

**Circular 10**

**REGULATIONS ON THE SALE  
OF PLANTING SEED IN  
ARKANSAS**

**APPROVED AND ISSUED BY:**

**ARKANSAS STATE PLANT BOARD**

**UNDER AUTHORITY OF A. C. A. 1987  
SECTIONS 2-16-207 AND 2-16-209  
REVISED JANUARY 2007**

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# REGULATIONS ON THE SALE OF PLANTING SEED IN ARKANSAS

As approved and effective January, 2007. Address communications to State Plant Board, Box 1069, Little Rock, Arkansas 72203.

## THE SEED REGULATIONS

The seed regulations were made by the Plant Board under authority of Sections 2-16-207 and 2-16-209, A. C. A. 1987, given in the Appendix.

### SECTION 1. DEFINITIONS. When used in these regulations;

**A.** The term "**person**" includes any individual, partnership, corporation, company, society, or association.

**B.** The term "**agricultural seed**" includes the seeds of grass, forage, cereal, and fiber crops and any other kinds of seeds commonly recognized within this state as agricultural seeds and mixtures of such seeds.

**C.** The term "**kind**" means one or more related species or sub-species which singly or collectively is known by one common name, for example, corn, wheat, alfalfa, and tall fescue.

**D.** The term "**variety**" means a subdivision of a kind characterized by growth, yield, plant, fruit, seed, or other characteristics by which it can be differentiated from other plants of the same kind.

**E.** The term "**lot**" means a definite quantity of seed identified by a lot number or other mark, every portion or bag of which is uniform within recognized tolerances for the factors which appear in the labeling.

**F.** The term "**hybrid seed corn**" as applied to field corn, means the first generation seed of a cross made under controlled conditions between different strains and involving two or more inbred lines of corn. For purposes of labeling, the number or other designations of hybrid corn shall be used as a variety name.

**G.** The term "**hybrid sorghum**" means the first generation hybrid produced by controlling the pollination between a male sterile line and a pollen restoring line. "**Controlling the pollination**" means to use a method of hybridization which will produce pure seed of hybrid grain sorghum which is at least 95 percent hybrid seed.

**H.** The term "**certified seed**", "**registered seed**", and "**foundation seed**" mean seed that has been produced and labeled in accordance with the procedures and in

compliance with the rules and regulations of an officially recognized seed certifying agency or association.

**I.** The term "**weed seed**" includes the seeds, or structures normally considered as seeds of all plants generally recognized as weeds within this state and includes noxious weed seeds.

**J.** The term "**labeling**" includes all labels and other written, printed or graphic representations, in any manner whatsoever, accompanying and pertaining to any seed whether bulk, or in containers, and includes representations on invoices.

**K.** The term "**advertisement**" means all representations, other than those on the label, disseminated in any manner or by any means relating to seed within the scope of these regulations.

**L.** The term "**record**" includes all information relating to lot, identification, source, origin, variety, amount, processing, testing, labeling, and invoices with a lot number.

**M.** The term "**stop-sale**" means an administrative order restraining the sale, use, disposition, and movement of a definite amount of seed.

**N.** The term "**treated seed**" means seed that has been treated with a substance designed to control or repel plant disease organisms, insects, or other pests attacking such seed or plants therefrom, or will otherwise improve the planting value of the seed.

**EXCEPTION:** Fumigants or grain protectants that leave no residues toxic to warm-blooded animals (Synergized pyrethins) are not covered by these regulations.

**O.** The term "**registered seed technologist**" as applied in these regulations, means a seed technologist who has attained registered membership in the Society of Commercial Seed Technologists through qualifying tests and experiences as required by this society.

**P.** The term "**brand**" as used in these regulations, means a word, mark or picture representing a trademark or a term taken from a trademark, which indicates the owner, originator, or labeler of the seed and does not indicate the genetic identity of the seed.

## **SECTION 2. LICENSING--REPORTING--LABELING.**

**A.** **Licensing.** Any person who sells, offers for sale, or distributes agricultural\* seed for planting purposes within the state, or who sells or distributes agricultural seed into the state for planting purposes, shall have in force a valid license for such purpose from the State Plant Board, and such seed shall be labeled in accordance with these regulations. Licenses shall be issued on an annual basis covering the period July 1 through June 30. Applications

for securing a license may be obtained from the State Plant Board.

**Note: 1. Companies with subsidiaries with different names must have a separate license for each name (if seed labeled from that location is distributed into or within Arkansas).**

**2. Companies with subsidiaries with the same name may use their license to cover more than one location provided they have the ability to report seed sales into or within Arkansas for each location and accept responsibility for any fees or violations made at each location; however, companies with subsidiary locations that sell within or into Arkansas, agricultural seed for planting field crops such as rice, soybeans, and small grains, etc., must register each location and pay required registration fees. (See section 5: fees and services)**

## **EXCEPTIONS:**

1. A license is not required for a person who offers for sale, sells, or distributes his own production of Arkansas certified seed which must be bagged and tagged. (Applies to Certified Seed Producers of 100 acres or less.)
2. A license is not required for a person who offers for sale, sells, or distributes only seed that has been sampled, tested, and for which labels have been completely printed by the State Plant Board.
3. A license is not required for a person who offers for sale, sells, or distributes only seed obtained from a licensed seedsman which is in full compliance with these regulations and on which the tonnage fee is paid by a licensed seedsman.

\* Agricultural seed shall be considered to include, in addition to the kinds covered in the section on definitions, garden and lima bean, spinach, mustard, turnip and garden pea seed when in containers of 25 lbs. or more.

Failure of a Licensee to observe these regulations, file required reports, or pay fees required shall be grounds for cancellation of the license by the State Plant Board.

**B. Tonnage Fees.** All agricultural seed distributed or sold, whether in bulk or in containers, within or into Arkansas for planting purposes shall have a tonnage fee paid on it to the State Plant Board. (See Section 5. **Fees.**)

The tonnage fee shall be due on the total pounds of first sales distributions by the originating Licensee.

### **Exceptions:**

1. In cases where a licensed Arkansas seedsman purchases or receives agricultural seed for planting purposes from a seedsman located outside the state of Arkansas, the tonnage fee may be paid by either seedsman, but final responsibility rests with the Arkansas seedsman.

Subsequent sale by an additional licensee of seed on which the fee has been paid would not be subject to any further tonnage fees.

The tonnage fee may be paid by either the Permit Label System or by the Reporting System:

**1. Permit Label System** All seed must be in containers. Bulk bags are not eligible to be used under the permit label system. Permit labels are purchased from the Plant Board and attached to each container. (See Section 5. **Fees.**)

**2. Reporting System** Seed may be in containers, or in bulk, or both. A report is filed with the Plant Board, each quarter, on forms furnished by the Plant Board covering all seed sold within or into Arkansas, not carrying a Plant Board label. Reports and fees due shall be filed with the State Plant Board no later than 30 days following the end of each quarter.

1st quarter begins July 1 and ends September 30th. 2nd quarter begins October 1 and ends December 31st. 3rd quarter begins January 1 and ends March 31st. 4th quarter begins April 1 and ends June 30th.

Reports shall be filed each quarter, even if no seed sales occurred during the period being reported.

The Plant Board may assess a 10% additional charge for late reports.

Any person who sells, offers for sale or distributes agricultural seed for planting purposes within the state, or who sells or distributes agricultural seed into the state in containers only, has the option of using the Reporting System, as outlined above, or he may elect to purchase Arkansas permit labels and attach one to each container of such seed not previously accounted for by another Licensee. This option would be indicated at the time application is filed for a license.

In those cases where the seed of a Licensee who is using the reporting system requires a special permit label (non-certified cotton and sorghum for syrup, when labeled as to variety), then this seed shall be exempt from the quarterly seed report.

The State Plant Board or its representative is authorized to inspect the records, during normal business hours, of any person subject to compliance with these regulations.

**C. Labeling.** A label with the information listed below shall be on or attached to each container of agricultural seed for planting purposes, and if seed is in bulk the label shall accompany each sale, either on the invoice or on a separate sheet or tag, except that, in retail stores where sales are made from small open containers the label of the seed shall be openly displayed on each container instead of being given to the purchaser with each sale.

**The label shall contain the following information, clearly legible in the English language, truly and correctly given:**

- (1) The seedman's or vendor's name and address.
- (2) The kind and variety of seed, or if variety is not listed, so state "**Variety Not Stated.**" (Note: See Section 2. D for kinds required to be labeled by variety name.)
- (3) The Lot Number.
- (4) The state in which the seed was grown, or if unknown, a statement to that effect.
- (5) The year grown for certified cotton.
- (6) The percentage of pure seed.
- (7) The percentage of weed seed, including noxious weeds.
- (8) The percentage of other crop.
- (9) The percentage of inert matter.
- (10) The percentage of germination, exclusive of hard seed, and percentage of hard seed, if present.
- (11) The date the germination test was completed, given by month and year. The test is valid for nine months, not including the month the seed was tested.
- (12) Net weight of contents, with the exception of corn, which may be on the label or bag in the vicinity of the label.
- (13) Any tall fescue offered for sale in Arkansas, certified or non-certified, must have shown on the tag that the seed contains ryegrass, if any, and the amount given in percentage. If no ryegrass is found in the sample, the tag shall state, "No Ryegrass Found" (Note: Experiments have shown that if fescue seed contains as little as .5% ryegrass seed, the first year's crop may contain as much as 25% ryegrass heads).
- (14) Name and number of noxious weed seeds present per pound, or if none are present, a statement to that effect, the noxious weeds being as follows:
  1. Balloonvine (**Cardiospermum halicacabum**)
  2. Bermudagrass (**Cynodon dactylon**)
  3. Blueweed (**Helianthus ciliaris**)
  4. Buckhorn plantain (**Plantago lanceolata**)
  5. Cheat or Chess (**Bromus secalinus and/or Bromus commutatus**)
  6. Cocklebur (**Xanthium spp.**)
  7. Corncockle (**Agrostemma githago**)
  8. Crotalaria (**Crotalaria spp.**)
  9. Darnel (**Lolium temulentum**)
  10. Dock and/or Sorrel (**Rumex spp.**)
  11. Dodder (**Cuscuta spp.**)
  12. Field Bindweed (**Convolvulus arvensis**)
  13. Giant Foxtail (**Setaria faberi**)

14. Hedge Bindweed (**Calystegia sepium**)
15. Horsenettle (**Solanum carolinense**)
16. Itchgrass (**Rottboellia cochinchinensis**)
17. Johnsongrass (**Sorghum halepense**)
18. Moonflower (**Ipomoea turbinata**)
19. Morningglory (**Ipomoea spp.**)
20. Nutgrass (**Cyperus rotundus**)
21. Purple nightshade (**Solanum elaeagnifolium**)
22. Wild onion and/or wild garlic (**Allium spp.**)
23. Serrated Tussock (**Nassella trichotoma**)
24. Barnyardgrass (**Echinochloa crusgalli**) Added Nov. '94
25. Tropical Soda Apple (**Solanum viarum**) Added Aug. '96

When found in rice, the following weeds shall, in addition, be classed as noxious and their presence must be indicated in accordance with the requirements for other noxious weeds: (a) red rice (**Oryza sativa var.**), (b) curly indigo (**Aeschynomene spp.**), (c) tall indigo or coffee bean (**Sesbania exaltata**).

**D. Variety / Brand Labeling Requirements.** In seed of wheat, soybeans, rice and cotton, the label must contain the commonly accepted name of the kind and variety of each agricultural seed component in excess of five percent of the whole and the percentage by weight of each. Variety identification is not required for wheat seed labeled "for cover crop".

The name of a kind and variety of seed and any descriptive terms pertaining thereto shall be correctly represented in any labeling of the seed. The name of each variety of agricultural or vegetable seed is the name determined in accordance with the following considerations:

*Name of variety.* The name of each variety of agricultural or vegetable seed is the name determined in accordance with the following considerations:

- (a) The variety name shall represent a subdivision of a kind, which is characterized by growth, plant, fruit, seed, or other characters by which it can be differentiated from other sorts of the same kind.
- (b) The name of a new variety shall be the name given by the originator or discoverer of the variety, except that in the event the originator or discoverer of a new unnamed variety, at the time seed of the variety is first introduced into channels of commerce of the United States for sale to the public, cannot or chooses not to name the variety, the name of the variety shall be the first name under which the seed is introduced into such commerce.
- (c) The variety name shall not be misleading. The same variety name shall not be assigned to more than one variety of the same kind of seed.



### Labeling Brands:

When agricultural seed is labeled with a brand, trademark, or term taken from a brand or trademark, the seed label must clearly identify the term with the word "brand" and as being other than part of the variety name.

Example: When both a brand and a variety name are stated, the terms must be shown by stating the brand name, followed by the term "brand".

For crops that can be sold as "variety not stated", the seed must be labeled in the following order: The brand name, the word "brand", the kind name and the words "variety not stated".

**E. Records and Test Data.** Each person whose name appears on the label of seed sold or offered for sale in Arkansas for planting purposes shall have a complete analysis test made by a Registered Seed Technologist or an official State Seed Analyst. Such test record shall be kept for a period of two years and shall be accessible for inspection by the state seed law enforcement officer or his agent during customary business hours.

**F. Analysis for Mixtures.** If the seed consists of a mixture of two or more kinds of field seeds, the word "mixture" and the percentage of pure seed must be shown in the analysis for each kind that is present in the amount of over 5%. Also, for each kind present in the amount of over 5%, the percentage of germination of each (exclusive of hard seed) and the percentage of hard seed of each, if present, must be shown in the analysis.

**G. Limitations on Amount of Weed Seeds.** Agricultural seeds must not be sold for planting purposes which contain more than 2% by weight of weed seeds. EXCEPTIONS: Limit 4% for Lespedeza and Grasses.

**H. Limitations on Amounts of Noxious Weeds.** Agricultural seeds must not be sold for planting purposes which contain more than 300 of any one noxious weed per pound, or a combined total of 500 noxious weeds per pound, with the following exceptions:

1. Sale of seeds containing Field Bindweed, Crotalaria spp., Balloonvine, Itchgrass, Nutgrass, Serrated Tussock and Tropical Soda Apple in any amount whatsoever (no tolerance) is prohibited.
2. Sale of seed such as sorghum, vetch or small grains requiring at least 300 grams or more as shown in Section 4, Subsection C., Column 3, for a noxious weed examination, that contains more than 2 wild onion or wild garlic per pound is prohibited. Sale of seed such as sudangrass, clovers, or lespedezas requiring less than 300 grams for a noxious examination, that contain more than 18 wild onion or wild garlic per pound, is prohibited.

When the original analysis used for tagging shows any wild onion or wild garlic present, a warning tag must be attached in addition to the analysis tag, said warning tag to be obtained from the Plant Board at cost, bearing the following statement: ***"This seed contains wild onion or wild garlic in the amount shown on the analysis tag. You are warned not to plant this seed where the land will be used to pasture dairy cattle, or where the land may hereafter be used to produce planting seed of any kind."***

3. Sale of seed containing more than 100 Johnsongrass seed per pound is prohibited. When the original analysis used for tagging shows any Johnsongrass present, a warning tag must be attached in addition to the analysis tag, said warning tag to be obtained from the Plant Board at cost, bearing the following statement: ***"This seed contains Johnsongrass in the amount shown on the analysis tag. You are warned not to plant this seed where you do not already have Johnsongrass, and it should not be used on land that hereafter may be used to produce planting seed, or on land which may hereafter be planted to row crops."***

4. Sale of rice seed for planting purposes containing more than 15 each of red rice, curly indigo, and tall indigo or coffee bean per pound is prohibited.

5. Bromus commutatus when present in smooth brome grass shall not be considered as a noxious weed but as a common weed.

6. Sale of seed containing more than 3 cocklebur per pound is prohibited.

7. Barnyardgrass, **Echinochloa crusgalli**, when present in Lespedeza, shall not be considered as a noxious weed, but as a common weed.

**I. Treated Seed Must be Labeled.** If seed has been chemically treated, each bag or container must be labeled bearing a true statement as follows: (The required information shall be in type no smaller than 8 point and may be on the tag bearing the analysis information or on a separate tag, or it may be printed in a conspicuous manner on a side or top of the container.)

1. The seed in this bag has been chemically treated. The chemical(s) is used in accordance with the manufacturer's recommendations.

2. Label is to show name of substance(s) used. The name of the substance will be the commonly accepted coined, chemical (generic) or abbreviated chemical name.

3. The appropriate toxicity category signal word shall be a part of the label. The signal word shall correspond to toxicity categories as set forth in the Title 40 Code of Federal Regulations.

## TOXICITY CATEGORIES

### Hazard Indicators

|                             | I   | II   | III   | IV                                    |
|-----------------------------|---|--|---|---------------------------------------|
| Oral LD <sub>50</sub>       | Up to and including 50 mg/kg                          | From 50 thru 500 mg/kg   | From 500 thru 5,000 mg/kg                               | Greater than 5,000 mg/kg              |
| Inhalation LC <sub>50</sub> | Up to and including .2 mg/liter                       | From .2 thru 2 mg/liter  | From 2 thru 20 mg/liter                                 | Greater than 20 mg/liter              |
| Dermal LD <sub>50</sub>     | Up to and including 200 mg/kg                         | From 200 thru 2,000 mg/kg  | From 2,000 thru 20,000 mg/kg                            | Greater than 20,000 mg/kg             |
| Eye Effects                 | Corrosive: Corneal opacity not reversible with 7 days | Corneal opacity reversible within 7 days; irritation persisting for 7 days | No corneal opacity; irritation reversible within 7 days | No irritation                         |
| Skin Effects                | Corrosive   | Severe irritation at 72 hours  | Moderate irritation at 72 hours                         | Mild or slight irritation at 72 hours |

### Signal Words

DANGER- Category I -- include Poison and Skull & Crossbones ("Poison" in red letters. Skull & Crossbones at least twice the size of the type used for information required on the label), except in the case of pesticides requiring the signal word, DANGER, because of skin and eye local effects.

WARNING- Category II

CAUTION- Category III and IV

- Appropriate Precautionary Statement Worded Substantially as follows: **"Do not use for food", "Do not use for feed", "Do not use for oil purposes",** or "Do not use for food, feed, or oil purposes".

Cottonseed which has been treated with Disulfoton (Di-syston), Monocrotophos (Azodrin) or Phorate (Thimet) shall bear as part of the seed treatment label a warning statement taken from the Di-syston, Azodrin, or Thimet label indicating a possible reduction in germination or stand as a result of such treatment.

- It shall be illegal to sell, give away, or use treated seed for any purpose other than planting.** Treated seed for other than planting purposes shall be disposed of as specified by the appropriate State Agency.

**J. Treating Plants Must be Licensed.** All seed treating plants that treat seed in Arkansas must have a license from the State Plant Board. All licenses expire June 30 of each year and must be renewed. **The annual license fee shall be \$250.00.** All seed treated by such plants must be labeled as it is processed in accordance with Section (H) above. Farmers may treat their own planting seed with their own equipment without a license.

**K. Seed Lots Must be Uniform.** When one shipment of a lot is found to be mislabeled, other shipments from this same lot may be held under stop-sale until tags are corrected to conform with Plant Board findings, either based on results of the shipment originally found mislabeled, or from tests made on samples taken from each shipment.

**L. Special Permit Labels Required for Non-Certified Cotton and Sweet Sorghums When Sold Under a Variety Name.** When non-certified cotton or non-certified sweet sorghum seed commonly used for syrup purposes, is sold or offered for sale for planting purposes, under a variety name, each bag or container must carry a special permit label. These special permit labels will be issued after the applicant has given the requested information on an application form, furnished by the Plant Board, covering the lots to be sold under this provision, and if the information is satisfactory and is approved, special permit labels will be issued to cover each individual lot. "Exception: Those companies that have a licensed Plant Breeder, as stipulated in Circular 15, approved and registered with the State Plant Board for cotton and/or sweet sorghum, and who maintains a breeding program, are exempt from the requirements of obtaining and using the special permit labels on those varieties developed and distributed or sold by them in or into Arkansas. In this case the seed would either carry a regular Arkansas permit label or be accounted for under the reporting system."

**M. Certified Rapeseed Must be Treated.** All certified rapeseed being grown and/or sold in Arkansas must be treated with Benomyl, or Iprodione when approved, (or other registered and approved chemicals recognized to be equal to or greater than Benomyl or Iprodione in effective control of virulent Blackleg, Leptosphaeria maculans).

### **SECTION 3. EXCEPTIONS.**

**A.** There shall be no exceptions for chemically treated seed.

**B.** These regulations shall not apply:

1. To untreated seed distributed, sold, or transported for food or feed purposes, and not distributed, sold or recommended for planting purposes, except that (l) small grains, corn and soybeans, when distributed, sold, or transported for other than planting purposes must be

branded or tagged to indicate plainly that they are not for planting purposes, and (2) if seeds are tagged, branded, or otherwise marked to show a variety name or to indicate or suggest in any way that they are suitable for planting purposes, such seed are not exempt under this paragraph unless each bag or other container is plainly and conspicuously marked or tagged **"Not for Planting Purposes."**

***NOTE: For rice, small grain and soybean seed where the purpose for which the seed is intended may be in question, all seeds advertised for sale in any manner, or as processed or tested or treated or offered at a price substantially higher than current market prices, shall be presumed to be offered for seeding purposes and subject to the labeling / licensing provisions of this chapter.***

2. To seed sold by a farmer or grower to a seed dealer or processor, or in storage in, or consigned to, a seed cleaning or processing establishment for cleaning or processing; provided, that any labeling or other representation which may be made with respect to uncleaned seed shall be subject to the provisions of these regulations.

3. To any carrier in respect to any seed transported or delivered for transportation in the ordinary course of its business as a carrier, if such carrier is not engaged in producing, processing, or marketing agricultural seed.

**C.** Bermudagrass and Johnsongrass may be sold as agricultural seed for planting purposes in a pure state or in mixtures. Seed containing Bermudagrass or Johnsongrass in amounts of less than 5% may be sold, provided that a warning tag, obtained from the Plant Board, is attached to each bag, and provided that the number of these seeds per pound is shown on the analysis tag.

## **SECTION 4. SAMPLING AND ANALYZING SEED.**

### **A. Sampling Seed in Bags:**

(a) To obtain a composite sample of a lot of seed:

- (1) For lots of six bags or less each bag shall be sampled.
- (2) For lots of more than six bags, sample five bags plus at least 10% of the number of bags in the lot. (Round off numbers with decimals to the nearest whole number raising .5 to the next whole number.) Regardless of the lot size it is not necessary that more than 30 bags be sampled. **Example:**

|   |    |    |                         |     |     |     |     |
|---|----|----|-------------------------|-----|-----|-----|-----|
|   |    |    | <b>No. bags in lot:</b> |     |     |     |     |
| 7 | 10 | 23 | 50                      | 100 | 200 | 300 | 400 |

|   |   |   |                            |    |    |    |    |
|---|---|---|----------------------------|----|----|----|----|
|   |   |   | <b>No. bags to sample:</b> |    |    |    |    |
| 6 | 6 | 7 | 10                         | 15 | 25 | 30 | 30 |

- (3) For inspection purposes open bags shall not be sampled except under circumstances where the identity of the seed has been preserved.
- (b) To obtain packet samples for uniformity:  
In obtaining packet samples to test for uniformity, four bags shall be sampled from each 100 bags, or less, in the lot, and a composite made.
- (c) Samples retained by dealer:  
Upon request of the dealer a portion of the official sample may be retained for his file, provided an approved mechanical divider is furnished for the Plant Board inspector. Samples will be sealed and properly identified by inspector.
- (d) **Sampling Bulk Seed.** Bulk seeds or screenings shall be sampled by inserting a long probe into the bulk as circumstances require in at least seven uniformly distributed parts of the quantity being sampled.

**Size of Sample:**

- (a) For composite sample to test for quality:

The following are minimum weights for samples of seed to be submitted for analysis or examination: (1) Two ounces (approximately 55 grams) of grass seed not otherwise mentioned in (2),(3), or (4) below, white or alsike clover, or seeds not larger than these. (2) Five ounces (approximately 150 grams) of red or crimson clover, alfalfa, lespedeza, ryegrass, bromegrass, flax, rape, or seeds of similar size. (3) One pound of sudangrass, proso, hemp or seeds of similar size. (4) Two pounds (approximately 1,000 grams) of sorghum, cereals, vetches, or seeds of similar or larger size.

**B. If Plant Board is to print analysis on permit labels the sample must be drawn by a Plant Board inspector from cleaned and bagged seed. The Plant Board will only print labels on seed with the variety stated and if not in conflict with other laws (PVP/Patent, etc.).**

Note: A Declaration of Variety (Form DV-88) must be submitted before labels can be printed.

**C. Amount of Seed to be analyzed in Determining Purity and Noxious Weeds in Seed Control Work:** The amount of seed used in making analysis for percentage of purity and percentage of weed seeds must be in accordance with Column 2 of the subjoined table, and amount used in determining noxious weeds must be in accordance with Column 3.

| <b>Column 1</b>                                    | <b>Column 2</b> | <b>Column 3</b> |
|--|-----------------|-----------------|
| (a) Bermudagrass and seeds of similar size         | 1 gram          | 10 grams        |
| (b) Orchardgrass and seeds of similar size         | 3 grams         | 30 grams        |
| (c) Alfalfa, lespedezas, and seeds of similar size | 5 grams         | 50 grams        |
| (d) Crimson clover, and seeds of similar size      | 10 grams        | 100 grams       |
| (e) Sudangrass and seed of similar size            | 25 grams        | 250 grams       |
| (f) Sorghums and seed of similar size              | 50 grams        | 500 grams       |
| (g) Vetch, cereals and seeds of similar size       | 100 grams       | 500 grams       |
| (h) Soybeans and seeds of similar size             | 500 grams       | 500 grams       |

**D.** The noxious weed statement on the permit label or on the accompanying tag must be in terms of pounds and not in terms of ounces or grams. Only in case there are no noxious weed seeds found in the amounts of seed given in Column 3 can the statement "Noxious Weed Seeds -- None Per Pound" be used.

**E.** In seed control work, the Federal tolerances shall be applied for noxious weeds, purity, and germination, except (1) in the case of prohibited weeds for which no tolerance shall be allowed and (2) in the case of cocklebur for which a tolerance of one per pound is allowed. The number of noxious weeds in any case shall not exceed the maximum permitted.

## **SECTION 5. FEES AND SERVICES.**

### **A. Explanation of Services:**

1. **Regulatory Samples.** Samples which are drawn by the Plant Board in

accordance with procedures as outlined in these Regulations. Samples are taken from seed that has already been labeled and is in the trade channels. The purpose of regulatory samples is to ensure that the seed has been correctly labeled (consumer protection).

2. **Service Samples.** Samples which are submitted to the Plant Board for testing. Information from test results may be used to label seed.

There are two kinds of service samples:

**CERTIFIED SAMPLES** Samples which are produced from crops that are in the Certification Program. This seed was field inspected by the Plant Board and has met field standards. The samples must be taken by the Plant Board and must pass the strict standards of laboratory testing before being allowed to bear the official Arkansas Certified label.

**NON-CERTIFIED SAMPLES** Samples which do not meet the requirements under the Certification program. Samples may be submitted by the seedsman/farmer.

## **B. Explanation of Tests:**

**Complete Analysis (Comp)** Consists of the determination of the % pure seed, % weed seed, % other crop, % inert matter, % germination, and the number and kind of noxious weeds found in the sample per pound. Samples which are under consideration for Certification are also tested for % moisture and varietal purity.

**Germ Only (GO)** Consists of the determination of the % germination.

**Purity Only (PO)** Same as a complete except the % germination is not determined.

**Varietal Purity (VP)** The determination of the presence of varietal contaminants. **(CERTIFIED SEED ONLY)**

**Noxious Weed Exam (NWE)** Consists of the determination of the number and kind of noxious weeds found in the sample per pound.

**Red Rice Exam (RRE)** Consists of the determination of the number of Red Rice found in the sample per pound.



**C. Schedule of Fees:**

1. **REGULATORY SAMPLES** -- There are no fees charged for regulatory samples unless copies of test results are requested, then fees are the same as for service samples.

2. **SERVICE SAMPLES**

|                       | <b>COMPLETE</b> | <b>PURITY OR GERM ONLY</b> |
|-----------------------|-----------------|----------------------------|
| ALFALFA               | \$16.00         | \$12.00                    |
| BAHIAGRASS            | \$16.00         | \$12.00                    |
| BARLEY                | \$16.00         | \$ 8.00                    |
| BEAN (garden & field) | \$16.00         | \$ 8.00                    |
| BERMUDAGRASS          | \$16.00         | \$12.00                    |
| BLUEGRASS             | \$16.00         | \$12.00                    |
| BLUESTEM              | \$50.00         | \$40.00                    |
| CLOVER                | \$16.00         | \$12.00                    |
| CORN                  | \$16.00         | \$ 8.00                    |
| COTTON                | \$16.00         | \$ 8.00                    |
| DALLISGRASS           | \$16.00         | \$12.00                    |
| FESCUE                | \$16.00         | \$12.00                    |
| JOHNSONGRASS          | \$16.00         | \$12.00                    |
| LESPEDEZA             | \$16.00         | \$12.00                    |
| LOVEGRASS             | \$16.00         | \$12.00                    |
| MILLET                | \$16.00         | \$12.00                    |
| MUSTARD               | \$16.00         | \$12.00                    |
| OATS                  | \$16.00         | \$ 8.00                    |
| OKRA                  | \$16.00         | \$ 8.00                    |
| PEAS (garden & field) | \$16.00         | \$ 8.00                    |
| PEANUTS               | \$16.00         | \$ 8.00                    |
| RICE                  | \$16.00         | \$ 8.00                    |
| RYE                   | \$16.00         | \$ 8.00                    |
| RYEGRASS              | \$16.00         | \$12.00                    |
| SORGHUM               | \$16.00         | \$ 8.00                    |
| SOYBEANS              | \$16.00         | \$ 8.00                    |
| TURNIP/RAPE           | \$16.00         | \$12.00                    |
| VETCH                 | \$16.00         | \$ 8.00                    |
| WHEAT                 | \$16.00         | \$ 8.00                    |
| VEGETABLES            | \$16.00         | \$12.00                    |

**THE TESTING FEE FOR CROPS NOT LISTED WILL BE THE SAME AS A LISTED CROP WITH SIMILAR COMPLEXITY. CALL THE PLANT BOARD FOR EXACT FEE INFORMATION.**

**ANALYSIS FOR MIXTURES \$8.00** - will be charged for each additional component in a mixture.

**TETRAZOLIUM TEST (TZ) \$15.00** - This is a chemical test that may give an estimate of the germination potential, usually within 24 hours from the receipt of the sample. THIS IS NOT AN OFFICIAL GERMINATION TEST AND MAY NOT BE USED TO LABEL SEED FOR GERMINATION.

**VIGOR TEST \$12.00** - Seed vigor comprises those properties which determine the potential for rapid uniform emergence and development of normal seedlings under a wide range of field conditions.

**Accelerated Aging (soybeans, wheat):** Places seed under stress conditions of high temperature and humidity to estimate longevity of seed in warehouse storage and predict stand establishment.

**Cool Test (cotton):** Places seed under stress conditions of cool temperatures, simulating early planting conditions.

**Complete Seedling Count (garden beans):** Normal seedlings are classified as strong or weak based on presence of seedling structures.

**VARIETAL TESTS \$12.00** - There are several aids which enable the analyst to determine, confirm, or group seed as to variety based on numerous tests. **PLEASE REFER TO THE LATEST ISSUE OF THE ARKANSAS CERTIFIED SEED DIRECTORY FOR CROPS WHICH ARE UNDER CONSIDERATION FOR CERTIFICATION FOR THE EXACT PROCEDURE OF CROP AND GRADE IN QUESTION.**

**Phenol Test (wheat):** This is a chemical varietal test that groups varieties of wheat into several color reaction categories based on the genetic makeup of the variety.

**Fluorescence Test (oats):** When placed under an ultraviolet light, varieties of oats will either be fluorescent or non-fluorescent, based on the genetic makeup of the variety.

**Hypocotyl Test (soybeans):** Soybean seedlings will exhibit the pigmentation of the flower color of the variety when planted under strong lighting conditions. The hypocotyl (stem) area of the seedling will remain green (white flower) or will turn purple (purple flower) within a few days of emergence.

**SAMPLING FEE \$15.00** - A fee is charged for samples drawn by the Plant Board on non-certified seed. No fee is charged for samples under consideration for Certification, provided a representative sample is drawn.

**HANDLING FEE \$3.00** - A fee is charged for samples that are picked up by the Plant Board on non-certified seed. No fee is charged for samples under consideration for Certification.

**PRIORITY SAMPLES \$25.00** - A service provided to the seedsman/farmer which allows samples to be tested ahead of other samples in the lab. This fee is an addition to the fee for the test(s) requested.

**PURITY FIRST \$1.00** - Upon request, a preliminary purity report will be given upon completion of the test.

**ADDITIONAL ANALYSIS REPORTS \$1.00** - For each additional requested copy of the analysis report.

**SERVICES NOT OTHERWISE MENTIONED** Based upon need and ability, the Plant Board may elect to provide services for which fees have not been set. Fees charged will be based on recovering the reasonable and customary cost of services rendered.

**3. INSPECTION FEES FOR SEED FOUND MISLABELED:** If seed are found mislabeled, or required tags are not attached, or some other requirement not met, the seedsman whose permit label or number is attached or on the bags, or the seedsman who made the shipment, or the person to whom the notice was issued, may be required to pay to the Plant Board as an inspection fee the sum of **\$15.00**

**4. License Fee - Tonnage Fee - Cost of Permit Labels:**

- a) The annual fee for a **Seed Labeler's license** shall be **\$250.00**.  
**The annual fee for registration of a subsidiary location (distributing agricultural field-crop seed within or into Arkansas) shall be \$250.00.**
- b) Persons using the Reporting System shall pay **10 cents** each hundred pounds of seed (Tonnage Fee).
- c) The cost of permit labels issued with only the seedsman's name, address, and permit number shall be **10 cents** each.
- d) The cost of permit labels completely printed for certified seed failing to meet the standards shall be **10 cents** each.
- e) The cost of permit labels completely printed on all other seed shall be **10 cents** each.
- f) The annual fee for a **certification permit** for all applicants to certify seed shall be **\$100.00 on acreage of 100 acres or less**. Those applicants having a current and valid Seed Labeler's license shall

be exempt from this requirement. Certification applicants with acreage greater than 100 acres are required to have a valid Seed Labeler's license. Each seedsman and/or retail facility participating in the Bulk Certified Seed Program must have in force a current Arkansas **Bulk Certification Permit** for each location where bulk certified seed will be sold. Records of production and sale of seed grown for certification may be inspected by the Plant Board or its representative during normal business hours. Any planting seed sold as noncertified shall comply fully with Subsection B of Section 2 of the Regulations.

Arkansas certified seed carrying official certification tags on each container, or sold on a bulk certificate, are not subject to the tonnage fee or required to carry an Arkansas permit label.

**D. Disposition of Seed Found Mislabeled:** Any seed held under a stop-sale notice shall not be removed from the premises or disposed of in any manner, until a written release has been given by the State Plant Board or an authorized agent thereof. The seedsman responsible for an intrastate shipment that is found to be mislabeled must submit an explanation including a complete record of the lot in question to the Plant Board. If the record is not deemed satisfactory then the seedsman shall be given a hearing by the Plant Board.

Any seed found to be seriously misrepresented or in serious violation of these regulations may be seized by the Plant Board as authorized by Section 2-16-209, Arkansas Stats. 1947. In lieu of destroying the seed as provided for in this section of the law, it may be given to some state or charitable institution.

Violations of the Federal Seed Act, that are to be referred to the United States Department of Agriculture, will be approved by the Director and reviewed by the seed Committee of the Plant Board.

## **SECTION 6. PROHIBITIONS SUMMARIZED:**

The prohibitions listed below shall not invalidate any provisions of these regulations through omission or repetition, but shall be a supplement thereto.

No person shall:

**A.** Sell, offer, expose, distribute or transport agricultural seed not labeled in accordance with the provisions of the above rules and regulations, or having a false or misleading labeling;

- B.** Sell agricultural seed containing prohibited noxious weeds;
- C.** Sell agricultural seed containing more than 300 of any one noxious weed per pound, or a combined total of 500 noxious weeds per pound, including exceptions shown in Section 2, Sub-Section (G), and Section 3 (Sub-Section (B));
- D.** Sell agricultural seed containing more than 2% by weight of all weed seeds:  
Exception - 4% in lespedezas and grasses;
- E.** Detach, alter, deface, or destroy any label required in these rules and regulations or alter or substitute seed in a manner that may defeat the purpose of these regulations;
- F.** Disseminate any false or misleading advertisement concerning agricultural seed in any manner or by any means;
- G.** Hinder or obstruct in any way any authorized agent of the State Plant Board in the performance of his duties;
- H.** Fail to comply with a "**stop-sale**" notice by the State Plant Board, or any authorized agent thereof, on agricultural seed sold, offered for sale, or exposed for sale; or to move or otherwise handle or dispose of any lot of seed held under a "**stop-sale**" notice except with the written permission of the State Plant Board, or an authorized agent thereof, and for the purpose specified thereby;
- I.** Fail to keep for a period of at least two years, after disposing of the lot, complete records of each lot of seed or make available for inspection such records to the State Plant Board or any authorized agent thereof;
- J.** Sell, offer, or expose for sale any seed labeled "**Certified Seed,**" "**Registered Seed,**" or "**Foundation Seed,**" unless it has been produced and labeled in compliance with the rules and regulations of an officially recognized seed-certifying agency or association;
- K.** Represent agricultural seeds which are indistinguishable by seed characteristics to be of a recognized variety, without having adequate information for such variety representation, such as that they were grown from certified seed on land free of volunteer plants that might effect the purity of the seed under consideration, and if a cross-pollinated crop, isolated so as to prevent cross-pollination, and handled in harvesting, storing and processing so that the varietal purity and quality of the seed is maintained;
- L.** Use any qualifying, descriptive terms or the word **type** in connection with labeling recognized variety names of agricultural seeds;

**M.** Upon request of the Plant Board, any producer of hybrid corn or hybrid sorghum who wishes to offer his hybrid for sale in the state may be required to give the Plant Board a complete description of the characteristics, including the parental lines of each hybrid and a two-pound representative sample of each.

## APPENDIX

**Section 2-16-207, Ark. Stats, 1947. Duties of the Plant Board.** The Board shall keep itself informed as to the varieties of insect pests, diseases, and noxious weeds, the origin, locality, nature and appearance thereof, the manner in which they are disseminated, and approved methods of treatment and eradication. Every such insect pest, disease, and noxious weed, and every plant and plant product infested or infected therewith is hereby declared to be a public nuisance.

The Board in its rules and regulations made pursuant to this act shall list the insect pests, diseases, and noxious weeds, of which it shall find that the introduction into, or the dissemination within the state should be prevented in order to safeguard the plants and plant products of this state, together with the plants and plant products or other substances on or in which these may be carried. Every person who has knowledge of the presence of any insect pest, disease, or noxious weed, listed as required by this section, in the rules and regulations made pursuant to this Act, in or upon any place, shall immediately report the same to the Board or inspectors thereof, giving such detailed information relative thereto as he may have. Every person who deals in or engages in the sale of plants or plant products shall furnish to the Board or its inspectors, when requested, a statement of the names and addresses of the persons from whom, and the localities where he purchased or obtained such plants and plant products.

**Section 2-16-207 (C)(1). Rules.** The Board shall, from time to time, make rules and regulations for carrying out the provisions and requirements of this Act, including rules and regulations under which its inspectors and other employees shall (a) inspect places, plants and plant products, and things and substances used or connected herewith, (b) investigate, control, eradicate, and prevent the dissemination of insect pests, diseases, and noxious weeds, and (c) supervise or cause the treatment, cutting and destruction of plants and plant products infected therewith.

2-16-207 (C) (2)

**For the purpose of preventing fraud and misrepresentation the Board shall from time to time make rules and regulations governing the transportation, distribution, or sale of sorghum seed, hybrid corn seed and other seeds intended for planting purposes.**

**Section 2-16-209. Transportation - Permits.** Transportation through or into, or transportation, distribution, or sale within the state of any insect pest, plant disease or noxious weed, or of any plant, plant product, or other substance, listed in the rules and regulations of the Board as required under 2-16-207, or of sorghum seed, hybrid corn seed, or other planting seeds for transportation, distribution, or sale of which the Board has made rules and regulations under this Act is hereby prohibited except under such safeguards as may be provided for in the rules and regulations of the Board. To cover expenses incident to inspection or treatment, or incident to the issuance of such permits or certificates as may be required by the Board's regulations made under this Act, the Board may require the payment of reasonable fees, which shall be deposited in the

manner prescribed by 2-16-210. to be used in carrying out the provisions of this Act. **Provided**, that the board is hereby empowered to require that a shipper who ships plants from another state into Arkansas must meet any and all requirements which the shipper's state would make of an Arkansas shipper who ships plants into that state.

Inspectors of the Board on issuance of a written notice may cause to be held or to be sent out of the state or to be destroyed, any plant, plant product, or any other substance which has been brought into or is being transported within the state in violation of any state or federal law or regulation, and may stop and detain for inspection any person, car or other carrier.

**Section 2-16-203. Violation - Penalty.** Any person who shall violate any provisions or requirements of this act, of the rules and regulations made, or any notice given, pursuant thereto, or who shall forge, counterfeit, deface, destroy, or wrongfully use, any certificate provided for in this act or in the rules and regulations made pursuant thereto, shall be deemed guilty of a misdemeanor, and upon conviction therefor, shall be punished by a fine of not more than one hundred dollars.