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WISCONSIN DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION

EMERGENCY RULE
DATCP Docket No. 10-R-9

The Wisconsin department of agriculture, trade and consumer protection hereby adopts the following emergency rule *to repeal and recreate* ch. ATCP 20; *relating to* seed labeling and sales.

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

The Wisconsin department of agriculture, trade and consumer protection (“DATCP”) administers Wisconsin’s seed law under ss. 94.38 to 94.46, Stats. The seed law regulates the labeling and sale of agricultural seed. The law applies to nearly all seed sold for sowing purposes, including crop seed, vegetable seed for home gardens, lawn and turf seed, flower seed and native species seed. The law does not apply to tree or shrub seeds.

The 2009 biennial budget act (2009 Wis. Act 28) made significant changes to the seed law. Act 28 repealed many outdated standards effective January 1, 2011 and authorized DATCP to establish new standards by rule.

This temporary emergency rule implements the new law, pending the adoption of “permanent” rules. This emergency rule updates Wisconsin’s seed standards to make them more consistent with federal law, current generally-accepted business practices, the model state seed law published by the association of American seed control officials, and seed testing standards published by AOSA, Inc. (the association of official seed analysts). This emergency rule is designed to protect seed purchasers, to ensure fair and accurate labeling of seed, and to ensure fair competition in the sale of seed.

This emergency rule takes effect on January 1, 2011. Pursuant to a non-statutory provision contained in 2009 Wis. Act 28, section 9103(3), this emergency rule remains in effect until July 1, 2011 or until the effective date of DATCP’s “permanent” seed rules, whichever date is sooner.

Statutes Interpreted

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

Statutory Authority

Statutory Authority: ss. 93.07(1) and 94.45(6), Stats. This emergency rule is also adopted pursuant to the nonstatutory provision in 2009 Wis. Act 28, section 9103(3).

Explanation of Statutory Authority

DATCP has general authority, under s. 93.07(1), Stats., to interpret laws under its jurisdiction. DATCP has specific authority, under ss. 94.45(6), Stats., to promulgate rules for:

- The testing, labeling, distribution and sale of agricultural seed (including crop seed, vegetable seed for home gardens, lawn and turf seed, flower seed and native species seed).
- Seed labeler licensing.
- Seed law administration.

2009 Wis. Act 28 repealed outdated seed standards effective January 1, 2011, and authorized DATCP to adopt new standards by rule. A non-statutory provision, contained in section 9103(3) of Act 28, authorized DATCP to adopt interim rules by the emergency rulemaking procedure under s. 227.24, Stats., without a finding of emergency. Under this non-statutory provision, the interim rules may remain in effect until July 1, 2011 or until the effective date of proposed

“permanent” seed rules, whichever date is earlier.

Related Rules or Statutes

The department of natural resources (“DNR”) administers rules under ch. NR 40 related to the classification and control of invasive species, including invasive plant species. DATCP administers pesticide rules under chs. ATCP 29 and 30 (including pesticides used on treated seed).

Plain Language Analysis

This rule modifies Wisconsin rules governing the sale and labeling of agricultural and vegetable seed. This rule establishes standards related to seed labels, seed germination, and seed evaluation and testing. It establishes general standards for all agricultural seeds, and specialized standards for certain kinds of seed. The standards in this rule are generally consistent with all of the following:

- The federal seed act (7 USC 1551 et. seq.) and the federal plant variety protection act (7 U.S.C. 2321 et seq.).
- Model standards contained in the *Recommended Uniform State Seed Law* (July 2007) published by the association of American seed control officials.
- Seed evaluation standards and methods prescribed in the *Rules for Seed Testing* (October 1, 2010) published by AOSA, Inc. (the association of official seed analysts).

This rule incorporates seed labeler license fees set by s. 94.43, Stats. (this rule does not change the statutory fees). This rule also creates a mechanism by which DATCP may, for good cause, grant individual variances from labeling requirements under this rule if the variance is consistent with the purposes of this rule and is necessary to avoid unfairness or unnecessary hardship.

Fiscal Impact

This rule will have no fiscal impact on state or local government. This rule incorporates, without change, seed labeler license fees set by s. 94.43, Stats.

Business Impact

This rule will promote fair competition in the seed industry, for the benefit of seed businesses and seed purchasers. It will update obsolete seed standards, and will ensure that all seed labelers use the same standards for seed labeling and analysis. It will facilitate interstate commerce by making Wisconsin standards more consistent with current standards used by the United States department of agriculture (“USDA”) and other states. This rule will not have any significant adverse impact on affected businesses.

Environmental Impact

This rule will protect the environment by helping to prevent the spread of certain noxious weed seeds. Other parts of the rule will have no environmental impact.

Federal and Surrounding State Programs

Federal Programs

USDA administers the following federal laws:

- *The federal seed act (7 USC 1551 et. seq.)*. Under the federal seed act, seed shipped in interstate commerce must be labeled with information that allows seed buyers to make informed choices. Label information must be truthful.
- *The federal plant variety protection act (7 U.S.C. 2321 et seq.)*. Under the plant variety protection act, a plant breeder may obtain a certificate of plant variety protection (similar to a patent) for a new plant variety that meets certain criteria.

This rule is consistent with these federal laws.

Surrounding State Programs

Most states, and all of the states surrounding Wisconsin, have adopted seed labeling and testing standards that are similar

to the standards under this rule.

Data and Analytical Methodologies

DATCP consulted with DNR, the university of Wisconsin–extension, and AOSA, Inc. (the association of official seed analysts) to develop the standards in this rule. DATCP also consulted with an advisory committee that included Wisconsin seed industry representatives and seed purchasers.

Standards Incorporated by Reference

This emergency rule incorporates, by reference, seed testing standards published by AOSA, Inc. (the association of official seed analysts). DATCP has requested the attorney general’s permission to incorporate these standards by reference. Copies of the standards are on file with DATCP and the legislative reference bureau, and may be obtained from AOSA, Inc.

DATCP Contact

DATCP will hold a public hearing on this rule on January 11, 2011 in Madison, Wisconsin (DATCP will publish a hearing notice in the Wisconsin administrative register). Questions and comments related to this rule, including hearing comments, may be directed to:

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SECTION 1. Chapter ATCP 20 is repealed and recreated to read:

Chapter ATCP 20

SEED LABELING AND SALE

ATCP 20.01 Definitions. In this chapter:

(1) “Agricultural seed” means any kind or mixture of kinds of plant seed, other than tree or shrub seed, which is sold, offered for sale, or displayed or distributed for sale for sowing purposes. “Agricultural seed” includes crop seed, vegetable seed, lawn or turf seed, flower seed and native species seed.

(2) “Area of origin” means the area from which seed was harvested for sale or distribution.

(3) “Coated seed” means agricultural seed that is covered with any substance that changes the size, shape or weight of the seed.

(4) “Combination seed and non-seed product” means a product, other than treated seed, inoculated seed or coated seed, that contains agricultural seed in combination with mulch, growth media, fertilizer or other materials that are directly or implicitly purported to enhance the germination, erosion resistance, ease of application or other performance characteristics of the agricultural seed.

(5) “Container” means any package, packet, bag or other receptacle in which agricultural seed is sold, offered for sale, or displayed or distributed for sale.

(6) “Department” means the Wisconsin department of agriculture, trade and consumer protection.

(7) “Dormant seed” means viable agricultural seed, other than hard seed, which fails to germinate in a germination analysis conducted according to this chapter.

(8) “Dormant seed percentage” means, for a particular kind or variety of agricultural seed, the percentage of seeds in a container or lot that are dormant seeds, as estimated by a germination analysis conducted according to this chapter.

(9) “Flower seed” means seed of herbaceous plants grown for their blooms, ornamental foliage, or other ornamental parts and commonly known and sold under the name of flower seed in this state. “Flower seed” does not include native species seed that is labeled as native species seed.

(10) “Germination” means the emergence and development from the seed embryo of those essential structures which, for the kind of seed, are indicative of the ability to produce a normal plant under favorable conditions.

(11) “Germination percentage” means, for a particular kind or variety of agricultural seed, the percentage of seeds in a container or lot that germinate under favorable germination conditions, as estimated by a germination analysis under this chapter.

(12) “Hard seed” means agricultural seed that would remain hard throughout a germination analysis conducted according to this chapter because the seed would not absorb water due to an impermeable seed coat.

(13) “Hard seed percentage” means, for a particular kind or variety of agricultural seed, the percentage of seeds in a container or lot that are hard seeds, as estimated by a germination analysis conducted according to this chapter.

(14) “Hybrid seed” means the first generation seed of a cross produced by controlling the pollination and by combining two or more inbred lines, one inbred or a single cross with an open pollinated variety or two varieties or species, except open-pollinated varieties of *zea mays* (corn). “Hybrid seed” does not include the second or subsequent generation of seed produced from a cross described in this subsection.

NOTE: A hybrid version of a named seed variety is considered a separate seed variety.

(15) “Indigenous” species means a species that is indigenous to the state of Wisconsin, as determined by the Wisconsin department of natural resources in Wisconsin department of natural resources technical bulletin number 192,

Checklist of Vascular Plants of Wisconsin (2001).

NOTE: Copies of the DNR technical bulletin number 192, *Checklist of Vascular Plants of Wisconsin (2001)*, can be obtained at <http://digital.library.wisc.edu/1711.dl/EcoNatRes.DNRBull192>, or by contacting the Wisconsin department of agriculture, trade and consumer protection (seed program) at P.O. Box 8911, Madison, WI 53708-8911, (608)224-4500 or <http://datcp.state.wi.us>.

(16) “Inert matter” means all matter that is not intact seed. “Inert matter” includes broken seeds, sterile florets, chaff, fungus bodies and stones.

(17) “Inoculated seed” means legume seed that has received an application of a bacteria culture that will effectively inoculate the legume to produce root nodulation, plant growth and nitrogen accumulation.

(18) “Kind” means seed of a particular plant species or subspecies, or 2 or more related plant species or subspecies, which are singly or collectively known by one common name such as corn, oats, alfalfa or timothy. “Kind” includes an indigenous species or subspecies.

(19) “Lawn or turf seed” means the seed of grasses, clovers or other agricultural seeds or seed mixtures that are commonly used or sold for seeding lawns, parks or turf areas in this state. “Lawn or turf seed” does not include native species seed that is labeled as native species seed.

(20) “Lot” means a specific bulk quantity of agricultural seed, or a specific aggregation of agricultural seed containers, whose seed contents are uniform throughout.

(21) “Lot code” means a number or mark that uniquely identifies a lot.

(22) “Mixture” means agricultural seed consisting of more than one kind or variety, where each kind or declared variety represents more than 5% by weight of the whole mixture.

(23) “Native species seed” means agricultural seed derived from indigenous herbaceous species.

(24) “Noxious weed seeds” includes prohibited noxious weed seeds and restricted noxious weed seeds.

(25) “Person” means an individual, corporation, partnership, limited liability company, trust or other legal entity.

(26) “Pesticide” has the meaning given in s. 94.67(25), Stats.

(27) “Prohibited noxious weed seeds” means the seeds of weeds that are highly destructive and difficult to control by good cultural practices and use of herbicides. “Prohibited noxious weed seeds” includes *convolvulus arvensis* (field bindweed), *euphorbia esula* (leafy spurge), *cirsium arvense* (canada thistle), *panicum miliaceum* (wild proso millet), *eriochloa villosa* (woolly cupgrass), *pueraria montana var. lobata* (kudzu), *polygonum perfoliatum* (mile-a-minute weed), *centaurea picris* (Russian knapweed), and *centaurea maculos* (spotted knapweed).

(28) “Pure live seed percentage” means, for a particular kind or variety of native species seed, the sum of the following multiplied by the pure seed percentage:

1. The germination percentage.

2. The hard seed percentage or dormant seed percentage, as appropriate based on the applicable seed evaluation method this chapter.

(29) “Pure seed percentage” means, for a particular kind or variety of agricultural seed, the percentage by weight of the container or lot contents that is comprised of seed of that kind or variety exclusive of inert matter and other seeds.

(30) “Restricted noxious weed seeds” means seeds of species that are objectionable, but that can be controlled by good cultural practices or use of herbicides. “Restricted noxious weed seeds” include *raphanus raphanistrum* (wild radish), *plantago lanceolata* (buckhorn), *silene alba* (white cockle), *cuscuta spp.* (dodder), *berteroa incana* (hoary alyssum), *avena fatua* (wild oat), *sinapis arvensis* (wild mustard), *agropyron repens* (quackgrass), *sonchus arvensis* (perennial sowthistle), *ambrosia trifida* (giant ragweed), and *abutilon theophrasti* (velvetleaf).

(31) “Seed evaluation” means evaluation of agricultural seed to determine seed composition, purity, germination percentage, hard seed percentage, dormant seed percentage, weed seed content, inert matter content, or other characteristics for purposes of seed labeling, regulatory compliance or enforcement under this chapter. “Seed evaluation” includes seed sampling, inspection, analysis, testing and examination. “Seed evaluation” includes evaluation by seed labelers and by the department.

(32) “Seed evaluation terminology” means the nomenclature used in seed evaluation and related seed labeling, and includes relevant connotations, conditions, limitations and tolerances related to the declaration of seed evaluation results on seed labels.

(33) “Seed labeler” means a person who holds a valid license under s. ATCP 20.18, and who accepts legal responsibility for the labeling that accompanies a container or lot of agricultural seed that is sold, offered for sale, or displayed or distributed for sale in this state.

(34) “Treated seed” means agricultural seed that is treated with a pesticide, or that is treated with another substance or process for which the seed advertising or labeling makes a performance claim.

(35) “Type” as applied to flower seed means a group of different varieties of the same kind of flower seed, where the different varieties are so nearly similar that they cannot be clearly distinguished except under special conditions or

analysis.

(36) “Uniform” means consistent in composition and characteristics that are relevant to labeling requirements under this chapter, within tolerances prescribed by the relevant seed evaluation method under this chapter for each relevant characteristic.

(37) “Variety” means a subdivision of a kind, where the subdivision is all of the following:

(a) Distinct in the sense that it can be differentiated from all other known varieties of the kind by one or more identifiable morphological, physiological or other characteristics.

(b) Uniform in the sense that variations in essential and distinctive characteristics, within the variety, are describable.

(c) Stable in the sense that the variety will remain unchanged in its essential and distinctive characteristics and in its uniformity when reproduced or reconstituted as required for different categories of varieties.

NOTE: Under the federal seed law (7 USC 1551 et. seq.), plant breeders may assign names to new plant varieties that they create. Variety names once established may not be changed. Plant breeders are not required to register variety names, but must refrain from duplicating existing variety names (the United States department agriculture offers a name searching service to determine whether a proposed name is already in use). A company or trade name may not be used as a substitute for an established variety name. Under the federal plant variety protection act (7 U.S.C. 2321 et seq.), a plant breeder may obtain a certificate of plant variety protection (similar to a patent) for a new plant variety that meets certain criteria.

(38) “Vegetable seed” means agricultural seed that is commonly used to produce vegetables or herbs in home gardens, and is generally known and sold under the name of vegetable or herb seed in this state.

(39) “Weed” means a plant that is generally recognized as objectionable within the intended crop or planting in this state.

(40) “Wild type” means a native species that is not a named variety.

ATCP 20.02 Seed evaluation and related terminology. (1) Except as otherwise provided in this chapter, agricultural seed evaluation methods and seed evaluation terminology used in agricultural seed labeling shall be consistent with applicable *Rules for Seed Testing (October 1, 2010 edition)* published by AOSA, Inc.

NOTE: AOSA, Inc. is also known as the Association of Official Seed Analysts. Copies of the *Rules for Seed Testing (October 1, 2010 edition)*, published by AOSA, Inc., are on file with the department and the legislative reference bureau. Copies may be obtained by contacting AOSA, Inc. at <http://www.aosaseed.com>.

(2) An agricultural seed sample collected by the department shall be accompanied by the label for that seed. At

the request of the department, a seed labeler shall provide a copy of the agricultural seed label to accompany each seed sample collected by the department.

ATCP 20.04 Seed labeling; general. (1) LABEL CONTENTS; GENERAL. Except as provided in subs. (3) to (5), every container or lot of agricultural seed that is sold, offered for sale, or exposed or distributed for sale in this state shall be labeled with all of the following:

(a) The name and address of the seed labeler.

(b) A net quantity declaration that complies with ss. 98.08 and 98.07, Stats. If the seed is sold in packaged form, the net quantity declaration shall comply with s. ATCP 90.08(12).

NOTE: The net quantity declaration under par. (b) is normally expressed as the total net weight of the labeled container or lot.

(c) A lot code identifying the labeled lot or, in the case of a labeled container, the source lot from which the container originates.

(d) The area of origin of the seed if the area of origin is known or if the seed is represented as native species seed. If the seed is a mixture of kinds or varieties from different areas of origin, the label shall identify the area of origin for each kind or variety declared under par. (e). The area of origin, if located in this state, may be identified by a geographic description or by the name of a political subdivision such as a county. If the seed originates from another state or country, the label shall identify that state or country.

(e) All of the following information related to the composition of the agricultural seed:

1. The name and pure seed percentage of each kind of agricultural seed that constitutes more than 5% by weight of the net contents of the container or lot. Kinds and corresponding pure seed percentages shall be listed in order of predominance based on pure seed percentage.

2. The name and pure seed percentage of each variety of agricultural seed that is declared on the seed label. If the label declares any variety of a kind, it shall declare every variety of that kind that has a pure seed percentage of more than 5%. Varieties protected by a certificate of protection under the federal plant variety protection act shall be declared. Declared varieties and corresponding pure seed percentages shall be listed in order of predominance under the kinds to which they pertain. If a container or lot includes 2 or more undeclared varieties of any kind, each of which has an undisclosed pure seed percentage of more than 5%, the label shall identify the seed of that kind as a mixture, blend or assortment and shall include the conspicuous statement **“Variety Not Stated.”**

(f) The combined total amount of all weed seeds in the container or lot, expressed as a percentage by weight of the total net contents of the container or lot. If any of the weed seeds are noxious weed seeds, the label shall also identify each component kind of noxious weed seed and its percentage by weight of the container or lot contents.

(g) The combined total amount, in the container or lot, of all agricultural seeds of kinds not declared under par. (e)1. This amount shall be expressed as a percentage by weight of the total net contents of the container or lot. The label need not identify these seeds by kind, but may describe them collectively as “other crop seeds” to distinguish them from kinds declared under par. (e)1.

(h) The combined total amount of all inert matter in the container or lot, expressed as a percentage by weight of the total net contents of the container or lot.

(i) The summation of the component percentages declared under pars. (e)1., (f), (g) and (h), which shall yield a total of 100%.

(j) The germination information described in s. ATCP 20.06(1), and the month and year in which the germination analysis used to determine that information was completed.

(k) Applicable information required under s. ATCP 20.08 if any of the seed is treated, inoculated or coated seed, or if the seed is part of a combination seed and non-seed product.

(L) Applicable information required under s. ATCP 20.10 if the label identifies any of the seed as hybrid seed.

(m) Other label information required by this chapter.

(2) FORM OF LABELING. The label information required under this section shall be attached to each container of agricultural seed, except that:

(a) The information may be provided in an invoice or other labeling document that accompanies a wholesale lot or unpackaged bulk lot of agricultural seed identified in the invoice or labeling document. If a wholesale lot includes more than one unlabeled container of agricultural seed, the wholesale lot code shall be marked on each container and the seed in each container shall conform to the labeling that accompanies the wholesale lot.

(b) If the agricultural seed is weighed and sold at retail from an open display container in the presence of the retail purchaser:

1. Label information required under this section may be disclosed on a label that is attached to the display container, provided that copies of that label are also available for purchasers to take.

2. If the seed labeler is the retail seller, the seed labeler's name and address may be disclosed on a scale ticket, sales slip or invoice provided to the retail purchaser.

3. The net content declaration under sub. (1)(b) may be disclosed on a scale ticket, sales slip or invoice provided to the retail purchaser.

(3) VEGETABLE SEED IN SMALL QUANTITIES FOR HOME USE. (a) If vegetable seed that complies with s. ATCP 20.06(3) is packaged for home use in a container with net contents of less than one pound, or in a pre-planted container, mat, tape or other planting device with net contents of less than one pound, the container or device may be labeled with one of the following in lieu of all the information required under s. ATCP 20.04(1)(f) to (j):

1. The month and year in which a germination analysis under s. ATCP 20.02 was completed on the source lot identified under sub. (1)(c).

2. The statement "Sell by *[seed labeler inserts date]*." The stated date may be no more than 12 months after the end of the month in which a germination analysis was completed on the source lot identified under sub. (1)(c).

3. A statement indicating the calendar year in which the seed is to be used. The beginning of the year may be no more than 12 months after the end of the month in which a germination analysis was completed on the source lot identified under sub. (1)(c).

(b) If the vegetable seed is packaged in a pre-planted container, or in a mat, tape or other planting device, the guaranteed minimum quantity of pure vegetable seed included in that container or planting device if that quantity cannot be readily ascertained by a prospective buyer.

(4) FLOWER SEED IN SMALL QUANTITIES FOR HOME USE. If flower seed that complies with s. ATCP 20.06(4) is packaged for home use in a container with net contents of less than one pound, or in a pre-planted container, mat, tape or other planting device with net contents of less than one pound, the container or device may be labeled with all of the following information in lieu of all the information required under s. ATCP 20.04(1)(e) to (j):

(a) Applicable information under s. ATCP 20.12 describing the composition of the flower seed.

(b) One of the following:

1. The month and year in which a germination analysis under s. ATCP 20.02 was completed on the source lot identified under sub. (1)(c).

2. The statement "Sell by *[seed labeler inserts date]*." The stated date may be no more than 12 months after the

end of the month in which a germination analysis was completed on the source lot identified under sub. (1)(c).

3. A statement indicating the calendar year in which the seed is to be used. The beginning of the year may be no more than 12 months after the end of the month in which a germination analysis was completed on the source lot identified under sub. (1)(c).

(c) If the flower seed is packaged in a pre-planted container, or in a mat, tape or other planting device, the guaranteed minimum quantity of pure flower seed included in that container or planting device if that quantity cannot be readily ascertained by a prospective buyer.

(5) NATIVE SPECIES SEED. (a) Seed may not be represented as native species seed unless it is derived from indigenous herbaceous species.

NOTE: See definitions of “indigenous” and “native species seed” in s. ATCP 20.01(15) and (23).

(b) A container or lot of native species seed shall be labeled with the scientific species or subspecies name corresponding to each kind or variety of native species seed declared under sub. (1)(e).

(c) A native species seed label may, for each declared kind and each declared variety of native species seed, state the pure live seed percentage in lieu of the germination information under s. ATCP 20.06(1).

(d) Native species seed germination analysis shall be performed by means of a procedure prescribed under s. ATCP 20.02 or by means of tetrazolium analysis. If tetrazolium analysis is used, germination information on the seed label shall be accompanied by the word “Untested.”

(e) If native species seed is packaged for home use in a container with net contents of less than one pound, or in a pre-planted container, mat, tape or other planting device with net contents of less than one pound, the container or device may be labeled with one of the following in lieu of all the information required under s. ATCP 20.04(1)(f) to (j):

1. The month and year in which a germination analysis under par. (c) was completed on the source lot identified under sub. (1)(c).

2. The statement “Sell by [*seed labeler inserts date*].” The stated date may be no more than 12 months after the end of the month in which a germination analysis under par. (c) was completed on the source lot identified under sub. (1)(c).

3. A statement indicating the calendar year in which the seed is to be used. The beginning of the year may be no more than 12 months after the end of the month in which a germination analysis under par. (c) was completed on the

source lot identified under sub. (1)(c).

(f) If the native species seed is packaged in a pre-planted container, or in a mat, tape or other planting device, the guaranteed minimum quantity of pure native species seed included in that container or planting device if that quantity cannot be readily ascertained by a prospective buyer.

ATCP 20.06 Seed germination; labeling, analysis and standards. (1) LABEL INFORMATION. A seed label that is required to include germination information under s. ATCP 20.04(1)(j) shall state the following percentages for each declared kind and each declared variety of seed:

(a) The germination percentage.

(b) The hard seed percentage or dormant seed percentage, as appropriate based on the applicable test method under s. ATCP 20.02.

(2) GERMINATION ANALYSIS; EXPIRATION. (a) Except as provided in par. (b):

1. The label information under sub. (1) shall be based on a seed germination analysis under s. ATCP 20.02 that is completed within the 12-month period immediately preceding the month in which the seed is sold, offered for sale, or displayed or distributed for sale, except that for lawn or turf seed the label information may be based on a seed germination analysis under s. ATCP 20.02 that is completed within the 15-month period immediately preceding the month in which the seed is sold, offered for sale, or displayed or distributed for sale.

2. Seed on which a germination analysis under subd. 1 has expired may be relabeled with the results of a new germination analysis that complies with subd. 1.

(b) If seed is packaged in a hermetically sealed container as provided in sub. (5), the label information under sub. (1) may be based on a germination analysis under s. ATCP 20.02 that is completed within the 36-month period immediately preceding the month in which the seed is sold, offered for sale, or displayed or distributed for sale. Seed on which a germination analysis under this paragraph has expired may not be sold, offered for sale, or displayed or distributed for sale unless it has been retested within the 9-month period immediately preceding month in which it is sold, offered for sale, or displayed or distributed for sale, and is re-labeled with the new analysis results and extended expiration date.

(c) A person holding seed on which the germination analysis is no longer valid under this subsection shall withdraw the seed from sale and shall identify it as expired seed until it has been re-analyzed and relabeled by the seed

labeler identified on the new label.

(3) GERMINATION STANDARDS FOR VEGETABLE SEED. (a) Except as provided in par. (b), the germination percentage for each kind of vegetable seed shall be at least equal to the applicable percentage specified in Table 1.

(b) If the germination percentage for any kind of vegetable seed is less than the applicable percentage specified in Table 1, the vegetable seed shall be labeled with the actual germination percentage and the conspicuous words “**Below Standard**” in not less than 8-point type.

Table 1
GERMINATION STANDARDS FOR VEGETABLE SEED

Seed Kind	Percent
Anise	50
Artichoke	60
Asparagus	70
<u>Asparagusbean</u>	75
Basil, Sweet	70
Bean, Garden	70
Bean, Lima	70
Bean, Runner	75
Beet	65
Broadbean	75
Broccoli	75
Brussel Sprouts	70
Burdock, Great	60
Cabbage	75
Cabbage, Tronchuda	70
Cantaloupe	75
Caraway	55
Cardoon	60
Carrot	55
Cauliflower	75
Celeraic	55
Celery	55
Chard, Swiss	65
Chervil, Salad	65
Chicory	65
Chinese Cabbage	75
Chives	50
Citron	65
Collards	80
Coriander	70
Corn, Pop	75
Corn, Sweet	75
Cornsalad	70

Cowpea	75
Cress, Garden	75
Cress, Upland	60
Cress, Water	40
Cucumber	80
Dandelion	60
Eggplant	60
Endive	70
Fennel, Florence	60
Fennel, Sweet	50
Kale	75
Kale, Chinese	75
Kale, Siberian	75
Kohlrabi	75
Leek	60
Lettuce	80
Muskmelon	75
Marjoram, Sweet	50
Mustard	75
Mustard, Spinach	75
Okra	50
Onion	70
Onion, Welsh	70
Oregano	60
Pak-Choi	75
Parsley	60
Parsnip	60
Pea	80
Peanut	60
Pepper	55
Pumpkin	75
Radish	75
Rhubarb	60
Roquette	60
Rosemary	30
Rutabaga	75
Sage	60
Salsify	75
Savory, Summer	55
Sorrel	65
Soybean	75
Spinach	60
Spinach, New Zealand	40
Squash	75
Thyme	50
Tomato	75
Tomato, Husk	50
Turnip	80
Watermelon	70
All Other Kinds	50

(4) GERMINATION STANDARDS FOR FLOWER SEED. (a) Except as provided in par. (b) or (c), the germination percentage for each kind of flower seed, as determined by an analysis under s. ATCP 20.02, shall be at least equal to the applicable percentage specified in Table 2. When calculating the germination percentage for a kind of flower seed marked with an asterisk in Table 2, hard seeds may be counted as if they were germinated seeds.

(b) Except as provided in par. (c), if the germination percentage for any kind of flower seed is less than the applicable minimum percentage specified in Table 1, the flower seed shall be labeled with the actual germination percentage and the conspicuous words “**Below Standard**” in not less than 8-point type.

(c) If flower seed is of a kind that is not specifically identified in Table 1, and is of a kind for which no standard germination analysis is prescribed under s. ATCP 20.02, the flower seed may be labeled with the year of collection and the word “**Untested.**”

Table 2
GERMINATION STANDARDS FOR FLOWER SEED

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

Calceolaria - Calceolaria spp	60
Calendula - Calendula officinalis	65
California Poppy - Eschscholtzia californica	60
Calliopsis - Coreopsis bicolor, C. drummondii, C. elegans	65
Campanula:	
Canterbury Bells - Campanula medium	60
Cup and Saucer Bellflower - Campanula medium calycanthema.	60
Carpathian Bellflower - Campanula carpatica	50
Peach Bellflower - Campanula persicifolia	50
Candytuft, Annual - Iberis amara, I. umbellata	65
Candytuft, Perennial - Iberis gibraltarica, I. sempervirens	55
Castor Bean - Ricinus communis	60
Cathedral Bells - Cobaea scandens	65
Celosia - Celosia argentea	65
Centaurea: Basket Flower - Centaurea americana, Cornflower - C. cyanus, Dusty Miller - C. candidissima, Royal Centaurea - C. imperialis Sweet Sultan - C. moschata, Velvet Centaurea - C. gymnocarpa	60
Cerasium (snow-in-summer) Cerastium biebersteini and C. tomentosum	65
Chinese Forget-me-not - Cynoglossum amabile	55
Chrysanthemum, Annual - Chrysanthemum carinatum, C. coronarium, C. segetum	50
Cineraria - Senecio cruentus	60
Clarkia - Clarkia elegans	65
Cleome - Cleome gigantea	65
Coleus - Coleus blumei	65
Columbine - Aquilegia spp.	50
Coral Bells - Heuchera sanguinea	55
Coreopsis, Perennial - Coreopsis lanceolata	40
Corn, ornamental - Zea mays	75
Cosmos: Sensation, Mammoth and Crested types - Cosmos bipinnatus; Klondyke type - C. sulphurea	65
Crossandra - (Crossandra infundibuliformis)	50
Dahlia - Dahlia spp	55
Daylily - Hemerocallis spp	45
Delphinium, Perennial- Belladonna and Bellamosum types; Cardinal Larkspur - Delphinium cardinale; Chinensis types; Pacific Giant, Gold Medal and other hybrids of D. elatum	55
Dianthus:	
Carnation - Dianthus caryophyllus	60
China Pinks - Dianthus chinensis, heddewigi, heddensis	70
Grass Pinks - Dianthus plumarius	60
Maiden Pinks - Dianthus deltoids	60
Sweet William - Dianthus barbatus	70
Sweet Wivelsfield - Dianthus allwoodii	60
Didiscus - (blue lace flower) - Didiscus coerulea	65
Doronicum (leopard's bane) - Doronicum caucasicum	60
Dracaena - Dracaena indivisa	55
Dragon Tree - Dracaena draco	40
English Daisy - Bellis perennis	55
Flowering Maple - Abutilon spp	35
Flax - Golden flax (Linum flavum); Flowering flax L. randiflorum; Perennial flax, L. perenne	60
Foxglove - Digitalis spp	60

Gaillardia, Annual - Gaillardia pulchella; G. picta; Perennial - G. grandiflora	45
Gerbera (transvaal daisy) - Gerbera jamesoni	60
Geum - Geum spp	55
Gilia - Gilia spp	65
Gloriosa daisy (rudbeckia) - Echinacea purpurea and Rudbeckia hirta	60
Gloxinia - (Sinningia speciosa)	40
Godetia - Godetia amoena, G. grandiflora	65
Gourds: Yellow Flowered - Cucurbita pepo; White Flowered – Lagenaria sisceraria; Dishcloth - Luffa cylindrical	70
Gypsophila: Annual Baby's Breath - Gypsophilla elegans; Perennial Baby's Breath - G. paniculata, G. pacifica G. repens	70
Helenium - Helenium autumnale	40
Helichrysum - Helichrysum monstrosum	60
Heliopsis - Heliopsis scabra	55
Heliotrope - Heliotropium spp.	35
Helipterum (Acroclinium) Helipterum roseum	60
Hesperis (sweet rocket) - Hesperis matronalis	65
*Hollyhock - Althea rosea	65
Hunnemania (mexican tulip poppy) - Hunnemania fumariaefolia	60
Hyacinh bean - Dolichos lablab	70
Impatiens - Impatiens hostii, I. sultani	55
*Ipomea - Cypress Vine - Ipomea quamoclit; Moonflower – I. noctiflora; Morning Glories, Cardinal Climber, Hearts and Honey Vine - Ipomea spp	75
Jerusalem cross (maltese cross) - Lychnis chalcedonica	70
Job's Tears - Coix lacrymajobi	70
Kochia - Kochia childsi	55
Larkspur, Annual - Delphinium ajacis	60
Lantana - Lantana camara, L. hybrid	35
Lilium (regal lily) - Lilium regale	50
Linaria - Linaria spp	65
Lobelia, Annual - Lobelia erinus	65
Lunaria, Annual - Lunaria annua	65
*Lupine - Lupinus spp	65
Marigold - Tagetes spp	65
Marvel of Peru - Mirabilis jalapa	60
Matricaria (feverfew) - Matricaria spp	60
Mignonette - Reseda odorata	55
Myosotis - Myosotis alpestris, M. oblongata, M. palustris	50
Nasturtium - Tropaeolum spp	60
Nemesia - Nemesia spp	65
Nemophila - Nemophila insignis	70
Nemophila, spotted - Nemophila maculate	60
Nicotiana - Nicotiana affinis, N. sanderae, N. sylvestris	65
Nierembergia - Nierembergia spp	55
Nigella - Nigella damascene	55
Pansy - Viola tricolor	60
Penstemon - Penstemon barbatus, P. grandiflorus, P. laevigatus, P. pubescens.	60
Petunia - Petunia spp	45
Phacelia - Phacelia campanularia, P. minor, P. tanacetifolia	65
Phox, Annual - Phlox drummondi all types and varieties	55
Physalis - Physalis spp	60
Platycodon (balloon flower) - Platycodon grandiflorum	60

Plumbago, cape - <i>Plumbago capensis</i>	50
Ponytail - <i>Beaucarnea recurvata</i>	40
Poppy: Shirley Poppy - <i>Papaver rhoeas</i> ; Iceland Poppy - <i>P. nudicaule</i> ; Oriental Poppy - <i>P. orientale</i> ; Tulip Poppy - <i>P. glaucum</i>	60
Portulace - <i>Portulaca grandiflora</i>	55
Primula (primrose) - <i>Primula</i> spp	50
Pyrethrum (painted daisy) - <i>Pyrethrum coccineum</i>	60
Salpiglossis - <i>Salpiglossis gloxinaeflora</i> , <i>S. sinuate</i>	60
Salvia - Scarlet Sage - <i>Salvia splendens</i> ; Mealycup Sage (blue bedder) – <i>Salvia farinacea</i>	50
Saponaria - <i>Saponaria ocymoides</i> , <i>S. vaccaria</i>	60
Scabiosa, Annual - <i>Scabiosa atropurpurea</i>	50
Scabiosa, Perennial - <i>Scabiosa caucasica</i>	40
Schizanthus - <i>Schizanthus</i> spp	60
*Sensitive pant (mimosa) - <i>Mimosa pudica</i>	65
Shasta Daisy - <i>Chrysanthemum maximum</i> C. <i>leucanthemum</i>	65
Silk Oak - <i>Grevillea robusta</i>	25
Snapdragon - <i>Antirrhinum</i> spp	55
Solanum - <i>Solanum</i> spp	60
Statice - <i>Statice sinuata</i> , <i>S. suworonii</i> (flower heads)	50
Stocks: Common - <i>Mathiola incana</i> ; Evening Scented - <i>Mathiola bicornis</i>	65
Sunflower - <i>Helianthus</i> spp	70
Sunrose - <i>Helianthemum</i> spp	30
*Sweet Pea, Annual and Perennial other than dwarf bush - <i>Lathyrus odoratus</i> , <i>L. latifolius</i>	75
*Sweet Pea, dwarf bush - <i>Lathyrus odoratus</i>	65
Tahoka daisy - <i>Machaeathera tanacetifolia</i>	60
Thunbergia - <i>Thunbergia alata</i>	60
Torch Flower - <i>Tithonia speciosa</i>	70
Torenia (wishbone flower) - <i>Torenia fournieri</i>	70
Tritoma Kniphofia spp	65
Verbena, Annual - <i>Verbena</i> hybrid	35
Vinca - <i>Vinca rosea</i>	60
Viola - <i>Viola cornuta</i>	55
Virginian stocks - <i>Malcolmia maritime</i>	65
Wallflower - <i>Cheiranthus allioni</i>	65
Yucca (Adam's needle) - <i>Yucca filamentosa</i>	50
Zinna (except Linearis and Creeping) - <i>Zinnia angustifolia</i> , <i>Z. elegans</i> , <i>Z. grandiflora</i> , <i>Z. gracillima</i> , <i>Z. haegeana</i> , <i>Z. multiflora</i> , <i>Z. pumila</i>	65
Zinnia, Linearis and Creeping - <i>Zinnia linearis</i> , <i>Sanvitalia procumbens</i>	50
All Other Kinds	50

(5) SEED PACKAGED IN HERMETICALLY SEALED CONTAINERS. Seed is deemed to be packaged in a hermetically sealed container for purposes of sub. (2)(b) if all of the following apply:

(a) The seed was subjected to a germination analysis under s. ATCP 20.02 and packaged within 9 months after harvest.

(b) The seed is packaged in a sealed container that does not allow water vapor penetration, through any wall or seal, greater than 0.05 grams of water per 24 hours per 100 square inches of surface at 100 degrees Fahrenheit with a relative humidity on one side of 90% and on the other side of 0%.

(c) The container under par. (b) is conspicuously labeled to indicate all of the following:

1. The container is hermetically sealed.
2. The seed in the container has been preconditioned as to moisture content.

(d) The moisture content of the seed, as packaged in the container under par. (b), does not exceed the applicable percentage by weight of moisture specified for that seed in Table 3.

Table 3

**PERCENT MOISTURE OF SEED PACKED
IN HERMETICALLY SEALED CONTAINER**

Non-Vegetable Seed	% Moisture
Beet, field	7.5%
Beet, sugar	7.5%
Bluegrass, Kentucky	6.0%
Fescue, red	8.0%
Ryegrass, annual	8.0%
Ryegrass, perennial	8.0%
Other non-vegetable	6.0%
Vegetable Seed	% Moisture
Bean, garden	7.0%
Bean, lima	7.0%
Beet	7.5%
Broccoli	5.0%
Brussel Sprouts	5.0%
Cabbage	5.0%
Carrot	5.0%
Cauliflower	5.0%
Celeraic	7.0%
Celery	7.0%
Chard, Swiss	7.5%
Chinese cabbage	5.0%
Chives	6.5%
Collards	5.0%
Corn, sweet	8.0%
Cucumber	6.0%
Eggplant	6.0%
Kale	5.0%
Kohlrabi	5.0%
Leek	6.5%

Lettuce	5.5%
Muskmelon	6.0%
Mustard, India	5.0%
Onion	6.5%
Onion, Welsh	6.5%
Parsley	6.5%
Parsnip	6.0%
Pea	7.0%
Pepper	4.5%
Pumpkin	6.0%
Radish	5.0%
Rutabaga	5.0%
Spinach	8.0%
Squash	6.0%
Tomato	5.5%
Turnip	5.0%
Watermelon	6.5%
All other vegetable	6.0%

ATCP 20.08 Treated seed, inoculated seed, coated seed and combination products; labeling. (1) TREATED

SEED. A container or lot of treated agricultural seed shall be labeled with all of the following, in addition to any other label information required under this chapter:

(a) A conspicuous disclosure that the seed has been treated.

(b) The name of the substance used to treat the seed, or a description of the treatment used. The label may use the commonly-accepted name, chemical name, or abbreviated chemical (generic) name of the substance used to treat the seed.

(c) If the seed is treated with a pesticide, all signal words and precautionary statements required for that pesticide under 40 CFR 156.72.

(2) INOCULATED SEED. A container or lot of inoculated agricultural seed shall be labeled with, in addition to any other label information required under this chapter, the date beyond which the inoculant is no longer warranted to be effective.

(3) COATED SEED. (a) A container or lot of coated seed shall be labeled with all of the following information, in addition to any other information required under this chapter:

1. The percentage by weight of the container or lot content that is pure seed, exclusive of coating material.
2. The percentage by weight of the container or lot content that is coating material.
3. The percentage by weight of the container or lot content that is inert material other than coating material.

(b) For coated seed, the information under s. ATCP 20.06(1) shall be based on a germination analysis of at least 400 coated pellets that may contain seeds, regardless of whether those pellets actually contain seeds.

(4) COMBINATION SEED AND NON-SEED PRODUCTS; LABELING. Each container or lot of combination seed and non-seed product shall be conspicuously labeled to disclose, in addition to any other labeling required under this chapter, the nature and composition of the product. The label shall describe each type of non-seed material included in the product, and shall disclose the respective percentages by weight of seed and non-seed materials. The product label may not be deceptive or misleading, and may not contain any false information or unsubstantiated performance claims.

ATCP 20.10 Hybrid seed labeling. (1) SEED LABELED AS HYBRID SEED. If, in any container or lot of agricultural seed, at least 75% of the seeds of any kind or variety declared on the seed label are hybrid seeds, the label shall identify that kind or variety as hybrid seed. If less than 75% of the seeds of a declared kind or variety are hybrid seeds, the label may not identify that kind or variety as hybrid seed.

(2) HYBRID PERCENTAGE DECLARED. If a seed label identifies a declared kind or variety of agricultural seed as hybrid seed, but less than 95% of the seeds of that kind or variety in the container or lot are hybrid seeds, the label shall declare the actual percentage of hybrid seeds. The label shall declare that percentage in parenthesis following the name of the kind or variety.

(3) HYBRID CONSIDERED SEPARATE VARIETY. A hybrid version of a named seed variety is, for purposes of this chapter, a separate seed variety that shall be identified by a distinct variety name.

ATCP 20.12 Flower seed in small containers; composition. The flower seed label information required under s. ATCP 20.04(4)(a) shall include all of the following as applicable:

(1) PLANTS GROWN FOR BLOOMS. Flower seed used to grow plants primarily for their blooms shall be labeled as follows:

(a) If the seed is for a single variety of plant, the label shall declare both the plant kind and the variety.

NOTE: A declaration under par. (a) might say, for example, “Marigold, Butterball.”

(b) If the seed is for plants of a single type and bloom color, the label shall declare the kind, type and bloom color.

NOTE: A declaration under par. (b) might say, for example, “Scabiosa, Tall, Large Flowered, Double, Pink.”

(c) If the seed is for assorted colors or types of a single kind of plant, the label shall declare the kind, colors and types, and shall disclose that the seed is mixed or assorted.

NOTE: A declaration under par. (c) might say, for example, “Marigold, Dwarf Double French, Mixed Colors.”

(d) If the seed is for a mixture or assortment of kinds or varieties, the label shall indicate that the seed is a mixture or assortment, and shall identify a specific intended use of the mixture or assortment.

NOTE: A declaration under par. (d) might say, for example, “Cut Flower Mixture,” or “Rock Garden Assortment.” Statements such as “General Purpose Assortment” or “Wonder Mixture” that fail to indicate a specific intended use do not comply with par. (d).

(e) The composition of a seed mixture or assortment under par. (d) shall be declared as follows, if the seed mixture or assortment is packaged in a container that has net contents of more than 3 grams:

1. The label shall list the name and pure seed percentage of each component kind and each component variety of seed that has a pure seed percentage of more than 5%. Kinds and corresponding pure seed percentages shall be listed in order of predominance by pure seed percentage. Varieties and corresponding pure seed percentages shall be listed in order of predominance under the kind to which they pertain.

2. The label shall identify component kinds and varieties that have pure seed percentages of 5% or less, but need not declare their individual pure seed percentages or list them in order of predominance. The label shall declare the sum of the pure seed percentages of these component kinds and varieties except that, if no component kind or variety in the container has a pure seed percentage of more than 5%, the label may include the statement “**No component in excess of 5%**” in lieu of the sum of the pure seed percentages.

(f) If a seed mixture or assortment under par. (d) is packaged in a container with net contents of 3 grams or less, the label shall identify all of the component kinds and varieties but need not identify their pure seed percentages or list them in order of predominance.

(2) PLANTS GROWN FOR ORNAMENTAL FEATURES OTHER THAN BLOOMS. (a) Except as provided in par. (b), flower seed used to grow plants primarily for ornamental features other than blooms shall be labeled with the name and pure seed percentage of each kind and each variety of flower seed that comprises more than 5% by weight of the seed container contents.

(b) If a container includes assorted varieties of a kind, the container need not declare the individual varieties if it does all of the following:

1. Identifies the kind.
2. Identifies the declared kind as being a mixture, blend or assortment.
3. Describes the common ornamental feature of the varieties comprising the mixture, blend or assortment.

NOTE: For example, a label under par. (b) might describe a mixture of ornamental gourd seeds (seed kind) as “Ornamental Gourds, Small Fruited, Mixed.”

ATCP 20.14 Prohibited practices. No seed labeler or seller of agricultural seed may do any of the following:

(1) Sell, offer for sale, or display or distribute for sale in this state any agricultural seed that is not labeled according to this chapter, or that is accompanied by any false, deceptive or misleading labeling.

(2) Make any unsubstantiated content or performance claim for agricultural seed.

(3) Make any representation in connection with the advertising, promotion, offering for sale, or sale of any agricultural seed that is false, deceptive or misleading.

(4) Sell, offer for sale, or display or distribute for sale in this state any agricultural seed that contains any of the following:

(a) Any prohibited noxious weed seeds.

(b) Weeds seeds that collectively constitute more than 0.50% of the seed container contents by weight.

(5) Add any foreign material, other than the following materials, to any agricultural seed that is sold, offered for sale, or displayed or distributed for sale in this state:

(a) Treatment materials used to produce treated seed that is properly labeled under s. ATCP 20.08(1).

(b) Inoculents used to produce inoculated seed that is properly labeled under s. ATCP 20.08(2).

(c) Coating materials used to produce coated seed that is properly labeled under s. ATCP 20.08(3).

(d) Mulch, growth media, fertilizer or other materials used to produce combination seed and non-seed products that are properly labeled under s. ATCP 20.08(4).

ATCP 20.16 Labeling variances. The department may grant a variance from a labeling requirement under this chapter if the department finds that the variance is consistent with the purposes of this chapter, is consistent with other state and federal law, and is necessary to avoid unfairness or unnecessary hardship. A variance shall be issued in writing. The variance shall clearly describe the terms and conditions of the variance, and shall explain the department’s reasons for granting the variance.

ATCP 20.18 Seed labeler license. (1) REQUIREMENT. No person may act as a seed labeler unless that person

holds a valid annual license from the department under s. 94.43, Stats. An annual license expires on December 31. A license is not transferable.

(2) LICENSE APPLICATION. A person shall apply for a license under sub. (1) on a form provided by the department. The application shall include all of the following:

- (a) The correct legal name of the applicant, as it will appear on seed labels.
- (b) The applicant's principal business address.
- (c) The applicant's gross sales of seed in this state, if any, under the applicant's label

in the 12 months immediately preceding the date of application.

- (d) Other information reasonably required by the department for licensing purpose.
- (e) The license fee required under sub. (3).

(3) LICENSE FEE. A license application under sub. (2) shall include the following fee based on the gross sales reported under sub. (2)(c) or, if no sales are reported under sub. (2)(c), a fee of \$25:

- (a) \$25 for gross sales of less than \$10,000.
- (b) \$50 for gross sales of at least \$10,000 but less than \$50,000.
- (c) \$100 for gross sales of at least \$50,000 but less than \$100,000.
- (d) \$300 for gross sales of at least \$100,000 but less than \$250,000.
- (e) \$500 for gross sales of at least \$250,000 but less than \$500,000.
- (f) \$750 for gross sales of at least \$500,000 but less than \$1 million.
- (g) \$1,000 for gross sales of at least \$1 million but less than \$10 million.
- (h) \$1,500 for gross sales of at least \$10 million but less than \$100 million.
- (i) \$2,500 for gross sales of at least \$100 million.

NOTE: License application forms may be obtained by contacting the Seed Program at the Department of Agriculture, Trade and Consumer Protection, P.O. Box 8911, Madison, WI 53708-8911 or at (608)224-4500 or at www.datcp.state.wi.us.

SECTION 2. EFFECTIVE DATE: This emergency rule takes effect on January 1, 2011 and remains in effect until July 1, 2011 or until the date on which the department's permanent rules related to this matter take effect, whichever is sooner, as provided by 2009 Wis. Act 28, section 91.03(3).

Dated this _____ day of _____, _____.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By _____
Randy Romanski, Secretary