

**DEPARTMENT OF AGRICULTURE****Agricultural Marketing Service****7 CFR Part 201****[No. LS-94-012]****RIN 0581-AB55****Amendments to Regulations Under the Federal Seed Act****AGENCY:** Agricultural Marketing Service, USDA.**ACTION:** Final rule.

**SUMMARY:** The Agricultural Marketing Service (AMS) is revising the Federal Seed Act (FSA) regulations. The rule designates seeds of species listed in the Federal Noxious Weed Act (FNWA), except for the *Cuscuta* species as, noxious and prohibits the shipment of agricultural and vegetable seeds containing them, adds two kinds to the list of those subject to the FSA, updates the seed testing regulations, updates the seed certification regulations, and corrects several minor errors. The noxious-weed seeds are being added to help prevent the spread of these highly destructive weeds. Adding two kinds, creeping foxtail and flatpea, make them subject to the same truthful labeling requirements as other seeds moving in interstate commerce. Updating the seed testing and seed certification regulations incorporates the latest in seed testing and seed certification knowledge and prevents potential conflicts with State regulations.

**EFFECTIVE DATE:** Effective February 10, 2000 except for § 201.16(b) which is effective January 11, 2001.

**FOR FURTHER INFORMATION CONTACT:**

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**SUPPLEMENTARY INFORMATION:****Executive Order 12866**

This final rule has been determined to be "not significant" for purposes of Executive Order 12866, and therefore, has not been reviewed by the Office of Management and Budget (OMB).

**Executive Order 12988**

The final rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have a retroactive effect. The rule will not preempt any State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule.

There are no administrative procedures that must be exhausted prior to judicial challenge to the provision of this rule.

**Regulatory Flexibility Act and Paperwork Reduction Act**

The Administrator, AMS, has certified that this action will not have a significant impact on a substantial number of small entities as defined in the Regulatory Flexibility Act. Many small entities ship seed in interstate commerce. There are about 3,000 interstate shippers. We estimate that about ninety percent of the interstate shippers are small entities. However, all shippers including small entities, usually package and label seed to comply with both the FSA and State seed laws. The testing requirements of the State laws are similar to those of the FSA. Therefore, a single test can give information to comply with both State seed laws and the FSA. Changes to the seed testing and seed certification regulations will reconcile State and Federal seed testing and seed certification procedures. Using similar testing procedures reduces the burden on small entities shipping seed in interstate commerce because a test used for interstate commerce could also be used in intrastate commerce. Adding a list of seeds that are noxious in seed shipped in interstate commerce will add some costs for seed testing. We estimate that the total cost to the industry for testing and labeling will be approximately \$7,500. ((Assuming a \$26.00 per hour service testing fee (based on a recent survey by the New York State Seed Laboratory) and 285 hours in connection with testing and labeling.)) In the proposal, we estimated that the total cost to the industry for testing and labeling would be approximately \$12,000. That estimate assumed a \$40.40 service testing fee (7 CFR part 75) for AMS and 285 hours in connection with testing and labeling. However, if we take into account an average of seed testing laboratory fees as reflected in the recent survey, the overall cost would be less. The survey, as conducted by the New York State Seed Laboratory, was a sampling of commercial, State, Federal, and university laboratories. The added cost will be small because all seed must be examined for noxious-weed seed to comply with other sections of the FSA as well as state laws. The FSA requires that seed shipped in interstate commerce comply with the noxious-weed seed requirements of that State into which the seed is shipped. Therefore, any examination for the weed seeds being added will be done when

the seed is examined for State noxious-weed seeds.

Also, much of the seed handled by small entities is already tested by their suppliers. There will be no effect on the competitive position of small entities in relation to larger entities since both would have to comply with the same regulations.

We estimate a small increase to the previously approved information collection requirements of the FSA regulations. When seed is tested, the test made for the added noxious-weed seeds will be made concurrently with the test to determine compliance with the FSA requirements that seed is labeled to comply with the noxious-weed seed laws and regulations of the state into which the seed is being shipped. We estimate that the additional time required for testing will average no more than five minutes per test and that about one fourth of all shipments will be tested. Therefore, the time for testing and labeling seed previously estimated at 2.5 hours per response will be 2.52 hours per response increasing the total burden by 285 hours.

*Title:* Federal Seed Act Program.

*OMB Number:* 0581-0026.

*Expiration Date of Approval:* July 30, 2001.

*Type of Request:* Revision of currently approved information collection.

*Abstract:* This information collection is necessary for the conduct of the FSA program with respect to certain testing, labeling, and recordkeeping requirements of agricultural and vegetable seeds.

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average 2.08 hours per response.

*Respondents:* Interstate shippers seed.

*Estimated Number of Respondents:* 3,208.

*Estimated Number of Responses per Respondent:* 5.56.

*Estimated Total Annual Burden on Respondents:* 37,078.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirements contained in this final rule were submitted to OMB for approval. The information collection requirements have been approved by OMB and assigned OMB number 0581-0026.

**Background**

The FSA, Title II (7 U.S.C. 1571-1575) regulates agricultural and vegetable planting seed in interstate commerce. Agricultural and vegetable seeds shipped in interstate commerce must be labeled with certain quality information. The labeling information and any

advertisements pertaining to the seed must be truthful. Also, the FSA prohibits the shipment of agricultural seeds containing noxious-weed seeds that are not labeled according to, or exceed the allowable rate established by state law.

#### Summary of Public Comment

A notice of proposed rulemaking was published in the **Federal Register** (63 FR 55964) on October 20, 1998. Interested persons were invited to submit comments until December 21, 1998. A hearing on the proposed rule was held in Washington, DC on December 2, 1998. At that time interested parties were given an opportunity to present views concerning the proposal. No one commented at the hearing. A document extending the comment period for the proposed rule was published in the **Federal Register** on December 24, 1998. Comments were to be received on or before February 4, 1999. Six written comments were received.

#### Noxious-Weed Seeds

We received four comments concerning adding the weed species in the FNWA of 1974 (7 U.S.C. 2801 *et seq.*) as noxious-weed seeds under the FSA by revising § 201.16. Two commenters supported this action. One commenter stated that including *Cuscuta* species as noxious-weed seeds in the FSA could lead to seed shipments containing small amounts of seeds of *Cuscuta* spp. already established in the United States to be in violation of the FSA even though the seed shipments were in compliance with State seed laws. This comment is relevant because seeds of most *Cuscuta* species are indistinguishable and therefore it would be rarely possible to determine if a dodder seed is from a *Cuscuta* species listed in the FNWA or from a *Cuscuta* species already established in the United States. Since the Department determined that forty-five of forty-nine states that list *Cuscuta* spp. as noxious weeds allow more seeds than the proposed tolerance of two, §§ 201.16(b)(2) and 201.16(c) in the proposed rule were removed from the final rule.

One commenter suggested that seeds of species listed in the FNWA should not be added to the FSA as noxious-weed seeds until risk assessments and questions of agricultural, economic, and scientific merit of each species are addressed. The species listed as noxious weeds in the FNWA were studied, evaluated, and approved for addition to the FNWA by a USDA formed committee (Technical Committee to

Evaluate Noxious Weeds) designated for that purpose. Before noxious weeds were added to the FNWA, it was demonstrated that they constituted a serious threat to the United States and were of foreign origin and did not occur in the United States or more than a few states. Further, an Executive Order on Invasive Species, dated February 3, 1999, (64 FR 6183) cites the FNWA of 1974 as amended and other laws and pertinent statutes, for the purpose of preventing the introduction of invasive species and providing for their control. By recognizing the Federally listed noxious weeds under the FNWA as noxious in the FSA, both the States and AMS can take action to prevent their spread on those rare occasions that they are found in planting seed. Also, the economic impact of this rule has been reviewed, as appropriate, under Executive Order 12866 and the Regulatory Flexibility Act as previously discussed. Therefore, § 201.16(b)(1) of the proposed rule has been combined with § 201.16(b) in the final rule.

A commenter was critical of § 201.16(b)(1) of the proposed rule because no tolerances would be applied to seeds of weed species listed under the FNWA when found in noxious-weed seed inspections. The commenter correctly pointed out that the seed industry is accustomed to tolerances being applied to seed that is shipped interstate and inspected by regulatory officials. However, because these noxious-weeds are highly destructive and the objective is to prevent their introduction and spread, we believe that a tolerance should not be applied to seeds of noxious weeds listed under the FNWA. Therefore, § 201.16(b) of the final rule was not revised to provide for the application of tolerances.

One commenter questioned whether individual State noxious-weed seed regulations or the proposed FSA regulations, as they pertain to *Cuscuta* species, would take precedence. This potential conflict between State and FSA regulations was resolved by deleting §§ 201.16(b)(2) and 201.16(c) from the final rule.

One commenter expressed concern that adding the weed species listed in the FNWA as noxious weeds to the FSA would not prevent seeds of these weed species from being sold as ornamentals. Seeds of these weed species would be considered noxious weeds only when they are found in the kinds listed as "agricultural seeds" in § 201.1(h) or as "vegetable seeds" in § 201.1(i). However, a permit must be received from the Animal and Plant Health Inspection Service (APHIS) before seeds of weed species listed in the FNWA can

be moved interstate. The commenter also stated that an improved variety of *Pennisetum clandestinum*, a species listed in the FNWA, has been grown for commercial purposes. APHIS has issued permits for the exportation of seeds of *Pennisetum clandestinum*, and as described previously in this docket, an APHIS permit would also be required for domestic sales.

One commenter urged the Department to provide additional time for comments on adding the species listed in the FNWA to the FSA regulations. The Department feels that sufficient time has been provided for comment since the original 60 day comment period was extended for an additional 45 days. The concerns expressed by one commenter about the impact of adding the species listed in the FNWA to the FSA regulations are addressed in prior analysis in the docket.

A commenter suggested that a significant amount of time should elapse before § 201.16(b) of the final rule becomes effective, so that seed suppliers may ensure that their businesses are in compliance and seed already packaged and labeled can be distributed. Taking into account this comment, we are establishing an effective date for § 201.16(b) of one year after the final rule is published in the **Federal Register**.

The Department proposed that the scientific names for noxious-weed seeds for the District of Columbia in § 201.17 be updated to names currently recognized by the scientific community. No comments were received, consequently the changes in this section are incorporated into the final rule as they were proposed.

#### Additional Kinds, Names

The Department proposed to add creeping foxtail and flatpea to the list of agricultural seeds subject to the FSA. No comments were received, consequently these additions to § 201.2(h) and § 201.46, Table 1 were incorporated into the final rule as they were proposed.

The Department proposed to define "Canola" and allow the use of "Canola" as a synonym for varieties of four kinds of rape seed when the seed is low in erucic acid and glucosinolates. Two commenters opposed allowing the use of "Canola" as proposed. Further investigation determined that the amounts of seed designated for the purity test and noxious-weed seed examination and germination test conditions are not the same in the FSA for the four kinds for which the synonym "Canola" was proposed. The Department determined that seed labeled "Canola" could not be tested

because the kind would not be known and there are no testing procedures for "Canola" under the FSA. Therefore, the proposed changes to § 201.2(h) that define "Canola" and allow the use of "Canola" as a synonym were removed.

The Department proposed to amend § 201.2(i) by adding the new terms "Southernpea (see Cowpea)" and "Favabean (see Broadbean)". No comments were received, therefore these additions are incorporated in the final rule as they were proposed.

#### Seed Testing

The Department proposed to update § 201.46 and § 201.58 to include testing procedures for creeping foxtail and flatpea; make changes to § 201.46 to clarify how to calculate the weight of the purity working sample for mixtures of coated seed; revise the procedures for rounding purity percentages in § 201.47(c); amend § 201.50 and § 201.51 to make the purity separation of capsules of *Juncus* spp. consistent with other weed species; change § 201.55 to eliminate germination results based on three replicates of 100 seeds each; add additional instructions for germinating flatpea in § 201.57; amend § 201.58 to define soil; add germination test procedures for creeping foxtail and flatpea and revise test procedures for buffalograss, crambe, crownvetch, and sunflower in § 201.58, Table 2; revise § 201.60 so that chaffy seed tolerances are applicable to all "foxtails"; amend § 201.65 to clarify the term "X". One commenter recommended adding a germination procedure to § 201.58, Table 2 for testing crownvetch samples with high percentages of hard or swollen seeds. This recommendation was not incorporated into the final rule because § 201.57 provides for extending the length of the germination test for samples of legumes, such as crownvetch, with hard or swollen seeds or seeds that have just started to germinate. Accordingly this suggestion was not adopted. The changes to these sections, as published in the proposed rule, are incorporated in the final rule.

#### Seed Certification

We received no comments on the proposals to update § 201.74, § 201.75, and § 201.76, Table 5 of the Certified Seed regulations so they are consistent with the standards and procedures of the Association of Official Seed Certifying Agencies and thus remove potential conflicts between the FSA regulations and States standards and procedures. Therefore, the changes to these sections as published in the

proposed rule are incorporated in the final rule.

#### Corrections

No comments on the proposals to correct several punctuation and other errors in § 201.2, § 201.47a, § 201.56–5, § 201.56–6, § 201.76 were received, consequently the changes in these sections are incorporated in the final rule as they were proposed.

#### List of Subjects in 7 CFR Part 201

Advertising, Agricultural commodities, Imports, Labeling, Reporting and recordkeeping requirements, Seeds, Vegetables.

For reason set forth in the preamble, 7 CFR Part 201 be amended as follows:

#### PART 201—FEDERAL SEED ACT REGULATIONS

1. The authority citation for part 201 would continue to read as follows:

**Authority:** 7 U.S.C. 1592.

2. Section 201.2 is amended as follows:

A. In paragraph (h), remove the period at the end of the term "Bluestem, yellow—*Bothriochloa ischaemum* (L.) Keng";

B. In paragraph (h), remove the term "Meadow foxtail—*Alopecurus pratensis* L.";

C. In paragraph (c), add a period at the end of the term "Smilo—*Piptatherum miliaceum* (L.) Coss";

D. In paragraph (h), add new terms in alphabetical order;

E. In paragraph (i), add new terms in alphabetical order. The additions read as follows:

#### § 201.2 Terms defined.

\* \* \* \* \*

(h) \* \* \*

Flatpea—*Lathyrus sylvestris* L.

\* \* \* \* \*

Foxtail, creeping—*Alopecurus arundinaceus* Poir.

Foxtail, meadow—*Alopecurus pratensis* L.

\* \* \* \* \*

(i) \* \* \*

Favabean (see Broadbean)

\* \* \* \* \*

Southernpea (see Cowpea)

\* \* \* \* \*

3. Section 201.16 is revised to read as follows:

#### § 201.16 Noxious-weed seeds.

(a) Except for those kinds of noxious-weed seeds shown in paragraph (b) of this section, the names of the kinds of noxious-weed seeds and the rate of occurrence of each shall be expressed in the label in accordance with, and the

rate of occurrence shall not exceed the rate permitted by, the law and regulations of the state into which the seed is offered for transportation or is transported. If in the course of such transportation, or thereafter, the seed is diverted to another State of destination, the person or persons responsible for such diversion shall cause the seed to be relabeled with respect to the noxious-weed seed content, if necessary to conform to the laws and regulations of the State into which the seed is diverted.

(b) Seeds or bulblets of the following plants shall be considered noxious-weed seeds in agricultural and vegetable seeds transported or delivered for transportation in interstate commerce (including Puerto Rico, Guam, and the District of Columbia). Agricultural or vegetable seed containing seeds or bulblets of these kinds shall not be transported or delivered for transportation in interstate commerce. Noxious-weed seeds include the following species on which no tolerance will be applied:

*Aeginetia* spp.  
*Ageratina adenophora* (Spreng.) King and H.E. Robins.  
*Alectra* spp.  
*Alternanthera sessilis* (L.) DC.  
*Asphodelus fistulosus* L.  
*Avena sterilis* L. (including *Avena ludoviciana* Dur.)  
*Azolla pinnata* R. Br.  
*Borreria alata* (Aubl.) DC.  
*Carthamus oxyacantha* M. Bieb.  
*Chrysopogon aciculatus* (Retz.) Trin.  
*Commelina benghalensis* L.  
*Crupina vulgaris* Cass.  
*Digitaria abyssinica* Stapf.(= *D. scalarum* (Schweinf.) Chiov.)  
*Digitaria velutina* (Forsk.) Beauv.  
*Drymaria arenarioides* Roem. and Schult.  
*Eichornia azurea* (Sw.) Kunth  
*Emex australis* Steinh.  
*Emex spinosa* (L.) Campd.  
*Galega officinalis* L.  
*Heracleum mantegazzianum* Sommier & Levier  
*Hydrilla verticillata* (L. f.) Royle  
*Hygrophila polysperma* T. Anders.  
*Imperata brasiliensis* Trin.  
*Imperata cylindrica* (L.) Raeusch.  
*Ipomoea aquatica* Forsk.  
*Ipomoea triloba* L.  
*Ischaemum rugosum* Salisb.  
*Lagarosiphon major* (Ridley) Moss  
*Leptochloa chinensis* (L.) Nees  
*Limnophila sessiliflora* (Vahl) Blume  
*Lycium ferocissimum* Miers  
*Melaleuca quinquenervia* (Cav.) Blake  
*Melastoma malabathricum* L.  
*Mikania cordata* (Burm. f.) B.L. Robins.  
*Mikania micrantha* H.B.K.  
*Mimosa invisa* Mart.  
*Mimosa pigra* L. var. *pigra*  
*Monochoria hastata* (L.) Sloms-Laub.  
*Monochoria vaginalis* (Burm. f.) K.B. Presl  
*Nassella trichotoma* (Nees) Arechavaleta  
*Opuntia aurantiaca* Lindl.

*Orobanche* spp.  
*Oryza longistaminata* A. Cheval. and Roehr.  
*Oryza punctata* Steud.  
*Oryza rufipogon* Griff.  
*Ottelia alismoides* (L.) Pers.  
*Paspalum scrobiculatum* L.  
*Pennisetum clandestinum* Chiov.  
*Pennisetum macrourum* Trin.  
*Pennisetum pedicellatum* Trin.  
*Pennisetum polystachion* (L.) Schult.  
*Prosopis alapataco* R.A. Philippi  
*Prosopis argentina* Burkart  
*Prosopis articulata* S. Watson  
*Prosopis burkartii* Munoz  
*Prosopis caldenia* Burkart  
*Prosopis calingastana* Burkart  
*Prosopis campestris* Griseb.  
*Prosopis castellanosi* Burkart  
*Prosopis denudans* Benth.  
*Prosopis elata* (Burkart) Burkart  
*Prosopis farcta* (Russell) Macbride  
*Prosopis ferox* Griseb.  
*Prosopis fiebrigii* Harms  
*Prosopis hassleri* Harms  
*Prosopis humilis* Hook. and Arn.  
*Prosopis kuntzei* Harms  
*Prosopis pallida* (Willd.) H.B.K.  
*Prosopis palmeri* S. Watson  
*Prosopis reptans* Benth. var. *reptans*  
*Prosopis rojasiana* Burkart  
*Prosopis ruizlealii* Burkart  
*Prosopis ruscifolia* Griseb.  
*Prosopis sericantha* Hook. and Arn.

*Prosopis strombulifera* (Lam.) Benth.  
*Prosopis torquata* (Lagasca) DC.  
*Rottboellia cochinchinensis* (Lour.) Clayton  
 (= *R. exaltata* (L.) L.f.)  
*Rubus fruticosus* L. (complex)  
*Rubus moluccanus* L.  
*Saccharum spontaneum* L.  
*Sagittaria sagittifolia* L.  
*Salsola vermiculata* L.  
*Salvinia auriculata* Aubl.  
*Salvinia biloba* Raddi  
*Salvinia herzogii* de la Sota  
*Salvinia molesta* D.S. Mitchell  
*Setaria pallide-fusca* (Schumach.) Stapf and  
 Hubb.  
*Solanum torvum* Sw.  
*Solanum viarum* Dunal  
*Sparaganium erectum* L.  
*Striga* spp.  
*Tridax procumbens* L.  
*Urochloa panicoides* Beauv.

4. Section 201.17 is revised to read as follows:

**§ 201.17 Noxious-weed seeds in the District of Columbia.**

(a) Noxious-weed seeds in the District of Columbia are: Quackgrass (*Elytrigia repens*), Canada thistle (*Cirsium arvense*), field bindweed (*Convolvulus arvensis*), bermudagrass (*Cynodon*

*dactylon*), giant bermudagrass (*Cynodon dactylon* var. *aridus*), annual bluegrass (*Poa annua*), and wild garlic or wild onion (*Allium canadense* or *Allium vineale*). The name and number per pound of each kind of such noxious-weed seeds present shall be stated on the label.

(b) [Reserved]

5. In § 201.46, paragraph (d)(2)(iii) is revised and Table 1 is amended under Agricultural Seed by removing the entry "Meadow foxtail" and adding new entries "Flatpea", "Foxtail, creeping", and "Foxtail, meadow" in alphabetical order to read as follows:

**§ 201.46 Weight of working sample.**

\* \* \* \* \*

(d) \* \* \*

(2) \* \* \*

(iii) The weight of the working sample shall be the product of the weight calculated in paragraph (d)(2)(i) of this section multiplied by 100 percent, divided by 100 percent minus the percentage of coating material calculated in paragraph (d)(2)(ii) of this section.

TABLE 1.—WEIGHT OF WORKING SAMPLE

Name of seed					Minimum weight for purity analysis (grams)	Minimum weight for noxious-weed seed examination (grams)	Approximate number of seeds per gram
Agricultural Seed							
* * * * *							
Flatpea	.....				100	500	25
* * * * *							
Foxtail, creeping	.....				1.5	15	1,736
Foxtail, meadow	.....				3	30	893
* * * * *							

6. In § 201.47, paragraphs (c)(3) and (c)(4) are added to read as follows:

**§ 201.47 Separation.**

\* \* \* \* \*

(c) \* \* \*

(3) When rounding off the calculated percentages of each component to the second decimal place, round down if the third decimal place is 4 or less and round up if the third decimal place is 5 or more, except that if any component is determined to be present in any amount calculated to be less than 0.015 percent, then that component shall be reported as 0.01 percent. If any component is not found in the purity analysis, then that component shall be reported as 0.00 percent.

(4) The total percentage of all components shall be 100.00 percent. If the total does not equal 100.00 percent (e.g. 99.99 percent or 100.01 percent), then add to or subtract from the component with the largest value (usually the pure seed component).

\* \* \* \* \*

**§ 201.47a [Amended]**

7. Section 201.47a, paragraph (b)(4)(ii) is amended by adding the word "in" following the word "internodes".

8. In § 201.50, paragraph (b) is removed and paragraph (c) is redesignated as paragraph (b) and paragraph (a) is revised to read as follows:

**§ 201.50 Weed seed.**

\* \* \* \* \*

(a) The individual seeds are to be removed from fruiting structures such as pods and heads. The seeds are classified as weed seed and the remaining fruiting structures classified as inert matter.

\* \* \* \* \*

**§ 201.51 [Amended]**

9. In § 201.51, paragraph (b)(9) is removed.

10. In § 201.55, the table in paragraph (a) is revised and the Explanatory Note immediately following paragraph (e) is removed and a Note to § 201.55 is added to read as follows:

**§ 201.55 Retests.**

(a) \* \* \*

\* \* \* \* \*

TABLE OF MAXIMUM TOLERATED RANGES BETWEEN 100-SEED REPLICATES FOR USE IN CONNECTION WITH § 201.55(A)

Average percent germinations		Maximum allowed between replicates	
		4 replicates	2 replicates
99	2	5	
98	3	6	
97	4	7	6
96	5	8	6
95	6	9	7
94	7	10	8
93	8	10	8
92	9	11	9
91	10	11	9
90	11	12	9
89	12	12	10
88	13	13	10
87	14	13	11
86	15	14	11
85	16	14	11
84	17	14	11
83	18	15	12
82	19	15	12
81	20	15	12
80	21	16	13
79	22	16	13
78	23	16	13
77	24	17	13
76	25	17	13
75	26	17	14
74	27	17	14
73	28	17	14
72	29	18	14
71	30	18	14
70	31	18	14
69	32	18	14
68	33	18	15
67	34	18	15
66	35	19	15
65	36	19	15
64	37	19	15
63	38	19	15
62	38	19	15
61	40	19	15
60	41	19	15
59	42	19	15
58	43	19	15
57	44	19	15
56	45	19	15
55	46	20	15
54	47	20	16
53	48	20	16
52	48	20	16
51	50	20	16

\* \* \* \* \*

**Note to § 201.55:** To find the maximum tolerated range, compute the average percentage of all 100 seed replicates of a given test, rounding off the result to the nearest whole number. The germination is found in the first two columns of the table. When the differences between highest and lowest replicates do not exceed the corresponding values found in the “4 replicates” column, no additional testing is required. However, if the differences exceed

the values in the “4 replicates” column, retesting is necessary.

**§ 201.56–5 [Amended]**

11. In § 201.56–5, paragraph (e)(1)(i) is amended by removing “Hypegeal” and adding “Hypogeal” in its place.

**§ 201.56–6 [Amended]**

12. In § 201.56–6, paragraph (c)(2)(i) the period following the word “Cotyledons” is removed and a colon is

added in its place and paragraph (c)(2)(ii) is amended by removing the period following “Epicotyl” and adding a colon in its place.

13. In § 201.57, a sentence is added at the end of the section to read as follows:

**§ 201.57 Hard seeds.**

\* \* \* For flatpea, continue the swollen seed in test for 14 days when germinating at 15–25°C or for 10 days when germinating at 20°C.

14. Section 201.58 is amended as follows:

A. In paragraph (a)(7), immediately following the words "S = sand or soil" the words "where soil is an artificial

planting mix of shredded peat moss, vermiculite, and perlite" are added; and

B. In Table 2, under Agricultural Seed, the entry "Meadow foxtail" is removed, the entries for "Buffalograss", "Crambe", "Crownvetch", and

"Sunflower" are revised and "Flatpea", "Foxtail, creeping", and "Foxtail, meadow" are added to read as follows:

**§ 201.58 Substrata, temperature, duration of test, and certain other specific directions for testing for germination and hard seed.**

TABLE 2.—GERMINATION REQUIREMENTS FOR INDICATED KINDS

Name of seed	Substrata	Temperature (°C)	First count days	Final count days	Additional directions	
					Specific requirements	Fresh and dormant seed
AGRICULTURAL SEED						
*	*	*	*		*	*
Buffalograss: (Burs) .....	P,TB,TS	20–35	7	14	Light;KNO <sub>3</sub> .....	Prechill at 5° C for 2 weeks; See § 201.57a.
(Caryopses) .....	P	20–35	5	14	Light;KNO <sub>3</sub> .	
*	*	*	*		*	*
Crambe .....	T,B	20;25	4	7	.....	KNO <sub>3</sub>
*	*	*	*		*	*
Crownvetch .....	B,T,TB,S	20	7	14		
*	*	*	*		*	*
Flatpea .....	T	15–25;20	14	28		
*	*	*	*		*	*
Foxtail, creeping .....	P	15–30	7	21	Light;KNO <sub>3</sub> .	
Foxtail, meadow .....	P	20–30	7	14	Light.	
*	*	*	*		*	*
Sunflower .....	T,B	20	4	7		
*	*	*	*		*	*

<sup>1</sup> Hard seeds may be present (See § 201.57)

#### § 201.60 [Amended]

15. Section 201.60 is amended in paragraph (a)(1) by removing the words "meadow foxtail" and adding in their place the word "foxtails".

16. In § 201.65, the text preceding the table is revised and the heading in the first column of the table is revised to read as follows:

#### § 201.65 Noxious-weed seeds in interstate commerce.

Tolerances for rates of occurrence of noxious-weed seeds shall be recognized and shall be applied to the number of noxious-weed seeds found by analysis in the quantity of seed specified for noxious-weed seed determination in § 201.46, except as provided in § 201.16(b). Applicable tolerances are calculated by the formula,  $Y = X + 1 + 1.96\sqrt{X}$ , where X is the number of seeds represented by the label or test

and Y is the maximum number within tolerance.<sup>1</sup> Some tolerances are listed in the table. The number found as represented by the label or test (Column X) will be considered within tolerance if not more than the corresponding number in Column Y are found by analysis in the administration of the Act. For numbers of seeds greater than those in the table and in case of additional or more extensive analyses, a tolerance based on a degree of certainty of 5 percent (P=0.05) will be recognized.

Number represented by the label or test (X)					* * *		* * *		* * *	
*	*	*	*	*	*		*		*	

17. In § 201.74, paragraph (a) is revised to read as follows:

#### § 201.74 Labeling all classes of certified seed.

(a) All classes of certified seed when offered for sale shall have an official certification label affixed to each

container clearly identifying the certifying agency, the lot number or other identification, the variety name (if certified as to variety), and the kind and class of seed. Except that for seed

<sup>1</sup> Rates per pound or ounce must be converted to the equivalent number of seeds found in § 201.46,

Table 1, Minimum weight for noxious-weed seed examination (grams).

mixtures and seed in containers of 5 pounds or less, the certification labels need not bear the name of the kind or kind and variety of each component, provided the name of each kind or kind and variety is shown on the analysis label.

\* \* \* \* \*

18. In § 201.75, paragraph (c) is revised to read as follows:

**§ 201.75 Interagency certification.**

\* \* \* \* \*

(c) Each label used in interagency certification shall be serially numbered

or carry the certification identity number and clearly identify the certifying agencies involved, the variety (if certified as to variety), and the kind and class of seed. Except that for seed mixtures and seed in containers of 5 pounds or less, the certification labels need not bear the name of the kind or kind and variety of each component, provided the name of each kind or kind and variety is shown on the analysis label.

19. In § 201.76, the text preceding the table is amended by removing the word “contamination” and adding in its place

the word “contaminating”, removing the word “of” immediately following the word “varieties” and adding in its place the word “or”, and amending Table 5 under the entry “corn” by adding the word “Foundation” before the words “Back cross” and adding a new entry “Hybrid (Chemically assisted)” under the entry “Cotton”, in alphabetical order to read as follows:

**§ 201.76 Minimum Land, Isolation, Field, and Seed Standards.**

\* \* \* \* \*

TABLE 5

Crop	Foundation				Registered				Certified			
	Land	Isolation	Field	Seed	Land	Isolation	Field	Seed	Land	Isolation	Field	Seed
* * * * *												
Cotton .....	* *	*	* *	* *	* *		*		*			
Hybrid (Chemically assisted) .....	0	<sup>190</sup>	10,000	0.03					0	2,640 ( <sup>59</sup> 804.66m)	1,320	0.1
* * * * *		*	*		*		*		*		*	

\* \* \* \* \*

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