exposed to direct sunlight, excessive moisture or high temperatures).
- 12) The proposed new Rule 11.4 is necessary because implementation of the tetrazolium test as a replacement for the germination test for certain kinds of seed requires the establishment of a time period of validity for labeling purposes. Furthermore, it is scientifically valid and more manageable to the industry and consumers to stay with the time frame for the validity of the germination test, for labeling purposes, for these same kinds of seed.
- 13) The amended language to Rule 12 is necessary because the old tolerances and methods referenced are obsolete.
- 14) The proposed new title to Part 13 is necessary to bring clarity and continuity to the seed regulations as the title to Part 13 was removed accidentally when the Rules were converted to the electronic format.
- 15) The amended language to Rule 14 is necessary because the old references are obsolete.
- 16) The amended language in Rule 14 is necessary because the old references are obsolete. The Plant and Insect Section was eliminated as an identified entity within the Division of Plant Industry.
- 17) The amended language is necessary to eliminate typographical errors that had been incorporated into prior versions of this Act.

## **20.6 Adopted November 19, 2009 - Effective December 30, 2009**

Statutory Authority

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These amendments to these rules are proposed for adoption by the Commissioner of the Colorado Department of Agriculture (“CDA”) pursuant to his authority under the Colorado Seed Act (the "Act"), § 35-27-114(1)(b), C.R.S.

#### Purpose

The purpose of this proposed rule amendment is to increase the registration fee paid by retail seed dealers from \$25 per year to \$50 per year.

#### Factual and Policy Basis Issues

The factual and policy issues encountered when developing these rules include:

- 1) By statute the Seed Program is funded by a combination of general funds and cash funds. The revenue for the cash funded portion is generated by the registration fees paid by seed registrants to label, condition or sell seed in Colorado.
- 2) Pursuant to 35-27-111 Registration of Seed Conditioners, Farmer Seed Labelers, Retail Seed Dealers, and Seed Labelers – Forms –Fees-Renewals; there are four types of seed registrations in the Seed Act and Rules and Regulations. These four types are Seed Conditioners, Farmer Seed Labelers, Retail Seed Dealers, and Seed Labelers. The Seed Conditioners maximum fee allowed by statute is \$300. The current fee is \$300. The Farmer Seed Labelers maximum fee allowed by statute is \$75. The current fee is \$75. The Retail Seed Dealers maximum fee allowed by statute is \$75. The current fee is \$25. The Seed labelers maximum fee allowed by statute is \$300. The current fee is \$300.
- 3) During the 2008 legislative session the General Assembly removed \$20,000 from the general funded portion of the seed program budget to help with the overall State budget needs.
- 4) The seed program has consistently cut back on the work conducted by the program to meet budget constraints. This is documented in the number of seed samples collected and seed inspections performed. The program took 550 seed samples in 1999 and has gradually reduced that number to the current 301 to account for budget constraints. The program averaged over 900 seed inspection per year in the late 1990s and is now conducting about 650 inspections per year.
- 5) In order to avoid reducing the program activities more and therefore decreasing the value of the program, the industry seed ad hoc advisory committee recommended that fees be increased to offset the general fund revenue removed in 2008.
- 6) Since the only fee not at the statutory cap is the Retail Seed Dealer registration it is proposed to raise this fee.
- 7) The program has an average of 900 retail seed registrations per year. 900 registrations multiplied by the \$25 increase would generate roughly \$22,500.
- 8) The fees for this category of seed registration have not been increased since the statutory change to have seed registrations and fees was enacted in 1993.