

Title 2. Agriculture

Chapter II. State Plant Board, Department of Agriculture

Subchapter A. Generally

Part 33. Rules on the Sale of Planting Seed in Arkansas

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"APPROVED AND ISSUED BY:

ARKANSAS STATE PLANT BOARD UNDER AUTHORITY OF A. C. A. 1987 SECTIONS 2-16-207 AND 2-16-209 REVISED JUNE 2014

RULES ON THE SALE OF PLANTING SEED IN ARKANSAS

As approved and effective June 2014. Address communications to State Plant Board, 1 Natural Resources Drive, Little Rock, Arkansas 72205.

THE SEED RULES

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

Subpart 1. Generally

2 CAR § 33-101. Definitions.

When used in this part:

(1) "Advertisement" means all representations, other than those on the label, disseminated in any manner or by any means relating to seed within the scope of this part;

(2) "Agricultural seed" includes:

(A) The seeds of grass, forage, cereal, and fiber crops;

(B) Any other kinds of seeds commonly recognized within this state as agricultural seeds; and

(C) Mixtures of such seeds;

(3) "Brand" means a word, mark, or picture representing a trademark, or a term taken from a trademark, which indicates the owner, originator, or labeler of the seed and does not indicate the genetic identity of the seed;

(4) "Certified seed", "registered seed", and "foundation seed" mean seed that has been produced and labeled in accordance with the procedures and in compliance with the rules and regulations of an officially-recognized seed certifying agency or association;

(5)(A) "Hybrid seed corn", as applied to field corn, means the first generation seed of a cross made under controlled conditions between different strains and involving two (2) or more inbred lines of corn.

(B) For purposes of labeling, the number or other designations of hybrid corn shall be used as a variety name;

(6)(A) "Hybrid sorghum" means the first generation hybrid produced by controlling the pollination between a male sterile line and a pollen restoring line.

(B) "Controlling the pollination" means to use a method of hybridization which will produce pure seed of hybrid grain sorghum which is at least ninety-five percent (95%) hybrid seed;

(7) "Kind" means one or more related species or subspecies which singly or collectively is known by one common name, for example:

(A) Corn;

(B) Wheat;

(C) Alfalfa; and

(D) Tall fescue;

(8) "Labeling" includes all labels and other written, printed, or graphic representations, in any manner whatsoever, accompanying and pertaining to any seed whether bulk, or in containers, and includes representations on invoices;

(9) "Lot" means a definite quantity of seed identified by a lot number or other mark, every portion or bag of which is uniform within recognized tolerances for the factors which appear in the labeling;

(10) "Person" includes any:

- (A) Individual;
- (B) Partnership;
- (C) Corporation;
- (D) Company;
- (E) Society; or
- (F) Association;

(11) "Record" includes:

(A) All information relating to:

- (i) Lot;
- (ii) Identification;
- (iii) Source;
- (iv) Origin;
- (v) Variety;
- (vi) Amount;
- (vii) Processing;
- (viii) Testing; and
- (ix) Labeling; and

(B) Invoices with a lot number;

(12) "Registered seed technologist" means a seed technologist who has attained registered membership in the Society of Commercial Seed Technologists through qualifying tests and experiences as required by this society;

(13) "Stop-sale" means an administrative order restraining the sale, use, disposition, and movement of a definite amount of seed;

(14)(A) "Treated seed" means seed that has been treated with a substance designed to control or repel plant disease organisms, insects, or other pests attacking such seed or plants therefrom, or will otherwise improve the planting value of the seed.

(B) **Exception.** Fumigants or grain protectants that leave no residues toxic to warm-blooded animals (Synergized pyrethins) are not covered by this part;

(15) "Variety" means a subdivision of a kind characterized by growth, yield, plant, fruit, seed, or other characteristics by which it can be differentiated from other plants of the same kind; and

(16) "Weed seed" includes the seeds, or structures normally considered as seeds, of all plants generally recognized as weeds within this state and includes noxious weed seeds.

Authority. Arkansas Code § 2-16-207.

2 CAR § 33-102. Licensing — Reporting — Labeling.

(a) Licensing.

(1)(A)(i)(a) Any person who sells, offers for sale, or distributes agricultural* seed for planting purposes within the state, or who sells or distributes agricultural seed into the state for planting purposes, shall have in force a valid license for such purpose from the State Plant Board, and such seed shall be labeled in accordance with this part.

(b) Agricultural seed shall be considered to include, in addition to the kinds covered in the section on definitions, garden and lima bean, spinach, mustard, turnip, and garden pea seed when in containers of twenty-five pounds (25 lbs.) or more.

(ii) Licenses shall be issued on an annual basis covering the period July 1 through June 30.

(iii) Applications for securing a license may be obtained from the board.

(B) Note:

(i) Companies with subsidiaries with different names must have a separate license for each name (if seed labeled from that location is distributed into or within Arkansas); and

(ii)(a) Companies with subsidiaries with the same name may use their license to cover more than one (1) location, provided they have the ability to report seed sales into or within Arkansas for each location and accept responsibility for any fees or violations made at each location.

(b) However, companies with subsidiary locations that sell within or into Arkansas agricultural seed for planting field crops such as rice, soybeans, and small grains, etc., must register each location and pay required registration fees, see 2 CAR § 33-105, Fees and services.

(2) Exceptions.

(A)(i) A license is not required for a person who offers for sale, sells, or distributes his or her own production of Arkansas-certified seed which must be bagged and tagged.

(ii) Applies to certified seed producers of one hundred (100) acres or less.

(B) A license is not required for a person who offers for sale, sells, or distributes only seed that has been sampled, tested, and for which labels have been completely printed by the board.

(C) A license is not required for a person who offers for sale, sells, or distributes only seed obtained from a licensed seedsman which is in full compliance with this part and on which the tonnage fee is paid by a licensed seedsman.

(3) Failure of a licensee to observe this part, file required reports, or pay fees required shall be grounds for cancellation of the license by the board.

(b) Tonnage fees.

(1)(A) All agricultural seed distributed or sold, whether in bulk or in containers, within or into Arkansas for planting purposes shall have a tonnage fee paid on it to the board, see Section 5. Fees.

(B) The tonnage fee shall be due on the total pounds of first sales distributions by the originating licensee.

(2) Exceptions.

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

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

(C) The tonnage fee may be paid by either the permit label system or by the reporting system:

(i)(a) Permit label system.

(b) All seed must be in containers.

(c) Bulk bags are not eligible to be used under the permit label system.

(d) Permit labels are purchased from the board and attached to each container, see 2 CAR § 33-105, Fees and services; and

(ii)(a) Reporting system.

(b) Seed may be in:

(1) Containers;

(2) Bulk; or

(3) Both.

(c)(1) A report is filed with the board each quarter on forms furnished by the board covering all seed sold within or into Arkansas not carrying a board label.

(2)(A) Reports and fees due shall be filed with the board no later than thirty (30) days following the end of each quarter.

(B) First quarter begins July 1 and ends September 30.

(C) Second quarter begins October 1 and ends
December 31.

(D) Third quarter begins January 1 and ends March 31.

(E) Fourth quarter begins April 1 and ends June 30.

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

(4) The board may assess a ten percent (10%) additional charge for late reports.

(D)(i) Any person who sells, offers for sale, or distributes agricultural seed for planting purposes within the state, or who sells or distributes agricultural seed into the state in containers only, has the option of using the reporting system, as outlined above, or he or she may elect to purchase Arkansas permit labels and attach one to each container of such seed not previously accounted for by another licensee.

(ii) This option would be indicated at the time application is filed for a license.

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

(F) The board or its representative is authorized to inspect the records, during normal business hours, of any person subject to compliance with this part.

(c) Labeling.

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

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

(A) The seedsman's or vendor's name and address;

(B)(i) The kind and variety of seed, or if variety is not listed, so state "Variety Not Stated."

(ii) **Note.** See subsection (d) of this section for kinds required to be labeled by variety name;

(C) The lot number;
(D) The state in which the seed was grown, or if unknown, a statement to that effect;

(E) The year grown for certified cotton;

(F) The percentage of pure seed;

(G) The percentage of weed seed, including noxious weeds;

(H) The percentage of other crop;

(I) The percentage of inert matter;

(J) The percentage of germination, exclusive of hard seed, and percentage of hard seed, if present;

(K)(i) The date the germination test was completed, given by month and year.

(ii) The test is valid for nine (9) months, not including the month the seed was tested;

(L) Net weight of contents, with the exception of corn, which may be on the label or bag in the vicinity of the label;

(M)(i) Any tall fescue offered for sale in Arkansas, certified or noncertified, must have shown on the tag that the seed contains ryegrass, if any, and the amount given in percentage.

(ii) If no ryegrass is found in the sample, the tag shall state, "No Ryegrass Found".

(iii) **Note.** Experiments have shown that if fescue seed contains as little as five-tenths percent (.5%) ryegrass seed, the first year's crop may contain as much as twenty-five percent (25%) ryegrass heads; and

(N)(i) Name and number of noxious weed seeds present per pound, or if none are present, a statement to that effect, the noxious weeds being as follows:

(a) Balloonvine (*Cardiospermum halicacabum*);

(b) Bermudagrass (*Cynodon dactylon*);

(c) Blueweed (*Helianthus ciliaris*);

(d) Buckhorn plantain (*Plantago lanceolata*);

(e) Cheat or chess (*Bromus secalinus* and/or *Bromus commutatus*);

(f) Cocklebur (*Xanthium spp.*);

(g) Corncockle (*Agrostemma githago*);

(h) Crotalaria (*Crotalaria spp.*);

(i) Darnel (*Lolium temulentum*);

(j) Dock and/or sorrel (*Rumex spp.*);

(k) Dodder (*Cuscuta spp.*);

(l) Field bindweed (*Convolvulus arvensis*);

(m) Giant foxtail (*Setaria faberi*);

(n) Hedge bindweed (*Calystegia sepium*);

(o) Horsenettle (*Solanum carolinense*);

(p) Itchgrass (*Rottboellia cochinchinensis*);

(q) Johnsongrass (*Sorghum halepense*);

(r) Moonflower (*Ipomoea turbinata*);

(s) Morningglory (*Ipomoea spp.*);

(t) Nutgrass (*Cyperus rotundus*);

(u) Purple nightshade (*Solanum elaeagnifolium*);

(v) Wild onion and/or wild garlic (*Allium spp.*);

(w) Serrated tussock (*Nassella trichotoma*);

(x) Barnyardgrass (*Echinochloa crus-galli*) added November

1994; and

(y) Tropical soda apple (*Solanum viarum*) added August 1996.

(ii) When found in rice, the following weeds shall, in addition, be classed as noxious and their presence must be indicated in accordance with the requirements for other noxious weeds:

(a) Red rice (*Oryza sativa* var.);

(b) Curly indigo (*Aeschynomene spp.*); and

(c) Tall indigo or coffee bean (*Sesbania exaltata*).

(d) Variety/brand labeling requirements.

(1)(A) In seed of wheat, soybeans, rice, and cotton, the label must contain the commonly accepted name of the kind and variety of each agricultural seed component in excess of five percent (5%) of the whole and the percentage by weight of each.

(B) Variety identification is not required for wheat seed labeled "for cover crop".

(2)(A) The name of a kind and variety of seed and any descriptive terms pertaining thereto shall be correctly represented in any labeling of the seed.

(B) The name of each variety of agricultural or vegetable seed is the name determined in accordance with the following considerations:

(i)(a) Name of variety.

(b) The name of each variety of agricultural or vegetable seed is the name determined in accordance with the following considerations:

(1) The variety name shall represent a subdivision of a kind, which is characterized by:

(A) Growth;

(B) Plant;

(C) Fruit;

(D) Seed; or

(E) Other characteristics by which it can be differentiated from other sorts of the same kind;

(2) The name of a new variety shall be the name given by the originator or discoverer of the variety, except that in the event the originator or discoverer of a new unnamed variety, at the time seed of the variety is first introduced into channels of commerce of the United States for sale to the public, cannot or chooses not to name the variety, the name of the variety shall be the first name under which the seed is introduced into such commerce; and

(3)(A) The variety name shall not be misleading.

(B) The same variety name shall not be assigned to more than one variety of the same kind of seed; and

(ii)(a) Labeling brands.

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

Example:

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

(c) For crops that can be sold as "variety not stated", the seed must be labeled in the following order:

- (1) The brand name;
- (2) The word "brand";
- (3) The kind name; and
- (4) The words "variety not stated".

(e) Records and test data.

(1) Each person whose name appears on the label of seed sold or offered for sale in Arkansas for planting purposes shall have a complete analysis test made by a registered seed technologist or an official state seed analyst.

(2) Such test record shall be:

(A) Kept for a period of two (2) years; and

(B) Accessible for inspection by the state seed law enforcement officer or his or her agent during customary business hours.

(f) Analysis for mixtures.

(1) If the seed consists of a mixture of two (2) or more kinds of field seeds, the word "mixture" and the percentage of pure seed must be shown in the analysis for each kind that is present in the amount of over five percent (5%).

(2) Also, for each kind present in the amount of over five percent (5%), the percentage of germination of each (exclusive of hard seed) and the percentage of hard seed of each, if present, must be shown in the analysis.

(g) Limitations on amount of weed seeds.

(1) Agricultural seeds must not be sold for planting purposes which contain more than two percent (2%) by weight of weed seeds.

(2) **Exceptions.** Limit four percent (4%) for *Lespedeza* and grasses.

(h) Limitations on amounts of noxious weeds. Agricultural seeds must not be sold for planting purposes which contain more than three hundred (300) of any one (1) noxious weed per pound, or a combined total of five hundred (500) noxious weeds per pound, with the following exceptions:

(1) Sale of seeds containing field bindweed, *Crotalaria* spp., balloon vine, itchgrass, nutgrass, serrated tussock, and tropical soda apple in any amount whatsoever (no tolerance) is prohibited;

(2)(A) Sale of seed such as sorghum, vetch, or small grains requiring at least three hundred grams (300g) or more as shown in Column 3 of the table in 2 CAR § 33-104(c), for a noxious weed examination, that contains more than two (2) wild onion or wild garlic per pound is prohibited.

(B) Sale of seed such as sudangrass, clovers, or lespedezas requiring less than three hundred grams (300g) for a noxious examination, that contain more than eighteen (18) wild onion or wild garlic per pound, is prohibited.

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

(3)(A) Sale of seed containing more than one hundred (100) Johnsongrass seed per pound is prohibited.

(B) When the original analysis used for tagging shows any Johnsongrass present, a warning tag must be attached in addition to the analysis tag, said warning tag to be obtained from the board at cost, bearing the following statement: "This seed contains Johnsongrass in the amount shown on the analysis tag. You are warned not to

plant this seed where you do not already have Johnsongrass, and it should not be used on land that hereafter may be used to produce planting seed, or on land which may hereafter be planted to row crops.";

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

(5) *Bromus commutatus* when present in smooth brome grass shall not be considered as a noxious weed but as a common weed;

(6) Sale of seed containing more than three (3) cocklebur per pound is prohibited; and

(7) Barnyardgrass, *Echinochloa crus-galli*, when present in *Lespedeza*, shall not be considered as a noxious weed, but as a common weed.

(i) Treated seed must be labeled.

(1) If seed has been chemically treated, each bag or container must be labeled bearing a true statement as follows (required information shall be in type no smaller than eight-point and may be on the tag bearing the analysis information or on a separate tag, or it may be printed in a conspicuous manner on a side or top of the container): The seed in this bag has been chemically treated. The chemical or chemicals are used in accordance with the manufacturer's recommendations.

(2)(A) Label is to show name of substance or substances used.

(B) The name of the substance will be the commonly accepted coined, chemical (generic), or abbreviated chemical name.

(3)(A) The appropriate toxicity category signal word shall be a part of the label.

(B) The signal word shall correspond to toxicity categories as set forth in Title 40 of the Code of Federal Regulations.

TOXICITY CATEGORIES

Hazard Indicators	I	II	III	IV
-------------------	---	----	-----	----

Oral LD50	Up to and including 50	From 50 thru 500 mg/kg	From 500 thru 5,000	Greater than 5,000 mg/kg
Inhalation LC50	Up to and including	From .2 thru 2 mg/liter	From 2 thru 20 mg/liter	Greater than 20 mg/liter
Dermal LD50	Up to and including 200	From 200 thru 2,000 mg/kg	From 2,000 thru 20,000	Greater than 20,000 mg/kg
Eye Effects	Corrosive: Corneal opacity not reversible	Corneal opacity reversible within 7 days; irritation	No corneal opacity; irritation	No irritation
Skin Effects	Corrosive	Severe irritation at 72 hours	Moderate irritation at 72 hours	Mild or slight irritation at 72 hours

Signal Words

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

WARNING: Category II

CAUTION: Category III and IV

(4)(A) Appropriate precautionary statement worded substantially as follows:

- (i) "Do not use for food";
- (ii) "Do not use for feed";
- (iii) "Do not use for oil purposes"; or
- (iv) "Do not use for food, feed, or oil purposes".

(B) Cottonseed which has been treated with Disulfoton (Di-Syston), Monocrotophos (Azodrin) or Phorate (Thimet) shall bear as part of the seed treatment

label a warning statement taken from the Di-syston, Azodrin, or Thimet label indicating a possible reduction in germination or stand as a result of such treatment.

(5)(A) It shall be illegal to sell, give away, or use treated seed for any purpose other than planting.

(B) Treated seed for other than planting purposes shall be disposed of as specified by the appropriate state agency.

(j) Treating plants must be licensed.

(1) All seed treating plants that treat seed in Arkansas must have a license from the board.

(2) All licenses expire June 30 of each year and must be renewed.

(3) The annual license fee shall be two hundred fifty dollars (\$250).

(4) All seed treated by such plants must be labeled as it is processed in accordance with subdivision (i) of this section.

(5) Farmers may treat their own planting seed with their own equipment without a license.

(k) **Seed lots must be uniform.** When one (1) shipment of a lot is found to be mislabeled, other shipments from this same lot may be held under stop-sale until tags are corrected to conform with board findings, either based on results of the shipment originally found mislabeled or from tests made on samples taken from each shipment.

(l) Special permit labels required for noncertified cotton and sweet sorghums when sold under a variety name.

(1)(A) When noncertified cotton or noncertified sweet sorghum seed commonly used for syrup purposes is sold, or offered for sale, for planting purposes under a variety name, each bag or container must carry a special permit label.

(B) These special permit labels will be issued after the applicant has given the requested information on an application form, furnished by the board, covering the lots to be sold under this provision, and if the information is satisfactory and is approved, special permit labels will be issued to cover each individual lot.

(2) Exception.

(A) Those companies that have a licensed plant breeder, as stipulated in 2 CAR pt. 34, approved and registered with the board for cotton and/or sweet sorghum, and who maintains a breeding program, are exempt from the requirements of obtaining and using the special permit labels on those varieties developed and distributed or sold by them in or into Arkansas.

(B) In this case, the seed would either carry a regular Arkansas permit label or be accounted for under the reporting system.

(m) **Certified rapeseed must be treated.** All certified rapeseed being grown and/or sold in Arkansas must be treated with benomyl, or iprodione when approved, (or other registered and approved chemicals recognized to be equal to or greater than benomyl or iprodione in effective control of virulent blackleg, *Leptosphaeria maculans*).

(n) **Relabeling test date.** The following information shall appear on a label for relabeling seeds in their original containers:

- (1) The calendar month and year the test was completed to determine such percentage;
- (2) The same lot designation as on the original labels; and
- (3) The identity of the labeling person if different from original labeler.

Authority. Arkansas Code §§ 2-16-207, 2-16-209.

2 CAR § 33-103. Exceptions.

(a) There shall be no exceptions for chemically treated seed.

(b) This part shall not apply:

(1)(A) To untreated seed distributed, sold, or transported for food or feed purposes, and not distributed, sold or recommended for planting purposes, except that:

(i) Small grains, corn, and soybeans, when distributed, sold, or transported for other than planting purposes must be branded or tagged to indicate plainly that they are not for planting purposes; and

(ii) If seeds are tagged, branded, or otherwise marked to show a variety name or to indicate or suggest in any way that they are suitable for planting

purposes, such seed are not exempt under this subsection (b) unless each bag or other container is plainly and conspicuously marked or tagged "Not for Planting Purposes."

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

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

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

(c)(1) Bermudagrass and Johnsongrass may be sold as agricultural seed for planting purposes in a pure state or in mixtures.

(2) Seed containing Bermudagrass or Johnsongrass in amounts of less than five percent (5%) may be sold, provided that:

(A) A warning tag, obtained from the State Plant Board, is attached to each bag; and

(B) The number of these seeds per pound is shown on the analysis tag.

Authority. Arkansas Code § 2-16-207.

2 CAR § 33-104. Sampling and analyzing seed.

(a) Sampling seed in bags.

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

(i) For lots of six (6) bags or less, each bag shall be sampled;

(ii)(a) For lots of more than six (6) bags, sample five (5) bags plus at least ten percent (10%) of the number of bags in the lot.

(b) Round off numbers with decimals to the nearest whole number raising five-tenths (.5) to the next whole number.

(c) Regardless of the lot size, it is not necessary that more than thirty (30) bags be sampled; and

Example:

Number of bags in lot:

7 10 23 50 100 200 300 400

Number of bags to sample:

6 6 7 10 15 25 30 30

(iii) For inspection purposes, open bags shall not be sampled except under circumstances where the identity of the seed has been preserved.

(B) To obtain packet samples for uniformity, four (4) bags shall be sampled from each one hundred (100) bags, or less, in the lot, and a composite made;

(C) Samples retained by dealer:

(i) Upon request of the dealer a portion of the official sample may be retained for his or her file, provided an approved mechanical divider is furnished for the State Plant Board inspector; and

(ii) Samples will be sealed and properly identified by inspector; and

(D) Sampling bulk seed. Bulk seeds or screening shall be sampled by inserting a long probe into the bulk as circumstances require in at least seven (7) uniformly distributed parts of the quantity being sampled.

(2) **Size of sample.** For composite sample to test for quality, the following are minimum weights for samples of seed to be submitted for analysis or examination:

(A) Two ounces (2 oz.) (approximately fifty-five grams (55g)) of:

(i) Grass seed not otherwise mentioned in subdivisions (a)(2)(B), (C), or (D) of this section;

(ii) White or alsike clover; or

(iii) Seeds not larger than these;

(B) Five ounces (5 oz.) (approximately one hundred fifty grams (150g))

of:

- (i) Red or crimson clover;
- (ii) Alfalfa;
- (iii) *Lespedeza*;
- (iv) Ryegrass;
- (v) Bromegrass;
- (vi) Flax;
- (vii) Rape; or
- (viii) Seeds of similar size;

(C) One pound (1 lb.) of:

- (i) Sudangrass;
- (ii) Proso;
- (iii) Hemp; or
- (iv) Seeds of similar size; and

(D) Two pounds (2 lbs.) (approximately one thousand grams (1,000g)) of:

- (i) Sorghum;
- (ii) Cereals;
- (iii) Vetches; or
- (iv) Seeds of similar or larger size.

(b)(1) If the board is to print analysis on permit labels, the sample must be drawn by a board inspector from cleaned and bagged seed.

(2) The board will only print labels on seed with the variety stated and if not in conflict with other laws (PVP/Patent, etc.).

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

(c) **Amount of seed to be analyzed in determining purity and noxious weeds in seed control work.** The amount of seed used in making analysis for percentage of purity and percentage of weed seeds must be in accordance with Column

2 of the subjoined table, and amount used in determining noxious weeds must be in accordance with Column 3.

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

(d)(1) The noxious weed statement on the permit label or on the accompanying tag must be in terms of pounds and not in terms of ounces or grams.

(2) Only in the case that there are no noxious weed seeds found in the amounts of seed given in Column 3 can the statement "Noxious Weed Seeds -- None Per Pound" be used.

(e)(1) In seed control work, the federal tolerances shall be applied for noxious weeds, purity, and germination, except:

(A) In the case of prohibited weeds for which no tolerance shall be allowed; and

(B) In the case of cocklebur for which a tolerance of one (1) per pound is allowed.

(2) The number of noxious weeds in any case shall not exceed the maximum permitted.

Authority. Arkansas Code § 2-16-207.

2 CAR § 33-105. Fees and services.

(a) Explanation of services.

(1) Regulatory samples.

(A) Samples which are drawn by the State Plant Board in accordance with procedures as outlined in this part.

(B) Samples are taken from seed that has already been labeled and is in the trade channels.

(C) The purpose of regulatory samples is to ensure that the seed has been correctly labeled (consumer protection).

(2) Service samples.

(A)(i) Samples which are submitted to the board for testing.

(ii) Information from test results may be used to label seed.

(B) There are two (2) kinds of service samples:

(i)(a) Certified samples are samples which are produced from crops that are in the certification program.

(b) This seed was field inspected by the board and has met field standards.

(c) The samples must be taken by the board and must pass the strict standards of laboratory testing before being allowed to bear the official Arkansas certified label; and

(ii)(a) Noncertified samples are samples which do not meet the requirements under the certification program.

(b) Samples may be submitted by the seedsman/farmer.

(b) Explanation of tests.

(1)(A) Complete analysis (comp) consists of the determination of the percent (%) pure seed, percent (%) weed seed, percent (%) other crop, percent (%) inert matter, percent (%) germination, and the number and kind of noxious weeds found in the sample per pound.

(B) Samples which are under consideration for certification are also tested for percent (%) moisture and varietal purity.

(2) Germ only (GO) consists of the determination of the percent (%) germination.

(3) Purity only (PO) is the same as a complete except the percent (%) germination is not determined.

(4) Varietal purity (VP) is the determination of the presence of varietal contaminants (certified seed only).

(5) Noxious weed exam (NWE) consists of the determination of the number and kind of noxious weeds found in the sample per pound.

(6) Red rice exam (RRE) consists of the determination of the number of red rice found in the sample per pound.

(c) Schedule of fees.

(1) **Regulatory samples.** There are no fees charged for regulatory samples unless copies of test results are requested, then fees are the same as for service samples.

(2) Service samples.

	COMPLETE	PURITY OR GERM
ALFALFA	\$16.00	\$12.00
BAHIAGRASS	\$16.00	\$12.00
BARLEY	\$16.00	\$ 8.00
BEAN (garden & field)	\$16.00	\$ 8.00
BERMUDAGRASS	\$16.00	\$12.00
BLUEGRASS	\$16.00	\$12.00
BLUESTEM	\$50.00	\$40.00
CLOVER	\$16.00	\$12.00
CORN	\$16.00	\$ 8.00

COTTON	\$16.00	\$ 8.00
DALLISGRASS	\$16.00	\$12.00
FESCUE	\$16.00	\$12.00
JOHNSONGRASS	\$16.00	\$12.00
LESPEDEZA	\$16.00	\$12.00
LOVEGRASS	\$16.00	\$12.00
MILLET	\$16.00	\$12.00
MUSTARD	\$16.00	\$12.00
OATS	\$16.00	\$ 8.00
OKRA	\$16.00	\$ 8.00
PEAS (garden & field)	\$16.00	\$ 8.00
PEANUTS	\$16.00	\$ 8.00
RICE	\$16.00	\$ 8.00
RYE	\$16.00	\$ 8.00
RYEGRASS	\$16.00	\$12.00
SORGHUM	\$16.00	\$ 8.00
SOYBEANS	\$16.00	\$ 8.00
TURNIP/RAPE	\$16.00	\$12.00
VETCH	\$16.00	\$ 8.00
WHEAT	\$16.00	\$ 8.00
VEGETABLES	\$16.00	\$12.00

(A)(i) The testing fee for crops not listed will be the same as a listed crop with similar complexity.

(ii) Call the plant board for exact fee information.

(B) **Analysis for mixtures, eight dollars (\$8.00).** This will be charged for each additional component in a mixture.

(C) **Tetrazolium test (TZ), fifteen dollars (\$15.00).**

(i) This is a chemical test that may give an estimate of the germination potential, usually within twenty-four (24) hours from the receipt of the sample.

(ii) This is not an official germination test and may not be used to label seed for germination.

(D) **Vigor test, twelve dollars (\$12.00).** Seed vigor comprises those properties which determine the potential for rapid uniform emergence and development of normal seedlings under a wide range of field conditions:

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

(ii) **Cool test (cotton).** Places seed under stress conditions of cool temperatures, simulating early planting conditions; and

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

(E) Varietal tests, twelve dollars (\$12.00).

(i)(a) There are several aids which enable the analyst to determine, confirm, or group seed as to variety based on numerous tests.

(b) Please refer to the latest issue of the Arkansas Certified Seed Directory for crops which are under consideration for certification for the exact procedure of crop and grade in question.

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

(iii) **Fluorescence test (oats).** When placed under an ultraviolet light, varieties of oats will either be fluorescent or nonfluorescent, based on the genetic makeup of the variety.

(iv) Hypocotyl test (soybeans).

(a) Soybean seedlings will exhibit the pigmentation of the flower color of the variety when planted under strong lighting conditions.

(b) The hypocotyl (stem) area of the seedling will remain green (white flower) or will turn purple (purple flower) within a few days of emergence.

(v) Sampling fee, fifteen dollars (\$15.00).

(a) A fee is charged for samples drawn by the board on noncertified seed.

(b) No fee is charged for samples under consideration for certification, provided a representative sample is drawn.

(vi) Handling fee, three dollars (\$3.00).

(a) A fee is charged for samples that are picked up by the board on noncertified seed.

(b) No fee is charged for samples under consideration for certification.

(vii) **Priority samples, twenty-five dollars (\$25.00).**

(a) A service provided to the seedsman/farmer which allows samples to be tested ahead of other samples in the lab.

(b) This fee is an addition to the fee for the test or tests requested.

(viii) **Purity first, one dollar (\$1.00).** Upon request, a preliminary purity report will be given upon completion of the test.

(ix) **Additional analysis reports, one dollar (\$1.00).** For each additional requested copy of the analysis report.

(x) **Services not otherwise mentioned.**

(a) Based upon need and ability, the board may elect to provide services for which fees have not been set.

(b) Fees charged will be based on recovering the reasonable and customary cost of services rendered.

(3) **Inspection fees for seed found mislabeled.** If seed are found mislabeled or required tags are not attached or some other requirement is not met, the seedsman whose permit label or number is attached or on the bags or the seedsman who made the shipment or the person to whom the notice was issued may be required to pay to the board as an inspection fee the sum of fifteen dollars (\$15.00).

(4) **License fee — Tonnage fee — Cost of permit labels.**

(A)(i) The annual fee for a seed labeler's license shall be two hundred fifty dollars (\$250).

(ii) The annual fee for registration of a subsidiary location (distributing agricultural field-crop seed within or into Arkansas) shall be two hundred fifty dollars (\$250).

(B) Persons using the reporting system shall pay ten cents (10¢) per each hundred pounds (100 lbs.) of seed (tonnage fee).

(C) The cost of permit labels issued with only the seedsman's name, address, and permit number shall be ten cents (10¢) each.

(D) The cost of permit labels completely printed for certified seed failing to meet the standards shall be ten cents (10¢) each.

(E) The cost of permit labels completely printed on all other seed shall be ten cents (10¢) each.

(F)(i)(a) The annual fee for a certification permit for all applicants to certify seed shall be one hundred dollars (\$100) on acreage of one hundred (100) acres or less.

(b) Those applicants having a current and valid seed labeler's license shall be exempt from this requirement.

(c) Certification applicants with acreage greater than one hundred (100) acres are required to have a valid seed labeler's license.

(d) Each seedsman and/or retail facility participating in the Bulk Certified Seed Program must have in force a current Arkansas bulk certification permit for each location where bulk certified seed will be sold.

(e) Records of production and sale of seed grown for certification may be inspected by the board or its representative during normal business hours.

(f) Any planting seed sold as noncertified shall comply fully with 2 CAR § 33-102(b).

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

(d) Disposition of seed found mislabeled.

(1)(A) Any seed held under a stop-sale notice shall not be removed from the premises or disposed of in any manner, until a written release has been given by the board or an authorized agent thereof.

(B) The seedsman responsible for an intrastate shipment that is found to be mislabeled must submit an explanation including a complete record of the lot in question to the board.

(C) If the record is not deemed satisfactory then the seedsman shall be given a hearing by the board.

(2)(A) Any seed found to be seriously misrepresented or in serious violation of this part may be seized by the board as authorized by Arkansas Code § 2-16-209.

(B) In lieu of destroying the seed as provided for in this section of the law, it may be given to some state or charitable institution.

(3) Violations of the Federal Seed Act, that are to be referred to the United States Department of Agriculture, will be approved by the Director of the State Plant Board and reviewed by the seed committee of the board.

Authority. Arkansas Code §§ 2-16-207, 2-16-209.

Codification Notes. Federal Seed Act is codified at 7 U.S.C. § 1551 et seq.

2 CAR § 33-106. Prohibitions summarized.

(a) The prohibitions listed below shall not invalidate any provisions of this part through omission or repetition, but shall be a supplement thereto.

(b) No person shall:

(1) Sell, offer, expose, distribute, or transport agricultural seed not labeled in accordance with the provisions of this part, or having a false or misleading labeling;

(2) Sell agricultural seed containing prohibited noxious weeds;

(3) Sell agricultural seed containing more than three hundred (300) of any one (1) noxious weed per pound or a combined total of five hundred (500) noxious weeds per pound, including exceptions shown in 2 CAR § 33-102(g) and § 33-103(b);

(4)(A) Sell agricultural seed containing more than two percent (2%) by weight of all weed seeds.

(B) **Exception.** Four percent (4%) in lespedezas and grasses;

(5) Detach, alter, deface, or destroy any label required in this part or alter or substitute seed in a manner that may defeat the purpose of this part;

(6) Disseminate any false or misleading advertisement concerning agricultural seed in any manner or by any means;

(7) Hinder or obstruct in any way any authorized agent of the State Plant Board in the performance of his or her duties;

(8) Fail to:

(A) Comply with a "stop-sale" notice by the board, or any authorized agent thereof, on agricultural seed:

(i) Sold;

(ii) Offered for sale; or

(iii) Exposed for sale; or

(B) Move or otherwise handle or dispose of any lot of seed held under a "stop-sale" notice except with the written permission of the board, or an authorized agent thereof, and for the purpose specified thereby;

(9) Fail to keep for a period of at least two (2) years, after disposing of the lot, complete records of each lot of seed or make available for inspection such records to the board or any authorized agent thereof;

(10) Sell, offer, or expose for sale any seed labeled "Certified Seed," "Registered Seed," or "Foundation Seed," unless it has been produced and labeled in compliance with the rules and regulations of an officially recognized seed-certifying agency or association;

(11) Represent agricultural seeds which are indistinguishable by seed characteristics to be of a recognized variety, without having adequate information for such variety representation, such as that they were grown from certified seed on land free of volunteer plants that might affect the purity of the seed under consideration, and if a cross-pollinated crop, isolated so as to prevent cross-pollination, and handled in harvesting, storing, and processing so that the varietal purity and quality of the seed is maintained;

(12) Use any qualifying, descriptive terms or the word type in connection with labeling recognized variety names of agricultural seeds; and

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

Authority. Arkansas Code § 2-16-207.