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Clearinghouse Rule 10-107

DATCP Docket No. 10-R-08
Rules Clearinghouse No. ____

Proposed Hearing Draft
July 27, 2010

PROPOSED ORDER
OF THE WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION
ADOPTING RULES

3 The Wisconsin department of agriculture, trade and consumer protection proposes the following rule *to*
4 *amend* ATCP 20.04(1) and 20.09 (1) (intro.) and (e); *to repeal and recreate* ATCP 20.01, 20.02, 20.03
5 and 20.08; *to repeal* ATCP 20.06, 20.07 and 20.10 and *to create* ATCP 20.11 to 20.14; *relating to* seed
6 germination, labeling and sale.

Analysis Prepared by the Department of Agriculture,
Trade and Consumer Protection

Prior to the adoption of 2009 Wis. Act 28, Wisconsin had detailed statutes (See ss. 94.38 through 94.46, Wis. Stats.) that prescribed standards for seed germination and seed labeling. As part of 2009 Wis. Act 28, the Legislature amended the statutes that govern the regulation of seed. The changes adopted as part of 2009 Wis. Act 28 repealed those germination and labeling standards effective January 1, 2011 and gave the Department of Agriculture, Trade and Consumer Protection (DATCP) authority to establish standards for germination, labeling, distribution and sale of agricultural seed and vegetable seed by rule. This rule establishes new rules related to seed labeling and modifies current rules related to standards of germination, analysis, testing, sampling, inspection and examination. The rule also establishes new standards for native seeds. DATCP administers the seed program.

Statutes Interpreted

Statutes Interpreted: ss. 93.07(1), 94.38 to 94.46, Stats.

Statutory Authority

Statutory Authority: ss. 93.07(1), 94.45(6), Stats.

Explanation of Statutory Authority

DATCP has general authority, under s. 93.07(1), Stats., to interpret laws under its jurisdiction. DATCP has authority, under ss. 94.45 (6), Stats., to promulgate rules to prescribe standards for the labeling, distribution, and sale of agricultural seed and vegetable seed, to govern methods of sampling, inspecting, analyzing, testing, and examining agricultural seed and vegetable seed, to prescribe tolerances for purity and rate of germination of agricultural seed and vegetable seed, to prescribe tolerances for the occurrence of noxious weed seeds in agricultural seed and vegetable seed, to identify

noxious weeds and prohibited noxious weeds, to govern the issuance of seed labeler licenses and to govern the administration and enforcement of ss. 94.38 to 94.46, Stats. DATCP has authority, under s. 100.20(2), Stats., to regulate business practices and methods of competition.

Related Rules or Statutes

This rule is consistent with DNR rules under s. NR 40, Wis. Admin. Code, for classification and control of invasive species.

Rule Content

This rule modifies Wisconsin's agricultural and vegetable seed rule. Among other things, this rule:

- Establishes new rules related to seed labeling;
- Modifies current rules related to standards of germination, analysis, sampling, inspection, and examination;
- Establishes new rules related to native seeds;
- Incorporates the fees for seed labeler licenses contained in s. 94.43, Stats.
- Makes other minor changes to update, clarify and correct current agricultural and vegetable seed rules.

The standards used for label contents, germination, weed seed and other tolerances as well as the definitions applicable to those standards that were included in the statute have changed substantially since the adoption of the seed law statutes. The primary effect of the rule is to update those standards and definitions to make them consistent with current practice throughout the U. S. and with the standards maintained by the Association of Official Seed Analysts. The standards proposed in this rule, like the statutes that exist through December 31, 2010 have the purpose of maintaining a fair marketplace for purchasers of agricultural seed and vegetable seed labeled, distributed, and sold in Wisconsin.

Fiscal Impact

The proposed rule will have no fiscal impact on state or local government. Seed labeler license fees included in the proposed rule have already been created by statute. (See s. 94.43, Stats.)

Business Impact

This rule updates current rules related to agricultural seeds and vegetable seeds. The primary purpose of this rule is to ensure a fair marketplace by establishing germination, labeling, examination, sampling, inspecting, and analysis standards that agricultural seeds and vegetable seeds sold in Wisconsin must meet. This rule establishes and updates these standards. The rule also establishes new standards for native seeds, a growing category of seeds not previously subject to regulation. Standards contained in the applicable statutes will be repealed as of January 1, 2011 and will be established in this rule. This rule also clarifies current seed rules, to facilitate understanding and compliance.

This rule will not have a significant impact on small businesses. This rule is expected to positively affect businesses by ensuring the all agricultural seed and vegetable seed producers, labelers, distributors, and wholesalers are using uniform standards for germination, labeling, analysis, testing, sampling, inspection and examination. The standards will ensure a fair agricultural seed and vegetable seed marketplace for businesses and consumers.

Environmental Impact

This rule will prohibit and restrict certain noxious weed seeds, some of which were previously prohibited or restricted under statute. The addition of new prohibited and restricted weed seeds may have a minor positive impact on the environment. The majority of the rule provisions have no environmental impact.

Federal and Surrounding State Programs

Federal Programs

The USDA-Agricultural marketing Service, Seed Regulatory and Testing Branch uses the published Association of Official Seed Analyst (AOSA) standards included in this rule for its regulatory work. The same seed rules are also used internationally and are published by the International Seed Trade Association.

Surrounding State Programs

Surrounding states have adopted the same AOSA published agricultural seed and vegetable seed standards as are included in this rule. The AOSA standards have been adopted by most states as the rules for testing seeds in their respective states. The AOSA's standards were developed to promote uniformity and accuracy in seed testing methods.

Data and Analytical Methodologies

DATCP consulted DNR, UWEX and the Association of Seed Analysts and worked with an advisory body made up of representatives of the Wisconsin seed industry and seed consumers in Wisconsin to develop the standards in the rule.

DATCP Contact

Questions and comments related to this rule may be directed to:

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1 **SECTION 1.** ATCP 20.01, 20.02 and 20.03 are repealed and recreated to read:

2 **ATCP 20.01. Definitions.** In this chapter: (1) "Advertisement" means all representations,
3 other than those on the label, disseminated in any manner or by any means, relating to seed within the
4 scope of this chapter.

5 (2) "Agricultural seed" means grass, forage, cereal, oil, fiber, and other kinds of crop seeds
6 commonly recognized within this state as agriculture seeds, lawn seeds, vegetable seeds and
7 combinations of such seeds, and may include noxious weed seeds when the department determines that
8 the seed is being used as agricultural seed.

9 (3) "Blend" means seed consisting of more than one variety of a kind, each in excess of 5%
10 by weight of the whole.

11 (4) "Brand" means a word, name, symbol, number, or design used to identify seed of one
12 person to distinguish it from seed of another person.

13 (5) "Coated seed" means seed, other than treated seed, which is covered with any substance
14 that changes the size, shape or weight of the seed.

15 (6) "Conditioning" means drying, cleaning, scarifying, and other operations which could
16 change the purity or germination of the seed and require the seed lot to be retested to determine the
17 label information.

1 (7) "Container" means any receptacle that can be filled with seed.

2 (8) "Department" means the Wisconsin department of agriculture, trade and consumer
3 protection.

4 (9) "Dormant" means viable seed, excluding hard seed, which fail to germinate when
5 provided the specified germination conditions for the kind of seed.

6 (10) "Flower seeds" means seeds of herbaceous plants grown for their blooms, ornamental
7 foliage, or other ornamental parts and commonly known and sold under the name of flower seeds in
8 this state. Flower seeds do not include native species indigenous to Wisconsin as defined in DNR
9 Technical Bulletin No. 192, Checklist of Vascular Plants of Wisconsin (2001).

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11 **NOTE:** Copies of the DNR Technical Bulletin No. 192, Checklist of Vascular Plants of
12 Wisconsin (2001) can be obtained by contacting the Seed Program, Department of
13 Agriculture, Trade and Consumer Protection, P.O. Box 8911, Madison, WI 53708-8911
14 or 608-224-4500 or <http://datcp.state.wi.us> or
15 <http://digital.library.wisc.edu/1711.dl/EcoNatRes.DNRBull192>.
16

17 (11) "Genuine grower declaration" means a statement signed by the grower which gives for
18 each lot of seed the lot number, kind, variety if known, origin, weight, year of production, date of
19 shipment and to whom the shipment was made.

20 (12) "Germination" means the emergence and development from the seed embryo of those
21 essential structures which, for the kind of seed, are indicative of the ability to produce a normal plant
22 under favorable conditions.

23 (13) "Hard seeds" means seeds which remain hard at the end of the prescribed test period
24 because they have not absorbed water due to an impermeable seed coat.

25 (14) "Hybrid" means the first generation seed of a cross produced by controlling the
26 pollination and by combining two or more inbred lines, one inbred or a single cross with an open
27 pollinated variety or two varieties or species, except open-pollinated varieties of *zea mays* (corn). The
28 second generation or subsequent generations from such crosses are not hybrids. Hybrid designations

1 shall be treated as variety names.

2 (15) "Inert matter" means all matter that is not seed, including but is not limited to broken
3 seeds, sterile florets, chaff, fungus bodies and stones.

4 (16) "Introduced species" means kinds or the types and varieties derived from those kinds
5 that are not indigenous to Wisconsin as defined in DNR Technical Bulletin No. 192, Checklist of
6 Vascular Plants of Wisconsin (2001).

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8 **NOTE:** Copies of the DNR Technical Bulletin No. 192, Checklist of Vascular Plants of
9 Wisconsin (2001) can be obtained by contacting the Seed Program, Department of
10 Agriculture, Trade and Consumer Protection, P.O. Box 8911, Madison, WI 53708-8911
11 or 608-224-4500 or <http://datcp.state.wi.us> or
12 <http://digital.library.wisc.edu/1711.dl/EcoNatRes.DNRBull192>.

13
14 (17) "Kind" means one or more related species or sub-species which singly or collectively
15 are known by one common name, such as corn, oats, alfalfa, and timothy.

16 (18) "Label" means the display of written, printed or graphic matter upon or attached to a
17 container of seed or, for seed sold in bulk quantities, included with or on the invoice or shipping
18 document furnished to the purchaser at time of delivery.

19 (19) "Labeler" means any person who as grower, processor, jobber, distributor or seller
20 labels seed or accepts responsibility for labeling information pertaining to any container or lot of
21 agricultural or vegetable seed and whose name and address is required to appear on the label.

22 (20) "Labeling" means a tag or other device attached to or written, stamped, or printed on
23 any container or accompanying any lot of seed purporting to set forth the information required on the
24 seed label by this chapter, plus any other information relating to the labeled seed.

25 (21) "Lawn seed" means the seed of grasses, clovers or other agricultural seeds or mixtures
26 thereof commonly used or sold for seeding lawns, parks or turf areas in this state.

27 (22) "Lot" means a definite quantity of seed identified by a unique lot number or other
28 mark, every portion or bag of which is uniform within recognized tolerances for the factors which

1 appear in the labeling.

2 (23) "Mixture", "mix", or "mixed" means seed consisting of more than one kind of native
3 species, each in excess of 5% by weight of the whole.

4 (24) "Mulch" means a protective covering of any suitable substance which acts to retain
5 sufficient moisture to support seed germination and sustain early seedling growth and aids in the
6 prevention of the evaporation of soil moisture, the control of weeds and the prevention of erosion.

7 (25) "Native species seed" means a kind, type, wild type or variety of herbaceous species
8 derived from species that are indigenous to Wisconsin as defined in DNR Technical Bulletin No. 192,
9 Checklist of Vascular Plants of Wisconsin (2001).

10
11 **NOTE:** Copies of the DNR Technical Bulletin No. 192, Checklist of Vascular Plants of
12 Wisconsin (2001) can be obtained by contacting the Seed Program, Department of
13 Agriculture, Trade and Consumer Protection, P.O. Box 8911, Madison, WI 53708-8911
14 or 608-224-4500 or <http://datcp.state.wi.us> or
15 <http://digital.library.wisc.edu/1711.d1/EcoNatRes.DNRBull192>.
16
17

18 (26) "Noxious weed seeds" include prohibited noxious weed seeds and restricted noxious
19 weed seeds as defined in pars. (a) and (b).

20 (a) "Prohibited noxious weed seeds" means those weed seeds which are prohibited from
21 being present in agricultural, lawn, vegetable, flower, habitat restoration, native species or introduced
22 species seed. Prohibited noxious weed seeds mean the seeds of weeds which are highly destructive and
23 difficult to control by good cultural practices and the use of herbicides. Prohibited noxious weed seeds
24 include *convolvulus arvensis* (field bindweed), *euphorbia esula* (leafy spurge), *cirsium arvense*
25 (canada thistle), *panicum miliaceum* (wild proso millet), *eriochloa villosa* (woolly cupgrass), *pueraria*
26 *montana var. lobata* (kudzu), *polygonum perfoliatum* (mile-a-minute weed), *centaurea picris* (Russian
27 knapweed), and *centaurea maculos* (spotted knapweed).

28
29 **NOTE:** Ch. NR 40 identifies prohibited and restricted invasive species. The list of prohibited

1 and restricted noxious weeds contained in this rule may be different than the list of weeds
2 included as prohibited or restricted species in Ch. NR 40.

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4 (b) "Restricted noxious weed seeds" means those weed seeds which are objectionable in
5 agricultural, lawn, vegetable, flower, habitat restoration, native species or introduced species seed.
6 Restricted noxious weed seeds are the seeds of weeds which can be controlled by good cultural
7 practices or the use of herbicides. Restricted noxious weed seeds include *raphanus raphanistrum*
8 (wild radish), *plantago lanceolata* (buckhorn), *silene alba* (white cockle), *cuscuta spp.* (dodder),
9 *berteroa incana* (hoary alyssum), *avena fatua* (wild oat), *sinapis arvensis* (wild mustard), *agropyron*
10 *repens* (quackgrass), *sonchus arvensis* (perennial sowthistle), *ambrosia trifida* (giant ragweed), and
11 *abutilon theophrasti* (velvetleaf).

12
13 (27) "Off type" means any seed or plant not a part of the variety in that it deviates in one or
14 more characteristics from the variety as described and may include, a seed or plant of another variety; a
15 seed or plant not necessarily any variety; a seed or plant resulting from cross-pollination by another
16 kind or variety; a seed or plant resulting from uncontrolled self pollination during production of hybrid
17 seed; or segregates from any of the above.

18 (28) "Origin" means, for agricultural and vegetable seed, the area where the seed was
19 produced, and for native species, it is the area where the original or generation zero seed was
20 harvested.

21 (29) "Other crop seed" means seeds of plants grown as crops (other than the kind or variety
22 included in the pure seed) as determined by methods identified in this chapter.

23 (30) "Person" means an individual, partnership, corporation, company, association,
24 receiver, trustee or agent.

25 (31) "Preinoculated seed" means legume seed which has received an application, prior to
26 sale, of a culture of bacteria which will effectively inoculate the legume as shown by nodulation of the

1 roots, growth of the plants and accumulation of nitrogen in the plants.

2 (32) "Pure live seed" means the product of the percent of germination plus hard or dormant
3 seed multiplied by the percent of pure seed divided by 100 with the result expressed as a whole
4 number.

5 (33) "Pure seed" means seed exclusive of inert matter and all other seeds not of the seed
6 being considered as determined by methods identified in this chapter.

7 (34) "Tetrazolium test" means a chemical test for seed viability that is a rapid means of
8 determining the potential germination of a seed sample.

9 (35) "Treated" means that the seed has received an application of a substance, or that it has
10 been subjected to a process for which a claim is made.

11 (36) "Type" means a group of varieties so nearly similar that the individual varieties cannot
12 be clearly differentiated except under special conditions.

13 (37) "Variant" means any seed or plant which is distinct within the variety but occurs
14 naturally in the variety, is stable and predictable with a degree of reliability comparable to other
15 varieties of the same kind, within recognized tolerances, when the variety is reproduced or
16 reconstituted, and was originally a part of the variety as released. A variant is not an off-type.

17 (38) "Variety" means a subdivision of a kind which is distinct, uniform, and stable;
18 "distinct" in the sense that the variety can be differentiated by one or more identifiable morphological,
19 physiological or other characteristics from all other varieties of public knowledge; "uniform" in the
20 sense that the variations in essential and distinctive characteristics are describable, and "stable" in the
21 sense that the variety will remain unchanged in its essential and distinctive characteristics and its
22 uniformity when reproduced or reconstituted as required by the different categories of varieties.

23 (39) "Vegetable Seeds" means the seeds of those crops which are grown in gardens and on
24 farms and are generally known and sold under the name of vegetable or herb seeds in this state.

1 (40) "Weed seed" means the seeds of all plants generally recognized as weeds within the
2 intended crop kind in this state, and includes the prohibited and restricted noxious weed seeds

3 (41) "Wild Type" means a native species that is not a named variety.

4 **ATCP 20.02 Methods of Sampling, Inspecting, Analyzing, Testing and Examining Seed**
5 **and Seed Tolerances.** Except as otherwise provided in this chapter, the terms used for the methods of
6 sampling, inspecting, analyzing, testing and examining agricultural, vegetable, flower and native
7 species seeds and the tolerances to be followed in the administration of this chapter shall be those
8 adopted by the Association of Official Seed Analysts, effective October 2010.

9
10 **NOTE:** Copies of the Association of Official Seed Analysts rule standards can be obtained by
11 contacting the Seed Program at the Department of Agriculture, Trade and Consumer
12 Protection, P.O. Box 8911, Madison, WI 53708-8911 or 608-224-4500 or
13 www.datcp.state.wi.us or <http://www.aosaseed.com>.

14
15 **ATCP 20.03 Labeling of Seed Distributed to Wholesalers.** After seed has been conditioned,
16 it shall be labeled by a labeler before it may be distributed to any person including a wholesaler.
17 Labeling of seed supplied to a wholesaler may be by invoice if each bag or other container is clearly
18 identified by a lot number stenciled on the container or if the seed is in bulk. Each container that is not
19 identified as provided in this section shall contain labeling as required in ss. ATCP 20.04 and 20.11 to
20 20.13.

21 **SECTION 2.** ATCP 20.04 (1) is amended to read:

22
23 **ATCP 20.04.** (1) Seed on which the germination test has expired ~~under s. 94.41 (1) (a), Stats.~~
24 may be relabeled in any manner which will clearly show all label information required under this
25 chapter, including the name and address of the person who relabeled the seed.

26 **SECTION 3.** ATCP 20.06 and 20.07 are repealed.

27
28 **SECTION 4.** ATCP 20.08 is repealed and recreated to read:

29
30 **ATCP 20.08 Standards of Germination.** (1) Standards of germination for vegetable seeds
31 shall be:

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Type	percent
<u>Anise</u>	<u>50</u>
<u>Artichoke</u>	<u>60</u>
Asparagus	70
<u>Asparagusbean</u>	<u>75</u>
<u>Basil, Sweet</u>	<u>70</u>
Bean, Garden	70
Bean, Lima	70
<u>Bean, Runner</u>	<u>75</u>
<u>Beet</u>	<u>65</u>
<u>Broadbean</u>	<u>75</u>
Broccoli	75
Brussel Sprouts	70
<u>Burdock, Great</u>	<u>60</u>
Cabbage	75
<u>Cabbage, Tronchuda</u>	<u>70</u>
<u>Cantaloupe</u>	<u>75</u>
<u>Caraway</u>	<u>55</u>
<u>Cardoon</u>	<u>60</u>
Carrot	55
Cauliflower	75
<u>Celeraic</u>	<u>55</u>
<u>Celery</u>	<u>55</u>
<u>Chard, Swiss</u>	<u>65</u>
<u>Chervil, Salad</u>	<u>65</u>
Chicory	65
<u>Chinese Cabbage</u>	<u>75</u>
<u>Chives</u>	<u>50</u>
Citron	65
Collards	80
<u>Coriander</u>	<u>70</u>
Corn, Pop	75
Corn, Sweet	75
<u>Cornsalad</u>	<u>70</u>
<u>Cowpea</u>	<u>75</u>
Cress, Garden	75
<u>Cress, Upland</u>	<u>60</u>
Cress, Water	40
Cucumber	80
<u>Dandelion</u>	<u>60</u>
Eggplant	60
Endive	70
<u>Fennel, Florence</u>	<u>60</u>
<u>Fennel, Sweet</u>	<u>50</u>
Kale	75

<u>Kale, Chinese</u>	<u>75</u>
<u>Kale, Siberian</u>	<u>75</u>
Kohlrabi	75
Leek	60
Lettuce	80
Muskmelon	75
<u>Marjoram, Sweet</u>	<u>50</u>
Mustard	75
Mustard, Spinach	75
Okra	50
Onion	70
<u>Onion, Welsh</u>	<u>70</u>
<u>Oregano</u>	<u>60</u>
<u>Pak-Choi</u>	<u>75</u>
Parsley	60
Parsnip	60
Pea	80
<u>Peanut</u>	<u>60</u>
Pepper	55
Pumpkin	75
Radish	75
Rhubarb	60
<u>Roquette</u>	<u>60</u>
<u>Rosemary</u>	<u>30</u>
Rutabaga	75
<u>Sage</u>	<u>60</u>
Salsify	75
<u>Savory, Summer</u>	<u>55</u>
<u>Sorrel</u>	<u>65</u>
<u>Soybean</u>	<u>75</u>
Spinach	60
Spinach, New Zealand	40
Squash	75
Thyme	50
Tomato	75
<u>Tomato, Husk</u>	<u>50</u>
Turnip	80
Watermelon	70

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

3 (2) The percentage listed opposite each kind of flower seed is the germination
 4 standard for that kind. For the kinds marked with an asterisk, the percentage is the total of
 5 percentage germination and percentage hard seed. For other kinds, it is the percentage
 6 germination. Standards of germination for the flower seeds listed in this subsection shall
 7 be:

8

Seed Kind	Percent
<u>Archillea (The Pearl) - Achillea ptarmica</u>	<u>50</u>
<u>African Daisy - Dimorphotheca aurantiaca</u>	<u>55</u>
<u>African Violet – Saintpaulia spp</u>	<u>30</u>
<u>Ageratum - Ageratum mexicanum</u>	<u>60</u>
<u>Agrostemma (rose campion) - Agrostemma coronaria</u>	<u>65</u>
<u>Alyssum - Alyssum compactum, A. maritimum, A. procumbens, A. saxatile</u>	<u>60</u>
<u>Amaranthus - Amaranthus spp</u>	<u>65</u>
<u>Anagalis (primpernel) - Anagalis arvensis, Anagalis coerulea, Anagalis grandiflora</u>	<u>60</u>
<u>Anemone - Anemone coronaria, A. pulsatilla</u>	<u>55</u>
<u>Angel's Trumpet - Datura arborea</u>	<u>60</u>
<u>Arabis - Arabis alpina</u>	<u>60</u>
<u>Arctotis (African lilac daisy) - Arctotis grandis</u>	<u>45</u>
<u>Armeria - Armeria formosa</u>	<u>55</u>
<u>Asparagus, fern - Asparagus plumosus</u>	<u>50</u>
<u>Asparagus, sprenger, Asparagus sprengeri</u>	<u>55</u>
<u>Aster, China - Callistephus chinensis; except Pompon, Powderpuff, and Princess types</u>	<u>55</u>
<u>Aster, China - Callistephus chinensis; Pompon, Powderpuff and Princess types</u>	<u>50</u>
<u>Aubretia - Aubretia deltoides</u>	<u>45</u>
<u>Baby Smilax - Aparagus asparagoides</u>	<u>25</u>
<u>Balsam - Impatiens balsamina</u>	<u>70</u>
<u>Begonia - (Begonia fibrous rooted)</u>	<u>60</u>
<u>Begonia - (Begonia tuberous rooted)</u>	<u>50</u>
<u>Bells of Ireland - Molucella laevis</u>	<u>60</u>
<u>Brachycome (swan river daisy) - Brachycome iberidifolia</u>	<u>60</u>
<u>Browallia - Browallia elata and B. speciosa</u>	<u>65</u>
<u>Bupthalam (sunwheel) - Bupthalam salicifolium</u>	<u>60</u>
<u>Calceolaria - Calceolaria spp</u>	<u>60</u>
<u>Calendula - Calendula officinalis</u>	<u>65</u>

<u>California Poppy - Eschscholtzia californica</u>	<u>60</u>
<u>Calliopsis - Coreopsis bicolor, C. drummondii, C. elegans</u>	<u>65</u>
<u>Campanula:</u>	
<u> Canterbury Bells - Campanula medium</u>	<u>60</u>
<u> Cup and Saucer Bellflower - Campanula medium calycanthema.</u>	<u>60</u>
<u> Carpathian Bellflower - Campanula carpatica</u>	<u>50</u>
<u> Peach Bellflower - Campanula persicifolia</u>	<u>50</u>
<u>Candytuft, Annual - Iberis amara, I. umbellata</u>	<u>65</u>
<u>Candytuft, Perennial - Iberis gibraltarica, I. sempervirens</u>	<u>55</u>
<u>Castor Bean - Ricinus communis</u>	<u>60</u>
<u>Cathedral Bells - Cobaea scandens</u>	<u>65</u>
<u>Celosia - Celosia argentea</u>	<u>65</u>
<u>Centaurea: Basket Flower - Centaurea americana, Cornflower - C. cyanus, Dusty Miller - C. candidissima, Royal Centaurea - C. imperialis Sweet Sultan - C. moschata, Velvet Centaurea - C. gymnocarpa</u>	<u>60</u>
<u>Cerasium (snow-in-summer) Cerastium biebersteini and C. tomentosum</u>	<u>65</u>
<u>Chinese Forget-me-not - Cynoglossum amabile</u>	<u>55</u>
<u>Chrysanthemum, Annual - Chrysanthemum carinatum, C. coronarium, C. segetum</u>	<u>50</u>
<u>Cineraria - Senecio cruentus</u>	<u>60</u>
<u>Clarkia - Clarkia elegans</u>	<u>65</u>
<u>Cleome - Cleome gigantea</u>	<u>65</u>
<u>Coleus - Coleus blumei</u>	<u>65</u>
<u>Columbine - Aquilegia spp.</u>	<u>50</u>
<u>Coral Bells - Heuchera sanguinea</u>	<u>55</u>
<u>Coreopsis, Perennial - Coreopsis lanceolata</u>	<u>40</u>
<u>Corn, ornamental - Zea mays</u>	<u>75</u>
<u>Cosmos: Sensation, Mammoth and Crested types - Cosmos bipinnatus; Klondyke type - C. sulphurea</u>	<u>65</u>
<u>Crossandra - (Crossandra infundibuliformis)</u>	<u>50</u>
<u>Dahlia - Dahlia spp</u>	<u>55</u>
<u>Daylily - Hemerocallis spp</u>	<u>45</u>
<u>Delphinium, Perennial- Belladonna and Bellamosum types; Cardinal Larkspur - Delphinium cardinale; Chinensis types; Pacific Giant, Gold Medal and other hybrids of D. elatum</u>	<u>55</u>
<u>Dianthus:</u>	
<u> Carnation - Dianthus caryophyllus</u>	<u>60</u>
<u> China Pinks - Dianthus chinensis, heddeewigi, heddensis</u>	<u>70</u>
<u> Grass Pinks - Dianthus plumarius</u>	<u>60</u>
<u> Maiden Pinks - Dianthus deltoids</u>	<u>60</u>
<u> Sweet William - Dianthus barbatus</u>	<u>70</u>
<u> Sweet Wivelsfield - Dianthus allwoodi</u>	<u>60</u>
<u>Didiscus - (blue lace flower) - Didiscus coerulea</u>	<u>65</u>
<u>Doronicum (leopard's bane) - Doronicum caucasicum</u>	<u>60</u>
<u>Dracaena - Dracaena indivisa</u>	<u>55</u>
<u>Dragon Tree - Dracaena draco</u>	<u>40</u>

<u>English Daisy - Bellis perennis</u>	<u>55</u>
<u>Flowering Maple - Abutilon spp</u>	<u>35</u>
<u>Flax - Golden flax (Linum flavum); Flowering flax L. randiflorum; Perennial flax, L. perenne</u>	<u>60</u>
<u>Foxglove - Digitalis spp</u>	<u>60</u>
<u>Gaillardia, Annual - Gaillardia pulchella; G. picta; Perennial - G. grandiflora</u>	<u>45</u>
<u>Gerbera (transvaal daisy) - Gerbera jamesoni</u>	<u>60</u>
<u>Geum - Geum spp</u>	<u>55</u>
<u>Gilia - Gilia spp</u>	<u>65</u>
<u>Gloriosa daisy (rudbeckia) - Echinacea purpurea and Rudbeckia hirta</u>	<u>60</u>
<u>Gloxinia - (Sinningia speciosa)</u>	<u>40</u>
<u>Godetia - Godetia amoena, G. grandiflora</u>	<u>65</u>
<u>Gourds: Yellow Flowered - Cucurbita pepo; White Flowered – Lagenaria siceraria; Dishcloth - Luffa cylindrica</u>	<u>70</u>
<u>Gypsophila: Annual Baby's Breath - Gypsophila elegans; Perennial Baby's Breath - G. paniculata, G. pacifica G. repens</u>	<u>70</u>
<u>Helenium - Helenium autumnale</u>	<u>40</u>
<u>Helichrysum - Helichrysum monstrosum</u>	<u>60</u>
<u>Heliopsis - Heliopsis scabra</u>	<u>55</u>
<u>Heliotrope - Heliotropium spp.</u>	<u>35</u>
<u>Helipterum (Acroclinium) Helipterum roseum</u>	<u>60</u>
<u>Hesperis (sweet rocket) - Hesperis matronalis</u>	<u>65</u>
<u>*Hollyhock - Althea rosea</u>	<u>65</u>
<u>Hunnemannia (mexican tulip poppy) - Hunnemannia fumariaefolia</u>	<u>60</u>
<u>Hyacinh bean - Dolichos lablab</u>	<u>70</u>
<u>Impatiens - Impatiens hostii, I. sultani</u>	<u>55</u>
<u>*Ipomea - Cypress Vine - Ipomea quamoclit; Moonflower – I. noctiflora; Morning Glories, Cardinal Climber, Hearts and Honey Vine - Ipomea spp</u>	<u>75</u>
<u>Jerusalem cross (maltese cross) - Lychnis chalconica</u>	<u>70</u>
<u>Job's Tears - Coix lacrymajobi</u>	<u>70</u>
<u>Kochia - Kochia childsii</u>	<u>55</u>
<u>Larkspur, Annual - Delphinium ajacis</u>	<u>60</u>
<u>Lantana - Lantana camara, L. hybrida</u>	<u>35</u>
<u>Lilium (regal lily) - Lilium regale</u>	<u>50</u>
<u>Linaria - Linaria spp</u>	<u>65</u>
<u>Lobelia, Annual - Lobelia erinus</u>	<u>65</u>
<u>Lunaria, Annual - Lunaria annua</u>	<u>65</u>
<u>*Lupine - Lupinus spp</u>	<u>65</u>
<u>Marigold - Tagetes spp</u>	<u>65</u>
<u>Marvel of Peru - Mirabilis jalapa</u>	<u>60</u>
<u>Matricaria (feverfew) - Matricaria spp</u>	<u>60</u>
<u>Mignonette - Reseda odorata</u>	<u>55</u>
<u>Myosotis - Myosotis alpestris, M. oblongata, M. palustris</u>	<u>50</u>
<u>Nasturtium - Tropaeolum spp</u>	<u>60</u>
<u>Nemesia - Nemesia spp</u>	<u>65</u>

<u>Nemophila - Nemophila insignis</u>	<u>70</u>
<u>Nemophila, spotted - Nemophila maculata</u>	<u>60</u>
<u>Nicotiana - Nicotiana affinis, N. sanderae, N. sylvestris</u>	<u>65</u>
<u>Nierembergia - Nierembergia spp</u>	<u>55</u>
<u>Nigella - Nigella damascena</u>	<u>55</u>
<u>Pansy - Viola tricolor</u>	<u>60</u>
<u>Penstemon - Penstemon barbatus, P. grandiflorus, P. laevigatus, P. pubescens.</u>	<u>60</u>
<u>Petunia - Petunia spp</u>	<u>45</u>
<u>Phacelia - Phacelia campanularia, P. minor, P. tanacetifolia</u>	<u>65</u>
<u>Phox, Annual - Phlox drummondii all types and varieties</u>	<u>55</u>
<u>Physalis - Physalis spp</u>	<u>60</u>
<u>Platycodon (balloon flower) - Platycodon grandiflorum</u>	<u>60</u>
<u>Plumbago, cape - Plumbago capensis</u>	<u>50</u>
<u>Ponytail - Beaucarnea recurvata</u>	<u>40</u>
<u>Poppy: Shirley Poppy - Papaver rhoeas; Iceland Poppy - P. nudicaule; Oriental Poppy -P. orientale; Tulip Poppy - P. glaucum</u>	<u>60</u>
<u>Portulaca - Portulaca grandiflora</u>	<u>55</u>
<u>Primula (primrose) - Primula spp</u>	<u>50</u>
<u>Pyrethrum (painted daisy) - Pyrethrum coccineum</u>	<u>60</u>
<u>Salpiglossis - Salpiglossis gloxiniflora, S. sinuata</u>	<u>60</u>
<u>Salvia - Scarlet Sage - Salvia splendens; Mealycup Sage (blue bedder) – Salvia farinacea</u>	<u>50</u>
<u>Saponaria - Saponaria ocymoides, S. vaccaria</u>	<u>60</u>
<u>Scabiosa, Annual - Scabiosa atropurpurea</u>	<u>50</u>
<u>Scabiosa, Perennial - Scabiosa caucasica</u>	<u>40</u>
<u>Schizanthus - Schizanthus spp</u>	<u>60</u>
<u>*Sensitive pant (mimosa) - Mimosa pudica</u>	<u>65</u>
<u>Shasta Daisy - Chrysanthemum maximum C. leucanthemum</u>	<u>65</u>
<u>Silk Oak - Grevillea robusta</u>	<u>25</u>
<u>Snapdragon - Antirrhinum spp</u>	<u>55</u>
<u>Solanum - Solanum spp</u>	<u>60</u>
<u>Statice - Statice sinuata, S. suworonii (flower heads)</u>	<u>50</u>
<u>Stocks: Common - Mathiola incana; Evening Scented - Mathiola bicornis</u>	<u>65</u>
<u>Sunflower - Helianthus spp</u>	<u>70</u>
<u>Sunrose - Helianthemum spp</u>	<u>30</u>
<u>*Sweet Pea, Annual and Perennial other than dwarf bush - Lathyrus odoratus, L latifolius</u>	<u>75</u>
<u>*Sweet Pea, dwarf bush - Lathyrus odoratus</u>	<u>65</u>
<u>Tahoka daisy - Machaeanthera tanacetifolia</u>	<u>60</u>
<u>Thunbergia - Thunbergia alata</u>	<u>60</u>
<u>Torch Flower - Tithonia speciosa</u>	<u>70</u>
<u>Torenia (wishbone flower) - Torenia fournieri</u>	<u>70</u>
<u>Tritoma Kniphofia spp</u>	<u>65</u>
<u>Verbena, Annual - Verbena hybrida</u>	<u>35</u>
<u>Vinca - Vinca rosea</u>	<u>60</u>

<u>Viola - Viola cornuta</u>	<u>55</u>
<u>Virginian stocks - Malcolmia maritime</u>	<u>65</u>
<u>Wallflower - Cheiranthus allioni</u>	<u>65</u>
<u>Yucca (Adam's needle) - Yucca filamentosa</u>	<u>50</u>
<u>Zinna (except Linearis and Creeping) - Zinnia angustifolia, Z. elegans, Z. grandiflora, Z. gracillima, Z. haegeana, Z. multiflora, Z. pumila</u>	<u>65</u>
<u>Zinnia, Linearis and Creeping - Zinnia linearis, Sanvitalia procumbens</u>	<u>50</u>
<u>All other kinds</u>	<u>50</u>

1 A mixture of kinds of flower seeds is below the standard if the germination of any
2 kind or combination of kinds constituting 25% or more of the mixture by number is
3 below standard for the applicable kind or kinds.

4 **SECTION 5.** ATCP 20.09 (1) (intro.) and (e) are amended to read:

5 **20.09 (1) (intro.)** ~~Seed packaged in hermetically sealed containers may be sold~~
6 ~~for a period of 36 months after the month in which the seed was retested for germination~~
7 ~~if packaged and tested under the following conditions~~ The following standards,
8 requirements and conditions must be met before seed is considered to be hermetically-
9 sealed:

10 (e) The percentage of germination of vegetable seed at the time of packaging
11 was equal to or above the standards of germination under s. ATCP ~~20.10~~ 20.08.

12 **SECTION 6.** ATCP 20.10 is repealed.

13 **SECTION 7.** ATCP 20.11, 20.12, 20.13 and 20.14 are created to read:

14 **20.11. Label requirements for agricultural, lawn, vegetable and flower seeds.**

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

1 (1) For all treated agricultural, lawn, vegetable and flower seed for which a
2 separate label may be used:

3 (a) A word or statement indicating that the seed has been treated.

4 (b) The commonly accepted coined, chemical or abbreviated chemical
5 (generic) name of the applied substance or description of the treatment used.

6 (c) If the treatment substance in the amount present with the seed is harmful
7 to human or other vertebrate animals, a caution statement such as "Do not use for food,
8 feed, or oil purposes". The caution for mercurials and similarly toxic substances shall be:

9 1. For toxicity category 1 – "Danger" and when appropriate "Poison" with
10 the skull and crossbones symbol.

11 2. For toxicity category 2 – "Warning".

12 3. For toxicity categories 3 and 4 – "Caution".

13 **NOTE:** Copies of the toxicity categories can be obtained by contacting the Seed
14 Program, Department of Agriculture, Trade and Consumer Protection,
15 P.O. Box 8911, Madison, WI 53708-8911 or 608-224-4500 or
16 <http://datcp.state.wi.us>.
17

18 (d) If the seed is treated with an inoculant, the date beyond which the
19 inoculant is not to be considered effective.

20 (2) For agricultural seeds, lawn and turf grass seed and mixtures thereof as
21 provided in sub. (3); for seed sold on a pure live seed basis as provided in sub. (9); and
22 for hybrids which contain less than 95% hybrid seed as provided in sub. (10):

23 (a) The name of the kind and variety for each agricultural seed present in
24 excess of 5% of the whole and the percentage by weight of each. If the variety of those
25 kinds generally labeled as to variety is not stated, the label shall show the name of the

1 kind and the words, "Variety Not Stated". Hybrids shall be labeled as hybrids.

2 (b) The lot number or other lot identification.

3 (c) The origin. If the origin is unknown, the fact shall be stated.

4 (d) The percentage by weight of all weed seeds.

5 (e) The name and rate of occurrence per pound of each kind of restricted
6 noxious weed seed present.

7 (f) The percentage by weight of agricultural seeds (which may be designated
8 as "crop seeds") other than those required to be named on the label.

9 (g) Percentage by weight of inert matter.

10 (h) The total percentage of all components shall be 100%.

11 (i) For each named agricultural seed:

12 1. The percentage of germination, exclusive of hard seed and/or dormant
13 seed.

14 2. The percentage of hard seeds and/or dormant seeds.

15 3. The calendar month and year the test was completed to determine the
16 percentages under subds. 1. and 2. For subds. 1. and 2. the "total germination and hard
17 seed and dormant seed" may be stated.

18 (j) The name and address of the person who labeled the seed, or who sells,
19 offers or exposes the seed for sale within this state.

20 (3) For lawn and turf grasses including Kentucky bluegrass, red fescue,
21 chewings fescue, hard fescue, tall fescue, perennial ryegrass, intermediate ryegrass,
22 annual ryegrass, colonial bentgrass, creeping bentgrass and mixtures thereof, in addition
23 to the information required pursuant to sub. (2), the label shall contain:

1 (a) In addition to all other information required under this subsection, for
2 single kinds, the name of the kind or kind and variety.

3 (b) In addition to all other information required under this section, for
4 mixtures:

5 1. The word "mix", "mixed", "mixture" or "blend" shall be stated with the
6 name of the mixture.

7 2. The heading "Pure Seed" and "Germination" or "Germ" shall be used in
8 the proper places.

9 3. The commonly accepted name of kind or kind and variety of each
10 agricultural seed component in excess of 5% of the whole, and the percentage by weight
11 of pure seed in order of its predominance and in columnar form.

12 (c) The percentage by weight of agricultural seed other than those required to
13 be named on the label which shall be designated as "crop seed".

14 (d) The percentage by weight of inert matter for lawn and turf grass not to
15 exceed 10%, except that 15% inert matter is permitted in Kentucky bluegrass labeled
16 without a variety name. Foreign material, other than material used for coating or
17 pelleting, as provided in sub. (4) or combination products, as in sub. (11), to enhance the
18 planting value, not common to grass seed, may not be added to the seed.

19 (e) The percentage by weight of all weed seeds. Maximum weed seed content
20 may not exceed 0.50% by weight.

21 (f) The total percentage of all components shall be 100%.

22 (g) Restricted noxious weeds that are required to be labeled shall be listed
23 under the heading "Restricted Noxious Weed Seeds."

1 (h) For each agricultural seed named under par. (a) or (b) the label shall also
2 include:

3 1. The percentage of germination, exclusive of hard seed and dormant seed.

4 2. The percentage of hard seed and/or dormant seed, if present.

5 3. The calendar month and year the most recent test was completed to
6 determine the percentages under subs. 1. and 2.

7 4. The statement "Sell by (insert date)" which may be no more than 15
8 months after the month the test was conducted.

9 (i) The name and address of the person who labeled the seed, or who sells,
10 offers or exposes the seed for sale within this state.

11 (j) The labeling requirements for lawn seeds sold from open containers of
12 more than one pound shall be deemed to have been met if the seed is weighed from a
13 properly labeled container in the presence of the purchaser. The label must be made
14 available to the customer.

15 (4) For agricultural seeds that are coated:

16 (a) The percentage by weight of pure seeds less coating material.

17 (b) The percentage by weight of coating material.

18 (c) The percentage by weight of inert material less coating material.

19 (d) The percentage of germination determined on 400 pellets with or without
20 seeds.

21 (e) In addition to the provisions of this subsection, labeling of coated seed
22 shall comply with the requirements of subs. (2) (a), (b) and (c).

23 (5) For vegetable seeds in packets as prepared for use in home gardens or

1 household plantings or vegetable seeds in pre-planted containers, mats, tapes, or other
2 planting devices:

3 (a) The name of kind and variety of seed.

4 (b) The lot identification, such as by lot number or other means.

5 (c) The calendar month and year the germination test was completed and the
6 statement "Sell by (insert date)", which may be no more than 12 months after the month
7 during which the test was conducted, or; the year for which the seed was packaged for
8 sale presented as "Packed for (insert year)" and the statement "Sell by (insert year)"
9 which shall be for a calendar year, or; the percentage of germination and the calendar
10 month and year the test was completed to determine the percentage.

11 (d) The name and address of the person who labeled the seed or who sells,
12 offers, or exposes the seed for sale within this State.

13 (e) For seeds which germinate less than the standard last established by the
14 Association of Official Seed Analysts, in addition to the information required under pars.

15 (a) to (d):

16 1. The percentage of germination, exclusive of hard seed and dormant seed.

17 2. The percentage of hard seed and dormant seed, if present.

18 3. The words "Below Standard" in not less than 8-point type.

19 **NOTE:** Copies of the Association of Official Seed Analysts rule standards can be
20 obtained by contacting the Seed Program at the Department of Agriculture,
21 Trade and Consumer Protection, P.O. Box 8911, Madison, WI 53708-8911
22 or 608-224-4500 or www.datcp.state.wi.us or <http://www.aosaseed.com>.
23

24 (f) For seeds placed in a germination medium, mat, tape, or other device in
25 such a way as to make it difficult to determine the quantity of seed without

1 removing the seeds from the medium, mat, tape or device, in addition to the
2 information required under pars. (a) to (d), a statement to indicate the minimum
3 number of seeds in the container.

4 (6) For vegetable seeds in containers other than packets prepared for use in
5 home gardens or household plantings and other than pre-planted containers, mats, tapes,
6 or other planting devices:

7 (a) The name of each kind and variety present in excess of 5% and the
8 percentage by weight of each in order of its predominance.

9 (b) The lot number or other lot identification.

10 (c) For each named vegetable seed:

11 1. The percentage of germination exclusive of hard seed and dormant seed.

12 2. The percentage of hard seed and dormant seed, if present.

13 3. The calendar month and year the test was completed to determine the
14 percentages in subds. 1. and 2. Following the information required to be on the label
15 pursuant to subds. 1. and 2. the total germination and hard seed and dormant seed may be
16 stated.

17 (d) The name and address of the person who labeled the seed, or who sells,
18 offers or exposes the seed for sale within this State.

19 (e) The labeling requirements for vegetable seeds sold from open containers
20 of more than one pound is met if the seed is weighed from a properly labeled container in
21 the presence of the purchaser and the label is made available to the customer.

22 (7) For flower seeds in packets prepared for use in home gardens or
23 household plantings or flower seeds in pre-planted containers, mats, tapes, or other

1 planting devices:

2 (a) For all kinds of flower seeds:

3 1. The name of the kind and variety or a statement of type and performance
4 characteristics.

5 2. The calendar month and year the germination test was completed and the
6 statement "Sell by (insert date)", which may be no more than 12 months after the month
7 the test was conducted or; the year for which the seed was packaged for sale presented as
8 "Packed for (insert year)" and the statement "Sell by (insert year)" which shall be for a
9 calendar year, or; the percentage germination and the calendar month the test was
10 completed to determine the percentage.

11 3. The name and address of the person who labeled said seed, or who sells,
12 offers, or exposes said seed for sale within this state.

13 (b) For seeds of those kinds for which standard testing procedures are
14 prescribed and which germinate less than the germination standard established under the
15 provisions of this chapter, in addition to the information required under par. (a):

16 1. The percentage of germination exclusive of hard seeds and dormant seeds.

17 2. The percentage of hard or dormant seed, if present.

18 3. The words "Below Standard" in not less than 8-point type.

19 (c) For seeds placed in a germination medium, mat, tape, or other device in
20 such a way as to make it difficult to determine the quantity of seed without removing the
21 seeds from the medium, mat, tape, or device, in addition to the information required
22 under par. (a), a statement to indicate the minimum number of seeds in the container.

23 (8) For flower seeds in containers other than packets and other than pre-

1 planted containers, mats, tapes, or other planting devices and not prepared for use in
2 home flower gardens or household plantings:

3 (a) The name of the kind and variety or a statement of type and performance
4 characteristics, and for wildflowers, the genus and species and subspecies, if appropriate.

5 (b) The lot number or other lot identification.

6 (c) For those kinds of seed for which standard testing procedures are
7 prescribed, in addition to the information required under pars. (a), (b) and (e):

8 1. The percentage of germination exclusive of hard and dormant seed.

9 2. The percentage of hard and dormant seed, if present.

10 3. The calendar month and year that the test was completed to determine the
11 percentages under subds. 1. and 2.

12 (d) For those kinds of seed for which standard testing procedures are not
13 available, in addition to the information required under pars. (a), (b) and (e):

14 1. The year of production or collection.

15 2. If not tested, the statement "Untested".

16 (e) The name and address of the person who labeled the seed or who sells,
17 offers, or exposes the seed for sale within this state.

18 (9) For agricultural seeds sold on a pure live seed basis, each container must
19 bear a label containing the information required by sub. (2), except as follows:

20 (a) The label need not show the percentage by weight of each agricultural
21 seed component as required by sub. (2) (a).

22 (b) The label must show for each named agricultural seed, instead of the
23 information required by sub. (2) (h):

1 1. The percentage of pure live seed.

2 2. The calendar month and year in which the test determining the percentage
3 of live seed was completed.

4 (10) For agricultural and vegetable hybrid seed which contain less than 95%
5 hybrid seed in addition to the information required pursuant to sub. (2) the label shall
6 contain:

7 (a) The kind or variety identified as "hybrid".

8 (b) The named variety followed by the percent of seed which is hybrid shall
9 be labeled parenthetically such as "Comet (85% Hybrid)".

10 (c) The varieties in which the pure seed contain less than 75% hybrid seed
11 shall not be labeled hybrids.

12 (11) For combination mulch, seed and fertilizer products:

13 (a) The word "combination" followed by the words "mulch, seed and
14 fertilizer" must appear on the upper 30% of the principal display panel. The word
15 "combination" must be the largest and most conspicuous type on the container, equal to
16 or larger than the product name. The words "mulch, seed and fertilizer" shall be no
17 smaller than one-half the size of the word "combination" and in close proximity to the
18 word "combination". The products identified in this paragraph shall contain a minimum
19 of 70% mulch.

20 (b) In addition to meeting the requirements under par. (a), agricultural, lawn
21 and turf seeds placed in a germination medium, mat, tape or other device or mixed with
22 mulch shall be labeled as follows:

23 1. The product name.

- 1 2. The lot number.
- 2 3. The percentage by weight of pure seed of each kind and variety named
- 3 which may be less than 5% of the whole.
- 4 4. The percentage by weight of other crop seeds.
- 5 5. The percentage by weight of inert matter which shall not be less than
- 6 70%.
- 7 6. The percentage by weight of weed seeds.
- 8 7. The total percentage of all components shall be 100%.
- 9 8. The name and number of noxious weed seeds per pound, if present.
- 10 9. The percentage of germination plus hard seed and dormant seed of each
- 11 kind or kind and variety named and the date of the test to determine the percentage of
- 12 germination.
- 13 10. The name and address of the labeler.
- 14 (12) Labels of seeds sold for sprouting for salad or culinary purposes shall
- 15 include:
- 16 (a) The common name of kind or kinds.
- 17 (b) The lot number.
- 18 (c) The percentage by weight of each pure seed component in excess of 5% of
- 19 the whole, the names of other crop seeds, inert matter and weed seeds.
- 20 (d) The percentage of germination of each pure seed component.
- 21 (e) The percentage of hard seed, if present.
- 22 (f) The calendar month and year the test was completed to determine the
- 23 percentages in pars. (c), (d) and (e).

1 (13) Sweet clover seed containing more than 5% of yellow sweet clover seed
2 or more than 1.25% mottled seeds may not be labeled white sweet clover but shall be
3 labeled sweet clover or as a mixture.

4 (14) Containers of seed labeled pursuant to this section shall be free of
5 prohibited noxious weed seeds.

6 **20.12. Label requirement for native species seed.** Each container of native
7 species seed which is sold, offered for sale, or exposed for sale within this State for
8 sowing purposes shall bear thereon or have attached in a conspicuous place a plainly
9 written or printed label or tag in the English language, giving the following information,
10 which statement shall not be modified or denied in the labeling or on another label
11 attached to the container except that labeling of seed supplied under a contractual
12 agreement may be by invoice accompanying the shipment or by an analysis tag attached
13 to the invoice if each bag or other container is clearly identified by a lot number on the
14 container or if the seed is in bulk. Each bag or container that is identified as required in
15 this subsection must carry complete labeling.

16 (1) For all treated native species seeds for which a separate label may be used:

17 (a) A word or statement indicating that the seed has been treated.

18 (b) The commonly accepted coined, chemical or abbreviated chemical
19 (generic) name of the applied substance or description of the process used.

20 (c) If the substance in the amount present with the seed is harmful to human
21 or other vertebrate animals, a caution statement such as "Do not use for food, feed, or oil
22 purposes". The caution for mercurials and similarly toxic substances shall be:

23 1. For toxicity category 1 – "Danger" and when appropriate "Poison" with

1 skull and crossbones symbol.

2 2. For toxicity category 2 – “Warning”.

3 3. For toxicity categories 3 and 4 – “Caution”.

4 **NOTE:** Copies of the toxicity categories can be obtained by contacting the Seed
5 Program, Department of Agriculture, Trade and Consumer Protection,
6 P.O. Box 8911, Madison, WI 53708-8911 or 608-224-4500 or
7 <http://datcp.state.wi.us>.

8
9 (d) If the seed is treated with an inoculant, the date beyond which the
10 inoculant is not to be considered effective.

11 (2) For all native species and mixtures of native species equal to or greater
12 then one pound:

13 (a) The common name of the species of seed. If the seed is other than a “wild
14 type” the variety must be named.

15 (b) The scientific name of the genus and species and subspecies, if
16 appropriate.

17 (c) The lot number or other lot identification.

18 (d) The origin by geographic description or political subdivision such as
19 county or state if not Wisconsin.

20 1. For seed collected from a predominantly indigenous stand, the area of
21 collection given by latitude and longitude, geographic description, or political
22 subdivision such as county or state if not Wisconsin.

23 2. For seed collected from other than a predominantly indigenous stand,
24 identify the area of collection and the origin of the stand and include the statement
25 “Origin not Indigenous”.

26 (e) The percentage of total weight that is pure seed.

1 (f) In addition to the information required under pars. (a) to (e), (h) and (j) to
2 (o), for those species for which standard germination testing procedures are prescribed by
3 the Association of Official Seed Analysts, the following:

4 1. The percentage of germination exclusive of hard seed and dormant seed.
5 Tetrazolium test results may be used on a lot of seed to represent germination but shall be
6 compared to germination tests in the laboratory.

7 2. The percentage of hard seed and dormant seed, if present.

8 3. The calendar month and year in which the test was completed to
9 determine percentages in subs. 1. and 2.

10 **NOTE:** Copies of the Association of Official Seed Analysts standards can be
11 obtained by contacting the Seed Program at the Department of
12 Agriculture, Trade and Consumer Protection, P.O. Box 8911, Madison,
13 WI 53708-8911 or 608-224-4500 or www.datcp.state.wi.us or
14 <http://www.aosaseed.com>.
15 .

16 (g) In addition to the information required under pars. (a) to (e), (h) and (j) to
17 (o), for those species for which standard germination testing procedures have not been
18 prescribed by the Association of Official Seed Analysts, the following:

19 1. The percentage germination exclusive of hard seed and dormant seed.
20 Tetrazolium test results may be used on a lot of seed to represent germination.

21 2. The percentage of hard seed and dormant seed, if present.

22 3. The calendar month and year in which the test was completed to
23 determine the percentages under subs. 1. and 2., or the calendar year in which the seed
24 was collected and the word “Untested”.

25 **NOTE:** Copies of the Association of Official Seed Analysts standards can be
26 obtained by contacting the Seed Program at the Department of
27 Agriculture, Trade and Consumer Protection, P.O. Box 8911, Madison,

1 WI 53708-8911 or 608-224-4500 or www.datcp.state.wi.us or
2 <http://www.aosaseed.com>.
3

4 (h) The name and rate of occurrence per pound of each kind of restricted
5 noxious weed seed present.

6 (i) The total percentage of all components shall be 100%.

7 (j) The name and address of the person who labeled the seed or who sells,
8 offers, or exposes the seed for sale within this State.

9 (k) The common name and scientific name of each native species seed present
10 in excess of 5% of the whole and the percentage by weight of each.

11 (L) The percentage by weight of all weed seeds.

12 (m) The percentage by weight of native species seeds which may be
13 designated as “other crop seeds” other than those required to be named in par. (k).

14 (n) The percentage by weight of inert matter.

15 (o) The percentage of pure live seed.

16 (3) For native species in packets containing less than one pound as prepared
17 for use in home gardens or household plantings or native species in pre-planted
18 containers, mats, tapes, or other planting devices:

19 (a) The Latin name and common name of the seed.

20 (b) The lot identification by lot number or other means.

21 (c) The calendar month and year the germination test was completed and the
22 statement “Sell by (insert date)”, which may be no more than 12 months after the month
23 the test was conducted; or the year for which the seed was packaged for sale presented as
24 “Packed for (insert year)” and the statement “Sell by (insert year)” which shall be for a

1 calendar year; or the percentage of germination and the calendar month that the test was
2 completed to determine such percentage.

3 (d) The name and address of the person who labeled the seed or who sells,
4 offers, or exposes the seed for sale within this State.

5 (e) In addition to the information required under pars. (a) to (d), (f) and (g),
6 for seeds placed in a germination medium, mat, tape, or other device in such a way as to
7 make it difficult to determine the quantity of seed without removing the seeds from the
8 medium, mat, tape or device, in addition to the other information required under this
9 subsection, the label shall contain a statement that indicates the minimum number of
10 seeds in the container.

11 (f) The name and rate of occurrence per pound of each kind of restricted
12 noxious weed seed present.

13 (g) The origin by geographic description or political subdivision such as
14 county or state if not Wisconsin including:

15 1. For seed collected from a predominantly indigenous stand, the area of
16 collection given by latitude and longitude, geographic description or political subdivision
17 such as county or state if not Wisconsin.

18 2. For seed collected from other than a predominantly indigenous stand, the
19 area of collection and the origin of the stand, or "Origin not Indigenous".

20 (4) For native species seeds that are coated:

21 (a) The percentage by weight of pure seeds less the coating material.

22 (b) The percentage by weight of coating material.

23 (c) The percentage by weight of inert material less the coating material.

1 (d) The percentage of germination based upon 400 pellets with or without
2 seeds.

3 (e) In addition to the provisions of this subsection, labeling of coated seed
4 shall comply with the requirements of subs. 2 (a), (b), (c) and (d).

5 (5) Containers of seed labeled pursuant to this section shall be free of
6 prohibited noxious weed seeds.

7 **20.13. Labeling Kind and Variety or Type and Performance Characteristic**
8 **of Flower Seeds.** The requirements of s. ATCP 20.11 that require flower seeds to be
9 labeled with the name of the kind and variety or a statement of type and performance
10 characteristics shall be met as follows:

11 (1) For seeds of plants grown primarily for their blooms:

12 (a) If the seeds are of a single named variety, the kind and variety shall be
13 stated, for example, "Marigold, Butterball".

14 (b) If the seeds are of a single type and color for which there is no specific
15 variety name, the type of plant and the type and color of bloom shall be indicated, for
16 example, "Scabiosa, Tall, Large Flowered, Double, Pink".

17 (c) If the seeds consist of an assortment or mixture of colors or varieties of a
18 single kind, the kind name, the type of plant and the type or types of bloom shall be
19 indicated. In addition, the label shall clearly indicate that the seed is mixed or assorted,
20 for example, "Marigold, Dwarf Double French, Mixed Colors".

21 (d) If the seeds consist of an assortment or mixture of kinds or kinds and
22 varieties, the label shall clearly indicate that the seed is assorted or mixed and the specific
23 use of the assortment or mixture shall be indicated, for example, "Cut Flower Mixture",

1 or "Rock Garden Mixture". Such statements as "General Purpose Mixture", Wonder
2 Mixture", or any other statement which fails to indicate the specific use of the seed does
3 not meet the requirements of this paragraph. Labels for containers with over 3 grams of
4 seed shall list the kind or kind and variety names of each component present in excess of
5 5% of the whole in the order of predominance giving the percentage by weight of each.
6 Components of 5% or less shall be listed but need not be in order or predominance. A
7 single percentage by weight shall be given for the combination of those components each
8 of which is 5.0% or less of the whole. If no component of a mixture exceeds 5% of the
9 whole, the statement "No component in excess of 5%" may be used. Containers with 3
10 grams of seed or less shall list the components without giving percentage by weight and
11 need not be in order of predominance.

12 (2) For seeds of plants grown for ornamental purposes other than their
13 blooms, the kind and variety shall be stated, or the kind shall be stated together with a
14 descriptive statement concerning the ornamental part of the plant, for example,
15 "Ornamental Gourds, Small Fruited, Mixed".

16 **20.14 SEED LABELER'S LICENSE.** (1) Every person whose name and address are
17 required to appear on the label of any seed as the labeler or person responsible for
18 labeling of the seed and every person who opens any bag or container of seed and sells
19 any part of the seed contained therein, shall obtain a seed labeler's license from the
20 department before selling, distributing or offering or exposing, seed for sale in this state.

21 (2) No person may sell, distribute or offer or expose for sale in this state any
22 seed not labeled by the holder of a seed labeler's license whose name and address are on
23 the label, except that no license shall be required to sell seed of one's own production if it

1 is delivered to the purchaser only on the farm premises where grown or to sell seed only
2 in bags or other closed containers labeled by the holder of a seed labeler's license. Labels
3 are not required for seed packaged at time of sale at retail by the holder of a seed labeler's
4 license if the bin or other container from which the seed is sold bears a label and the seed
5 with its labeling may be readily examined by the purchaser prior to sale. Seed sold by a
6 licensed labeler under this exception shall be considered as having been sold under his or
7 her label for purposes of computing license fees under sub. (3).

8 (3) Application for a seed labeler's license shall be submitted on a form
9 prescribed by the department and shall be accompanied by a fee based on the gross sales
10 of seed within the state by the applicant under the applicant's own label during the
11 previous 12 months prior to filing the application. Fees for a labeler's license shall be
12 computed on gross sales according to the following schedule:

13	Gross Annual Sales	Fee
14	Less than \$10,000	\$25
15	\$10,000 or greater and less than \$50,000	\$50
16	\$50,000 or greater and less than \$100,000	\$100
17	\$100,000 or greater and less than \$250,000	\$300
18	\$250,000 or greater and less than \$500,000	\$500
19	\$500,000 or greater and less than \$1,000,000	\$750
20	\$1,000,000 or greater and less than \$10,000,000	\$1,000
21	\$10,000,000 or greater and less than \$100,000,000	\$1,500
22	\$100,000,000 or greater	\$2,500

23 (4) The license fee for a new applicant or for a person who did not sell seed

1 under the applicant's own label during the previous 12 months shall be \$25 for the first
2 year or any part thereof.

3 (5) Seed labeler licenses shall expire on December 31 of each year. Licenses
4 shall not be transferable and no fee or any portion thereof shall be refunded after the
5 license has been issued.

6 **NOTE:** Copies of the application for a seed labeler's license can be obtained by
7 contacting the Seed Program at the Department of Agriculture, Trade and
8 Consumer Protection, P.O. Box 8911, Madison, WI 53708-8911 or 608-
9 224-4500 or www.datcp.state.wi.us.
10

11 **SECTION 8. EFFECTIVE DATE:** This rule takes effect on the first day of the month
12 following publication in the Wisconsin administrative register, as provided in s. 227.22
13 (2) (intro.), Stats.

Dated this _____ day of _____, _____.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By _____
Randy Romanski, Deputy Secretary