

# **GEORGIA SEED LAW AND RULES AND REGULATIONS**



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### **Official Code of Georgia Annotated TITLE 2 CHAPTER 11 SEEDS AND PLANTS**

#### **ARTICLE 2 SALE AND TRANSPORTATION OF SEEDS**

**Revised July 1, 2012**

**2-11-20. Short title.** This article may be cited as the 'Georgia Seed Law.'

## **2-11-21. Definitions.**

As used in this article, the term:

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

(2) 'Agricultural seed' means the seeds of grass, forage, cereal, oil, and fiber crops and any other kinds of seeds commonly recognized within this state as agricultural seed, lawn seed, and mixtures of such seeds and may include noxious weed seed when the Commissioner of Agriculture determines that such seed is being used as agricultural seed.

(3) 'Bulk' means a volume of seed in a container larger than a typical individual packaging unit for that kind, e.g., bulk bags and boxes, bins, trucks, rail cars, or barges.

(4) 'Coated or encrusted seed' means seed that has been covered by a layer or layers of materials that obscure the original shape and size of the seed resulting in a substantial weight increase. The addition of biologicals, pesticides, identifying colorants, dyes, polymers, and other ingredients can be included in this process.

(5) 'Dormant seed' means viable seed, excluding hard seed, that fail to germinate when provided the specified germination conditions for the kind of seed in question.

(6) 'Flower seed' means the seeds of herbaceous plants grown for their blooms, ornamental foliage, or other ornamental parts and commonly known and sold under the name of flower seeds in this state.

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

(8) 'Hard seed' means seed that remain hard at the end of the prescribed test period because they have not absorbed water due to an impermeable seed coat.

(9) 'Hybrid' means the first generation of a cross produced by controlling the pollination and by combining: (A) two or more inbred lines; (B) one inbred or a single cross with another single cross or with an open-pollinated variety; or (C) two varieties or species, except open-pollinated varieties of corn (*Zea mays*) and other open-pollinated crop kinds. The second generation or subsequent generations from such crosses shall not be regarded as hybrids.

Hybrid designations shall be treated as variety names and hybrids shall be labeled as hybrids.

(10) 'Inert matter' means all matter that is not seed, which includes but is not limited to broken seeds, sterile florets, chaff, fungus bodies, and stones as determined by methods defined by rule. The percent inert matter shall not exceed 3 percent for hybrid field corn, nor 4 percent inert matter for other agricultural crop seed, except as established by rule for special crops. Inert matter will not include coating or pelleting material, fertilizer, or mulch, for which there are no limitations.

(11) 'Inoculated seed' means seed that has received a coating of a preparation containing a microbial product, e.g., *Rhizobium* sp.

(12) 'Kind' means one or more related species or subspecies which singly or collectively are known by one common name, as, for example, corn, oats, alfalfa, and cotton.

(13) 'Labeling' means a tag or other written, printed, or graphic representations on any container or accompanying any lot of bulk seeds, including such representations as those on invoices, purporting to set forth the information required on the seed label by this article.

(14) 'Lawn and turf' pertains to seeds of the grass family (*Poaceae*) that are used within the industry for lawn and turf applications.

(15) '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 are required to appear in the labeling.

(16) 'Mixture,' 'mix,' or 'mixed' means seed consisting of more than one kind or variety or both, each in excess of 5 percent by weight of the whole.

(17) 'Noxious weed seeds' include 'prohibited noxious weed seeds' and 'restricted noxious weed seeds,' as defined in subparagraphs (A) and (B) of this paragraph, provided that the Commissioner of Agriculture may, through the promulgation of regulations, establish a list of seeds included under subparagraphs (A) and (B), whenever the Commissioner finds that such seeds conform to the respective definitions.

(A) 'Prohibited noxious weed seeds' are those weed seeds that are prohibited from being present in agricultural, vegetable, flower, tree, or shrub seed. They are the seed of weeds that are highly destructive and difficult to control by good cultural practices and the use of herbicides.

(B) 'Restricted noxious weed seeds' are those weed seeds that are very objectionable in fields, lawns, and gardens of this state but can be controlled by good cultural practice.

(18) 'Other crop seed' means seed of plants grown as crops (other than the kind or variety included in the pure seed) as determined by methods defined by rule.

(19) 'Pelleted seed' means coated or encrusted seed that also improves the plantability or singulation of the seed.

(20) 'Person' means an individual, partnership, corporation, company, association, receiver, trustee, or agent.

(21) 'Private hearing' means a discussion of facts between the person charged with a violation and representatives of the Georgia Department of Agriculture.

(22) 'Pure seed' means all seeds of each kind and variety under consideration that are present in excess of 5 percent of the whole. Kinds or varieties shown on a label as components of a mixture in amounts 5 percent or less of the whole may be considered pure seed when shown on a label as components of a mixture.

(23) 'Record' means all information relating to the lot, identification, source, origin, variety, amount, processing, blending, testing, labeling, and distribution of the seed and includes a file sample thereof.

(24) 'Seed' means the true seeds of all field crops, vegetables, flowers, trees, and shrubs, and any naturally occurring vegetative propagule, excluding plant parts of hybrids.

(25) 'Seizure' means a legal process carried out by court order against a definite amount of seed.

(26) 'Stop sale' means an administrative order provided by law restraining the sale, use, disposition, and movement of a definite amount of seed.

(27) 'Treated' means seed that has received a minimal covering according to the manufacturer's recommended rate of a substance or process which is designed to reduce or control certain disease organisms, insects, or other pests attacking such seed or seedlings growing therefrom and the covering substance may contain identifying colorants and dyes.

(28) 'Tree and shrub seeds' means seeds of woody plants commonly known and sold as tree or shrub seeds in this state.

(29) 'Variety' means a subdivision of a kind that is distinct, uniform, and stable; 'distinct' in the sense that the variety can be differentiated by one or more identifiable morphological, physiological, or other characteristics from all other varieties of public knowledge; 'uniform' in the sense that the variations in essential and distinctive characteristics are describable; and 'stable' in the

sense that the variety will remain unchanged in its essential and distinctive characteristics and its uniformity when reproduced or reconstituted.

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

(31) 'Weed seeds' means the seeds of all plants generally recognized as weeds within this state, and determined by methods defined by rule, and includes the prohibited and restricted noxious weed seeds.

## **2-11-22. Labeling requirements.**

(a) *Labeling required.* Each bag, container, package, or bulk of seeds which is sold, offered for sale, exposed for sale, or transported within this state for planting purposes shall bear thereon or have attached thereto in a conspicuous place a plainly written or printed label or tag in the English language, giving the information specified in subsections (b) through (j) of this Code section, which statement shall not be modified or denied in the labeling or on another label attached to the container. The labeler is responsible to assure that the required labeling is applied to each container or, in the case of bulk seed, that required labeling is shown on the invoice. All invoices and records pertaining to the shipment or sale of seed must show each lot number.

(b) *Treated seeds.* For all treated seeds, as defined in this article, for which a separate label may be used, the following information shall be given:

(1) A word or statement that the seed has been treated;

(2) The commonly accepted, coined, chemical, or abbreviated chemical (generic) name of the applied substance and the rate of application;

(3) If the level of treatment exceeds the established tolerance or is not subject to an exemption to a tolerance, a caution statement, such as 'Do not use for food or feed or oil purposes.' The caution for mercurials and similarly toxic substances shall be a poison statement or symbol and the label shall carry the words 'poison treated'; and

(4) If the seed is treated with an inoculant, the label must state the inoculant manufacturer's lot number and expiration date as listed on the inoculant's original package.

(c) *Agricultural seed.* For agricultural seed the following information shall be given except for grass seed mixtures as provided in subsection (d) of this Code section; and for hybrids that contain less than 95 percent hybrid seed as provided in subsection (j) of this Code section:

(1) The commonly accepted name of kind and variety of each agricultural seed component in excess of 5 percent of the whole and the percentage by weight of each in the order of its predominance. Where more than one component is required to be named, the word 'mixture' or the word 'mixed' shall be shown conspicuously on the label, provided that the Commissioner may, through the promulgation of regulations, allow certain kinds of seed to be labeled 'mixed' without showing the percentage of each variety present;

(2) The net weight;

(3) The lot number or other lot identification;

(4) The origin (state or foreign country);

(5) The percentage by weight of all weed seeds;

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

(7) The percentage by weight of crop seeds other than those required to be named on the label;

(8) The percentage by weight of inert matter;

(9) For each named agricultural seed:

(A) The percentage of germination, exclusive of hard seed or dormant seed;

(B) The percentage of hard seed or dormant seed, if present; and

(C) The calendar month and year the test was completed to determine such percentage; following the information given pursuant to subparagraphs (A) and (B) of this paragraph, the 'total germination and hard seed' or 'total germination and dormant seed' may be stated as such, if desired; and

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

(d) *For seed mixtures for lawn or turf purposes or both lawn and turf purposes*, the following information shall be given:

(1) The word 'mixed' or 'mixture' shall be stated with the name of the mixture;

(2) The headings 'pure seed' and 'germination' or 'germ' shall be used in the proper places;



- (3) The net weight;
- (4) The lot number or other lot identification;
- (5) Commonly accepted name of kind, variety, and origin of each agricultural seed component in excess of 5 percent of the whole and the percentage by weight of pure seed in order of its predominance and in columnar form;
- (6) Percentage by weight of agricultural seed other than those required to be named on the label (which shall be designated as 'crop seed');
- (7) The percentage by weight of inert matter;
- (8) Percentage by weight of all weed seeds;
- (9) Noxious weeds that are required to be labeled will be listed under the heading 'noxious weed seeds';
- (10) For each agricultural seed named under paragraph (5) of this subsection;
  - (A) Percentage of germination, exclusive of dormant seed;
  - (B) Percentage of dormant seed, if present; and
  - (C) The calendar month and year the test was completed to determine such percentages. The test date for each component may be labeled or, if each component does not show a test date, the oldest test date shall be used for the mixture; and
- (11) Name and address of the person who labeled said seed or who sells, offers, or exposes said seed for sale within the state.

(e) *For agricultural seeds that are coated or pelleted:*

- (1) Percentage by weight of pure seed with coating or pelleting material removed;
- (2) Percentage by weight of coating or pelleting material;
- (3) Percentage by weight of inert material exclusive of coating or pelleting material;
- (4) Percentage of germination is to be determined on 400 pellets with or without seeds;
- (5) In addition to the provisions of paragraphs (1) through (4) of this subsection, labeling of coated or pelleted seed shall comply with the requirements of this Code section for the specific seed kind.

(f) *For vegetable seeds in containers of one pound or less or preplanted containers, mats, tapes, or other planting devices, the following information shall be given:*

- (1) The name of kind and variety of seed;
- (2) The lot number or other lot identification;
- (3) The year for which the seed was packed for sale as 'Packed for \_\_\_\_\_' or the percent germination and the calendar month and year the test was completed to determine such percentage;

(4) For seed which germinate less than the standard last established by the Commissioner under this article:

(A) The percentage of germination, exclusive of hard seed or dormant seed;

(B) The percentage of hard seed or dormant seed, if present;

(C) The calendar month and year the test was completed to determine such percentage; and

(D) For seed that germinate less than the standard last established by the Commissioner, the words 'below standard' in not less than eight-point type must be printed or written with permanence on the face of the label, in addition to the other information required, provided that no seed marked 'below standard' shall be sold if it falls more than 20 percent below the established standard for such seed;

(5) The name and address of the person who labeled the seed or who sells, offers, or exposes the seed for sale within this state; and

(6) For seeds placed in a germination medium, mat, tape, or other device in such a way as to make it difficult to determine the quantity of seed without removing the seeds from the medium, mat, tape, or device, a statement to indicate the minimum number of seeds in the container.

(g) *Vegetable seeds in containers of more than one pound.*

(1) For vegetable seeds in containers of more than one pound, the following information shall be given:

(A) The name of each kind and variety present in excess of 5 percent and the percentage by weight of each in order of its predominance;

(B) The net weight or seed count;

(C) The lot number or other lot identification;

(D) For each named vegetable seed:

(i) The percentage of germination, exclusive of hard seed or dormant seed;

(ii) The percentage of hard seed or dormant seed, if present; and

(iii) The calendar month and year the test was completed to determine such percentages; following the information given pursuant to such divisions

(i) and (ii) of this subparagraph, the 'total germination and hard seed' or the 'total germination and dormant seed' may be stated as such, if desired; and

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

(2) The labeling requirements for vegetable seeds in containers of more than one pound shall be deemed to have been met if the seed is weighed from a properly labeled container in the presence of the purchaser.

(h) *For flower seed in packets prepared for use in home gardens or household plantings or flower seed in preplanted containers, mats, tapes, or other planting devices, the following information shall be given:*

(1) For all kinds of flower seeds:

(A) The name of the kind and variety or a statement of type and performance characteristics as prescribed in the rules promulgated under this article;

(B) The calendar month and year the seed was tested or the year for which the seed was packaged;

(C) The lot number or other lot identification;

(D) The net weight or seed count; and

(E) The name and address of the person who labeled said seed or who sells, offers, or exposes said seed for sale within this state;

(2) For flower seed kinds for which standard testing procedures are prescribed and that germinate less than the germination standard last established by rule under this article:

(A) Percentage of germination, exclusive of hard seed or dormant seed;

(B) Percentage of hard seed or dormant seed, if present; and

(C) The words 'below standard' in not less than eight-point type;  
and

(3) For flower seeds placed in a germination medium, mat, tape, or other device in such a way as to make it difficult to determine the quantity of seed without removing the seed from the medium, mat, tape, or device, a statement to indicate the minimum number of seeds in the container.

(i) *For flower seed in containers other than packets and other than preplanted containers, mats, tapes, or other planting devices and not prepared for use in home flower gardens or household plantings, the following information shall be given:*

(1) The name of the kind and variety or a statement of type and performance characteristics as prescribed in the rules promulgated under this article and for wildflowers the genus and species and, if appropriate, the subspecies;

(2) The lot number or other lot identification;

(3) The net weight or seed count;

(4) For wildflower seed only with a pure seed percentage of less than 90 percent:

(A) The percentage, by weight, of each component listed in order of their predominance;

(B) The percentage by weight of weed seed if present; and

(C) The percentage by weight of inert matter;

(5) For those seed kinds for which standard testing procedures are prescribed:

(A) Percentage of germination, exclusive of hard seed or dormant seed;

(B) Percentage of hard seed or dormant seed, if present;

(C) The calendar month and year that the seed was tested or the year for which the seed was packaged; and

(D) For flower seed kinds that germinate less than the germination standard last established by rule under this article, the words 'below standard' in not less than eight-point type;

(6) For those kinds of seed for which standard testing procedures are not available, the year of production or collection; and

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

(j) *For hybrid agricultural and vegetable seed*, the following is required:

(1) If any one kind or kind and variety of seed present in excess of 5.0 percent is hybrid seed, it shall be designated hybrid on the label. The percentage that is hybrid shall be at least 95 percent of the percentage of pure seed shown unless the percentage of pure seed which is hybrid seed is shown separately. If two or more kinds or varieties are present in excess of 5.0 percent and are named on the label, each that is hybrid shall be designated as hybrid on the label. Any one kind or kind and variety that has pure seed which is less than 95 percent but more than 90 percent hybrid seed as a result of incompletely controlled pollination in a cross shall be labeled to show the percentage of

(2) Hybrid wheat, hybrid millet, and other hybrids to be established by rule shall be labeled the same as all other hybrids except that if any one kind or kind and variety that has pure seed which is less than 95 percent but more than 75 percent hybrid seed as a result of incompletely controlled pollination shall be labeled to show the percentage of pure seed that is hybrid seed. No one kind or variety of seed shall be labeled as hybrid if the pure seed contains less than 75 percent hybrid seed. Any seed containing less than 95 percent hybrids must be labeled as a mixture; and

(3) In addition to the provisions of paragraph (1) of this subsection, labeling of hybrid agricultural and vegetable seed shall comply with the requirements of this Code section for the specific seed kind and, if appropriate, quantity.

### **2-11-23. Prohibited acts.**

(a) No person shall sell, offer for sale, expose for sale, or transport for sale any agricultural, vegetable, flower, tree, or shrub seed within this state:

(1) Unless the test to determine the percentage of germination required in Code Section 2-11-22 shall have been completed within a nine-month period, exclusive of the calendar month in which the test was completed, immediately prior to sale, exposure for sale, offering for sale, or transportation. This prohibition does not apply to agricultural or vegetable seed in hermetically sealed containers. Agricultural or vegetable seeds packaged in hermetically sealed containers under the conditions defined in rules and regulations promulgated under the provisions of this article may be sold, exposed for sale, or offered for sale or transportation for a period of 24 months after the last day of the month that the seeds were tested for germination prior to packaging. If seeds in hermetically sealed containers are sold, exposed for sale, or offered for sale or transportation more than 24 months after the last day of the month in

which they were tested prior to packaging, they must have been retested within a nine-month period, exclusive of the calendar month in which the retest was completed, immediately prior to sale, exposure for sale, or offering for sale or transportation;

(2) Not labeled in accordance with this article or having false, misleading, or illegible labeling;

(3) Pertaining to which there has been a false or misleading advertisement;

(4) Consisting of or containing prohibited noxious weed seeds;

(5) Consisting of or containing restricted noxious weed seeds per pound in excess of the number prescribed by rules and regulations promulgated under this article or in excess of the number declared on the label attached to the container of the seed or associated with the seed;

(6) Represented to be 'certified seed,' 'registered seed,' or 'foundation seed,' unless it has been produced and labeled in accordance with the procedures and in compliance with rules and regulations of a legally authorized seed certification agency; or

(7) Labeled with a variety name but not certified by an official seed certifying agency when it is a variety for which a United States certificate of plant variety protection under the Plant Variety Protection Act (7 U.S.C. Section 2321, et seq.) specifies sale only as a class of certified seed, provided that seed from a certified seed lot may be labeled as to variety name when used in a mixture by, or with the approval of, the owner of the variety.

(b) It shall be unlawful for any person within this state:

(1) To detach, alter, deface, or destroy any label provided for in this article or the rules and regulations made and promulgated hereunder or to alter or substitute seed in a manner that may defeat the purpose of this article;

(2) To disseminate any false or misleading advertisements concerning seeds in any manner that may defeat the purpose of this article;

(3) To hinder or obstruct, in any way, any authorized person in the performance of his or her duties under this article;

(4) To fail to comply with a 'stop sale' order or to move from the premises or dispose of any lot of seed or the tags attached thereto held under a 'stop sale' order, except with express permission of the enforcing officer and for the purpose specified thereby;

(5) To use the word 'trace' as a substitute for any statement which is required;

(6) To use the words 'or better,' 'more than,' 'less than,' or similar words in connection with any information required on purity analyses;

(7) To use the word 'type' in any labeling in connection with the name of any agricultural seed variety; or

(8) To alter or falsify any seed label, seed test, laboratory report, record, or other document pertaining to seed dealings for the purpose of defrauding or misleading the purchaser or to create a misleading impression as to kind or variety, history, quality, or origin of seed.

#### **2-11-24. Records and samples to be kept; inspection thereof.**

Each person whose name or approved A.M.S. code number or other approved designation appears on the label as handling seed subject to this article shall keep, for a period of two years, complete records of each lot of agricultural, vegetable, flower, tree, or shrub seed handled and shall keep, for one year, a file sample of each lot of seed after final disposition of such lot. All such records and samples pertaining to the shipment or shipments involved shall be accessible for inspection by the Commissioner or the Commissioner's agent during customary business hours.

#### **2-11-25. Powers and duties of Commissioner – Generally.**

The duty of enforcing this article and the carrying out of its provisions and requirements shall be vested in the Commissioner of Agriculture, who may act through his or her authorized agents. He shall have authority:

(1) To sample, test, make analysis of, and inspect any seed transported, sold, or offered or exposed for sale within this state for planting purposes, at such time and place and to such extent as may be deemed necessary to determine whether such seed is in compliance with this article;

(2) To enter upon any public or private premises during regular business hours in order to have access to seeds and the records connected therewith subject to this article and rules and regulations promulgated hereunder;

(3) To issue and enforce a written or printed 'stop sale' order to the person or vendor of any seed which is in violation or is believed to be in violation of any of the provisions of this article or rules and regulations promulgated hereunder;

(4) To furnish adequate facilities for testing seed and to employ qualified persons for making such tests;

(5) To publish or cause to be published the results of the examination, analysis, and testing of any agricultural or vegetable seed sampled in accordance with this article, together with any other information that the Commissioner may deem advisable;

(6) To provide that any person in this state shall have the privilege of submitting seed samples for testing, subject to the charges made for samples submitted as prescribed in rules and regulations promulgated under this article; provided, however, that seed samples shall be tested without charge for farmers who do not have a seed license; and

(7) To cooperate with the United States Department of Agriculture in the enforcement of the Federal Seed Act.

**2-11-26. Powers and duties of Commissioner – Licensing authority; penalties.**

(a) For the purpose of carrying out this article, the Commissioner, who may act through his or her authorized agents, is authorized to issue a license to each retail and wholesale seed dealer, such license to be applied for by each seed dealer upon forms furnished for such purpose. A separate license shall be required for each point of sale, from which seed are sold, offered for sale, or exposed for sale. Out-of-state wholesale and retail seed dealers who sell or ship seed into this state shall obtain a license in the same manner. Such licenses shall be renewable in August of every third year following issuance. Seed dealer license fees shall be established by rule promulgated under this article.

(b) The Commissioner may enter an order imposing one or more of the following penalties against any person who violates any of the provisions of this chapter or the rules promulgated under this article or who impedes, obstructs, hinders, or otherwise prevents

(1) Issuance of a warning letter;

(2) Imposition of an administrative fine not more than \$1,000.00 per occurrence, suspension of a license, or both; or

(3) Revocation of the seed dealer's license. Actions stated in paragraphs (2) and (3) of this subsection shall be preceded by a departmental hearing to consider evidence that the licensee has violated this article or any rule or regulation promulgated under this article.

(c) No person who has not complied with this Code section shall sell or offer for sale any seed within this state.

**2-11-27. Reserved.**



## **2-11-28. Powers and duties of Commissioner – Rule-making authority.**

The Commissioner shall have authority to promulgate and enforce such rules and regulations as the Commissioner may deem necessary to carry out or make effective this article. Such rules and regulations may:

- (1) Provide such additional definitions of terms as the Commissioner believes are needed;
- (2) Provide a noxious weed list and add to or subtract therefrom from time to time;
- (3) Prescribe minimum standards of germination and purity and maximum amounts of inert matter and weed seed;
- (4) Prescribe the maximum number of weed seeds per pound allowed for each type of restricted noxious weed;
- (5) Specify the methods of sampling, inspecting, analysis, testing, and examination of seed and the tolerance to be followed in the administration of this article, which shall be in general accord with the officially prescribed practice in interstate commerce;
- (6) Prescribe the form of tags or labels;
- (7) Fix the number of tests allowed to any one person, firm, corporation, etc.;
- (8) Fix charges for tests made;
- (9) Prescribe minimum standards for seed vigor when such standards have been developed and standardized by the Association of Official Seed Analysts (AOSA) and to require the results of any seed vigor test to be placed upon seed labels; and
- (10) Prescribe such other rules and regulations as may be necessary to secure the efficient enforcement of this article.

## **2-11-29.**

Reserved.

## **2-11-30. Seizure of seed for violation of article; disposition thereof.**

Any seed sold, offered for sale, or exposed for sale in violation of this article or rules and regulations promulgated under this article shall be subject to seizure on the complaint of any authorized agent of the Commissioner to the superior court of the county where the seed is located. If the court finds the seed to be in

violation of this article and orders its condemnation, the seed shall be destroyed, reprocessed, relabeled, or otherwise disposed of in compliance with the laws of this state and as directed by the court. In no instance shall the court order such disposition of seed without first having given the claimant an opportunity to apply to the court for the release of the seed or for permission to process or relabel it to bring it into compliance with this article.

### **2-11-31. Injunctions.**

The Commissioner is authorized to apply for and the court is authorized to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this article or rules and regulations promulgated under this article, notwithstanding the existence of other remedies at law. Such injunctions shall be issued without bond.

### **2-11-32. Exemption from article.**

No person or vendor shall be subject to the penalties of this article for having sold or offered or exposed for sale in this state any seed incorrectly labeled or represented as to variety or origin when the variety or origin of such seed could not be identified by examination thereof, unless he or she failed to obtain an invoice, grower's declaration, or other document indicating variety and origin and failed to take such other precautions as were necessary or required to ensure that the identity and variety of the seed were as stated.

### **2-11-33. Applicability of Code Sections 2-11-21 and 2-11-22.**

Code Sections 2-11-21 and 2-11-22 shall not apply:

(1) To seed sold by a farmer or grower to a seed dealer or conditioner or in storage in or consigned to a seed cleaning or conditioning 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 this article;

(2) To seed grown by a farmer or other person, who sells it as such, when it is sold at his or her own farm and he or she does not advertise or transfer it by any public carrier provided such activity is not in conflict with paragraph (7) of subsection (a) of Code Section 2-11-23 or requirements of the United States Plant Variety Protection Act;

(3) To seed or grain not intended for planting purposes, provided that such seed or grain sold to a farmer or consumer which could be used for planting purposes shall be marked or tagged 'for feed' or 'not for planting'; and

(4) 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 or vegetable seed which is subject to this article.

**2-11-34. Penalties for violations of article or rules and regulations;  
Commissioner authorized to utilize warning for minor violations.**

- (a) Any person or vendor violating any of the provisions of this article or rules and regulations promulgated under this article shall be guilty of a misdemeanor.
- (b) When the Commissioner or any of the Commissioner's authorized agents find that a person has violated any of the provisions of this article or rules and regulations promulgated under this article, the Commissioner may institute proceedings in the superior court of the county in which the violation occurred to have such person convicted therefor or may file with the prosecuting attorney, with the view of prosecution, such evidence as may be deemed necessary.
- (c) It shall be the duty of each prosecuting attorney to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted against the accused.
- (d) Nothing in this article shall be construed as requiring the Commissioner or any of the Commissioner's authorized agents to report, for prosecution or for the institution of seizure proceedings, minor violations of this article when the Commissioner believes that the public interest will best be served by a suitable notice of warning in writing.

**2-11-35. Prohibition from preemption by local government**

- (a) No county, municipal corporation, consolidated government, or other political subdivision of this state shall adopt or continue in effect any ordinance, rule, regulation, or resolution regulating the labeling, packaging, sale, storage, transportation, distribution, notification of use, or use of seeds.
- (b) This code section shall in no way prohibit or impair the legal right of any county, municipal corporation, consolidated government, or other political subdivision of this state to issue business licenses or to make zoning decisions.

**ARTICLE 3 CERTIFICATION OF SEEDS AND PLANTS**

**2-11-50. Legislative intent.**

The General Assembly declares that for the purpose of fostering improved agricultural methods, promoting advances in agricultural fields, and giving legal status to an existing practice and for the general welfare of the people it is necessary to establish as a policy of this state a method for protecting the public in the guarantee of the high quality of seeds and plants for various agricultural pursuits. It is the intent of the General Assembly to carry out that

policy by this article, protecting the public from false claims and unwarranted statements as to genetic identity, varietal purity, and germinating viability of seeds and plants presented and claimed to be foundation, registered, or certified.

### **2-11-51. Definitions.**

For the purposes of this article, the term:

(1) 'Certified seed' means the progeny of foundation, registered, or in special cases certified seed which meets the standards of the official seed certifying agency.

(2) 'Foundation seed' means the progeny of breeder's seed or in special cases the progeny of foundation seed which meets the standards of the official seed certifying agency.

(3) 'Plant' means seedlings, nursery stock, roots, tubers, bulbs, cuttings, and other parts used in the propagation of field crops, vegetables, fruits, flowers, trees, or other plants.

(4) 'Registered seed' means the progeny of foundation seed and meets the standards of the official seed certifying agency.

(5) 'Seed' means the true seeds of all field crops, vegetables, flowers, trees, or other plants.

(6) 'Variety' carries its original meaning and includes 'strains' of varieties which are sufficiently different from the parent variety to justify special designation.

### **2-11-52. Designation of agency for certification of seeds and plants; liability for damages resulting from certification work.**

In order to execute the policy stated in Code Section 2-11-50, the dean of the College of Agricultural and Environmental Sciences of the University of Georgia is authorized to provide for seed, plant, and variety certification and labeling. The dean shall designate a certifying agency, provided that such designee must be in good standing with the Association of Official Seed Certifying Agencies. The College of Agricultural and Environmental Sciences of the University of Georgia shall not be held responsible for any claim, debt, obligation, or damage of any kind to any person in conducting certification work or in the work of the certifying agent. The certifying agency so designated by the dean shall, along with its employees, be immune from liability to the same extent as the state and state officers and employees under Article 2 of Chapter 21 of Title 50, "The Georgia Tort Claims Act."

### **2-11-53. False use of evidence of certification in sale of seeds or plants.**

It shall be a misdemeanor for any person, firm, association, or corporation selling seeds or plants in this state to use any evidence of certification, including specially designed tags or any tags similar thereto or the word 'certified,' on any package of seeds or plants, unless such seeds or plants have been duly inspected and certified as provided for in this article or have been inspected and certified by a legally constituted agency of another state or foreign country. The duty of enforcing this Code section shall be vested in the Commissioner.

#### **2-11-70. Purpose; creation of Seed Arbitration Council.**

(a) The intent and purpose of this article are to provide a method for assisting farmers, persons purchasing seed and commercial fruit and nut trees, and persons selling seed and commercial fruit and nut trees in determining the validity of complaints of seed and commercial fruit and nut trees purchasers against seed and commercial fruit and nut tree sellers relating to the quality and performance of the seed and the identity of the variety of fruit and nut trees by establishing a committee to investigate, hold informal hearings, make findings, and render recommendations in the nature of arbitration proceedings where damages suffered by seed and commercial fruit and nut trees purchasers are caused by the alleged failure of the seed to perform as represented or to conform to the description on the labeling thereof as required by law or to be the variety of fruit or nut tree represented by the seller.

(b) In order to effectuate the intent and purpose set out in subsection (a) of this Code section, there is created the 'Seed Arbitration Council.'

#### **2-11-71. Definitions**

As used in this article, the term:

(1) 'Commissioner' means the Commissioner of Agriculture or the designated official or department employed by the Department of Agriculture of this state.

(2) 'Council' means the Seed Arbitration Council.

(3) 'Person' means an individual, firm, partnership, corporation, or company.

(4) 'Purchaser' means the person who buys agricultural, flower, tree, shrub, or vegetable seed subject to Article 2 of this chapter or any commercial fruit or nut tree.

(5) 'Seller' means any person who sells seed, including but not limited to the person who sold the seed to the purchaser and the person who actually labeled the seed that is the

**2-11-72. Notice of requirements for filing complaint printed on seed container; label, or invoice; effect of failure to provide notice.**

(a) At the time of purchase of agricultural, vegetable, flower, tree, or shrub seed, except for vegetable and flower seed in packets weighing less than one pound for use in home gardens or household plantings or at the time of purchase of any commercial fruit or nut tree, language setting forth the requirement for filing a complaint shall be legibly typed or printed on the seed container, on the label affixed thereto, or printed on the invoice covering bulk seed or on a label attached to or on the invoice covering the commercial fruit or nut tree.

(b) Such language shall be in addition to the labeling requirements specified in Code Section 2-11-22 and shall contain a notice in a form acceptable in interstate trade as prescribed by rule and regulation promulgated by the Commissioner.

(c) If language setting forth the requirement is not so placed on the seed container, label, or invoice covering bulk seed or on a label or invoice covering the commercial fruit or nut tree, the filing of a complaint by the buyer shall not be required as a prerequisite to maintaining a legal action against the seller as provided in Code Section 2-11-73.

**2-11-73. Filing complaints; fee; procedure.**

(a) When any farmer or seed purchaser alleges to have been damaged by the failure of any agricultural, flower, tree, shrub, or vegetable seed, except for vegetable and flower seed in packets weighing less than one pound for use in home gardens or household plantings, to conform to or perform as represented by the label required to be attached to such seed under Code Section 2-11-22 or by warranty or as a result of negligence, as a prerequisite to the purchaser's right to maintain a legal action against the seller, the purchaser shall submit a complaint against the seller alleging the damages sustained or to be sustained and shall file such complaint with the Commissioner in time for the seed, crop, or plants to be inspected to determine if the alleged deficiencies warrant arbitration. Whenever any farmer or commercial fruit or nut tree purchaser alleges to have been damaged by the failure of any commercial fruit or nut tree to be the variety represented by the label or invoice or by warranty or as the result of negligence, as a prerequisite to the purchaser's right to maintain a legal action against the seller, the purchaser shall submit a complaint against the seller alleging the damages sustained or to be sustained and shall file such complaint with the Commissioner in time for the trees to be inspected to determine if the alleged deficiencies warrant arbitration. Upon receipt, the Commissioner shall send a copy of the complaint to the seller by registered or certified mail or statutory overnight delivery.

(b) A filing fee of \$75.00 shall be paid to the Commissioner with each complaint filed. Such fee shall be recovered from the seller upon recommendation of the Seed Arbitration Council. The filing fee shall be forfeited if the complaint is independently settled between the purchaser and seller prior to the informal hearing scheduled by the council. Such independent settlement serves to close the file on the complaint.

(c) Within ten days after the receipt of a copy of the complaint, the seller shall file with the Commissioner a response to said complaint. Upon receipt, the Commissioner shall send a copy of the response to the purchaser by registered or certified mail or statutory overnight delivery.

(d) Upon gathering the complaint and the response, the Commissioner shall refer the complaint and the response to the Seed Arbitration Council as provided in Code Section 2-11-75 for investigation, informal hearing, findings, and recommendations on the complaint.

(e) Upon receipt of findings and recommendations of the Seed Arbitration Council, the Commissioner shall transmit said items to the purchaser and seller by registered or certified mail or statutory overnight delivery.

(f) The purchaser and seller shall give written notice to the Commissioner of the acceptance or rejection of the council's recommendations within 30 days of the date the decision is mailed to the purchaser and seller.

**2-11-74. Membership of Seed Arbitration Council; terms; chairperson and secretary; sessions; expenses.**

(a) The Seed Arbitration Council shall be composed of five members. One member and one alternate shall be appointed upon the recommendation of each of the following

(1) The associate dean for the Cooperative Extension Service of the University of Georgia;

(2) The associate dean for the experiment stations of the College of Agricultural and Environmental Sciences of the University of Georgia;

(3) The president of the Georgia Farm Bureau Federation;

(4) The executive committee of the Georgia Seedsmen's Association;  
and

(5) The Commissioner of Agriculture.

(b) Each member and each alternate shall continue to serve until a replacement has been recommended by his or her appointing official. Alternate

members shall serve only in the absence of the member for whom such person is an alternate.

(c) The council shall annually elect a chairperson and a secretary from its membership. The chairperson shall conduct the meetings and deliberations of the council and direct all activities. The secretary shall keep accurate records of all the meetings and deliberations and perform such other duties as the chairperson may direct.

(d) The council may be called into session upon the direction of the chairperson or by the Commissioner to consider matters referred to it by the Commissioner.

(e) Members of the council shall receive no compensation for the performance of their duties but shall be reimbursed for travel expenses by each representing organization.

#### **2-11-75. Hearings and investigations.**

(a) Upon receipt of a seed buyer complaint or a commercial fruit or nut tree buyer complaint and a seller response, the council shall schedule a hearing date within ten days and shall make a full and complete investigation of the matters stated in the complaint.

(b) Hearings scheduled by the council shall be conducted in Tifton, Macon, Athens, or Rome, Georgia, whichever is most convenient to the farmer or other seed or commercial fruit or nut tree purchaser filing the complaint, such determination to be made by the chairperson.

(c) The Commissioner shall provide administrative support for the council and shall adopt rules and regulations to govern investigations and hearings.

(d) In conducting its investigation, the council, in addition to other activities deemed necessary, is authorized to:

(1) Examine the purchaser on the use of the seed or commercial fruit or nut tree or trees about which the complaint is filed, the purchaser's operation and the seller on the packaging and labeling, and the seller's operations on the seed or commercial fruit or nut tree or trees alleged to be faulty or of a different variety;

(2) Grow to production a representative sample of the alleged faulty seed through the facilities of the state and under the supervision of the Commissioner, as deemed necessary;

(3) Hold informal hearings at a reasonable time as directed by the chairperson. At such hearing, the purchaser and seller shall be allowed to



present their side of the dispute before the council. Attorneys may be present, provided that no attorney may participate directly in the proceeding; and

(4) Seek evaluations from authorities in allied disciplines when deemed necessary.

(e) Any investigation made by fewer than all of the councilmembers shall be by authority of a written directive by the chairperson, and such investigation shall be summarized in writing and considered by the council in reporting its findings and recommendations.

(f) The Attorney General shall provide legal services for the council.

#### **2-11-76. Findings and recommendations.**

(a) After completion of the informal hearing by the council, a report of findings and recommendations shall be transmitted to parties present at the arbitration process pursuant to subsection (e) of Code Section 2-11-73. In such report, the council may make

(1) That no action be taken;

(2) That money damages be paid to the purchaser as a result of the alleged failure of the seed to conform to or perform as represented by the seed label, container, or invoice;

(2.1) That money damages be paid to the purchaser of a commercial fruit or nut tree or trees as a result of the alleged failure of the tree or trees to be the variety represented to the purchaser. Such damages shall not be less than three times the purchase price in the case of fruit trees or six times the purchase price in the case of nut trees;

(3) That the seller reimburse the purchaser for the amount of the filing fee paid to enter the arbitration process; or

(4) Such other recommendation found by the council to be fair and equitable to the parties.

(b) In any litigation involving a complaint which has been the subject of arbitration under this Code section, any party may introduce the report of arbitration as evidence of the facts found in the report as the court may see fit. Findings and conclusions of the council are not admissible as evidence. However, the court may take into account any determinations of the council with respect to the failure of any party to cooperate in the arbitration proceedings.

#### **2-11-77. Rules and regulations.**

Pursuant to Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' the Commissioner shall have authority to promulgate and enforce such rules

and regulations as may be deemed necessary to carry out the provisions of this article.

## **RULES OF GEORGIA DEPARTMENT OF AGRICULTURE**

### **TITLE 40 AGRICULTURE**

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## **RULES OF GEORGIA DEPARTMENT OF AGRICULTURE SEED DIVISION**

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#### **40-12-1-.01 Definitions.**

Terms used in these Rules are defined as follows:

(1) 'Commissioner' means the Commissioner of Agriculture or the designated section or employee employed by the Department of Agriculture of this state.

(2) 'Seed Dealer' means any person who sells seed, including persons who label seed, transfer and market seed within the trade or sell seed to purchasers, except for farmers or other persons that sell seed they produced and sell it as such at his or her own farm and he or she do not advertise or transfer it by any public carrier. Authority O.C.G.A. 2-11-28.

## **RULES OF GEORGIA DEPARTMENT OF AGRICULTURE SEED DIVISION**

### **CHAPTER 40-12-2 SEED TESTING PROTOCOL AND STATISTICAL**

#### **TOLERANCES**

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40-12-2-.01 Seed Testing Protocol

40-12-2-.02 Statistical Tolerances

#### **40-12-2-.01 Seed Testing Protocol.**

The terms used in seed testing and the methods of sampling, inspecting, testing, analyzing and examining agricultural, vegetable, flower, tree and shrub seeds shall be prescribed by the Commissioner of the Georgia Department of Agriculture after giving due consideration to those adopted by the Association of Official Seed Analysts effective October 1, 1996.

Authority O.C.G.A 2-11-28.

#### **40-12-2-.02 Statistical Tolerances.**

The statistical tolerances applicable to seed labeling of purity analysis, noxious weed seeds, germination percentage and other required factors to be followed in the administration of the Georgia Seed Law shall be prescribed by the Commissioner of the Georgia Department of Agriculture after giving due consideration to those adopted by the Association of Official Seed Analysts effective October 1, 1996. Authority O.C.G.A. 2-11-28.

## **RULES OF GEORGIA DEPARTMENT OF AGRICULTURE SEED DIVISION**

### **CHAPTER 40-12-3 STANDARDS**

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40-12-3-.02 Vegetable and Herb Seed Germination Standards

40-12-3-.03 Minimum Sample Size for Seed Analysis

40-12-3-.04 Flower Seed Germination Standards

#### **40-12-3-.01 Agricultural Seed Quality Standards.**

(1) Agricultural seed purity standards are as follows:

- (a) The percent inert matter shall not exceed 3 percent for hybrid field corn, nor 4 percent inert matter for other agricultural crop seed, with the following exceptions:
1. Exotic, native and range grasses normally marketed at high inert matter levels shall have no maximum inert matter limitation and shall be labeled to show the percent inert matter present.
  2. The following limitations for major crop seed as indicated:

	<u>Kind</u>	<u>Maximum Percent Inert Matter</u>
(i)	Bahiagrass, Argentine	
(ii)	Bahiagrass, Pensacola	10%
(iii)	Cowpea (Southernpea)	5%
(iv)	Peanut	5%
(v)	Orchardgrass	8%
(vi)	Soybean	2%
(vii)	Triticale	10%

(b) The percent weed seed labeled shall comply with the following requirements:

1. The labeled percent weed seed shall not exceed the following limitations for major crop seed as indicated:

	<u>Kind</u>	<u>Weed Seed Maximum Percent</u>
(i)	Corn	None
(ii)	Cotton	0.05%
(iii)	Peanut	0.20%
(iv)	Soybean	0.20%

2. The percent weed seed labeled for crops not listed shall not exceed 1.0%, except for a maximum weed seed limitation of 2.0% for lawn, turf and forage grasses.

(2) Agricultural seed shall have a minimum germination of 70%, including hard seed or dormant seed, except for the following crop kinds:

(a) Cowpeas, crotalaria, and millet, including hard seed or dormant seed, shall have a minimum germination of 60%.

(b) Peanut germinating below 70%, but not less than 60%, may be sold by labeling them 'below standard' in not less than 8 point type on the seed label and all invoices.

(c) Field corn shall have a minimum germination of 90%.

(d) Kobe Striate Lespedeza seed lots, or mixtures containing such kind and variety, germinating below 70%, but not less than 50%, may be sold by stating 'below standard' in not less than 8-point type on the seed label and all invoices.

Authority O.C.G.A. 2-11-28.

### 40-12-3-.02 Vegetable and Herb Seed Germination Standards

<u>Kind</u>	<u>% Germination</u>	<u>Kind</u>	<u>% Germination</u>
(a) Anise	50	(pp) Fennel, Florence	60
(b) Artichoke	60	(qq) Fennel, sweet	50
(c) Asparagus	70	(rr) Kale	75
(d) Asparagusbean	75	(ss) Kale, Chinese	75
(e) Basil, sweet	70	(tt) Kale, Siberian	75
(f) Bean, garden	70	(uu) Kohlrabi	75
(g) Bean, lima	70	(vv) Leek	60
(h) Bean, runner	75	(ww) Lettuce	80
(i) Beet	65	(xx) Melon	75
(j) Broadbean	75	(yy) Mustard, India	75
(k) Broccoli	75	(zz) Mustard, spinach	75
(l) Brussels sprouts	70	(aaa) Okra	50
(m) Burdock, great	60	(bbb) Onion	70
(n) Cabbage	75	(ccc) Onion, Welsh	70
(o) Cabbage, trouchuda	70	(ddd) Marjoram, sweet	50
(p) Caraway	55	(eee) Oregano	60
(q) Cardoon	60	(fff) Pak-choi	75
(r) Carrot	55	(ggg) Parsley	60
(s) Cauliflower	75	(hhh) Parsnip	60
(t) Celeriac	55	(iii) Pea	80
(u) Celery	55	(jjj) Peanut	70
(v) Chard, Swiss	65	(kkk) Pepper	75
(w) Chervil, Salad	65	(lll) Pumpkin	75
(x) Chicory	65	(mmm) Radish	75
(y) Chinese cabbage	75	(nnn) Rhubarb	60
(z) Chives	50	(ooo) Rutabaga	75
(aa) Citron	65	(ppp) Roquette	60
(bb) Collards	80	(qqq) Rosemary	30
(cc) Coriander	70	(rrr) Sage	75
(dd) Corn, Pop	75	(sss) Salsify	75
(ee) Corn, sweet	75	(ttt) Savory, summer	55

(ff) Cornsalad	70	(uuu) Sorrel	65
(gg) Cowpea	75	(vvv) Spinach	60
(hh) Cress, garden	75	(www) Spinach, New Zealand	40
(ii) Cress, upland	60	(xxx) Squash	75
(jj) Cress, water	80	(yyy) Thyme	50
(kk) Cucumber	60	(zzz) Tomato	75
(ll) Dandelion	60	(aaaa) Tomato, husk	50
(mm) Dill	60	(bbbb) Turnip	80
(nn) Eggplant	70	(cccc) Watermelon	70
(oo) Endive	70		

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

(3) Pursuant to Code section 2-11-22 (f) (4), seed that germinate less than the standard last established by the Commissioner shall have 'below standard' printed or written with permanence on the face of the label, in addition to the other information required, provided that no seed marked 'below standard' shall be sold if it falls more than 20 percent below the established standard for such seed. No seed may be labeled 'below standard' that has a germination standard of 50 percent or less.

(4) For cowpeas and peanuts in containers of five (5) pounds or more, agricultural seed labeling requirements and germination standards shall apply as specified in Code section 2-11-22 and Rules section 40-12-3-.01, respectively. Authority O.C.G.A. 2-11-28.

**40-12-3-.03 Minimum Sample Size for Seed Analysis.**

The following minimum sample sizes are required when submitting seed for laboratory analysis.

<b>KIND</b>	<b>PURITY ONLY OR PURITY &amp; GERMINATION*</b>	<b>GERMINATION ONLY*</b>
AESCHYNOMENE	1/4 lb.	1/8 lb.
ALFALFA	1/4 lb.	1/8 lb.
ALYCECLOVER	1/4 lb.	1/8 lb.
BAHIA, PENSACOLA	1/4 lb.	1/8 lb.
BAHIA, OTHER	1/4 lb.	1/8 lb.
BARLEY	1 lb.	1/2 lb.
BENTGRASS	1 oz.	1/2 oz.
BERMUDAGRASS	1 oz.	1/2 oz.
BLUEGRASS	1 oz.	1/2 oz.
BUCKWHEAT	1 lb.	1/2 lb.
CANE	1 lb.	1/4 lb.

CANOLA (RAPE)	1/4 lb.	1/8 lb.
CARPETGRASS	1 oz.	1/2 oz.
CENTIPEDE	1 oz.	1/2 oz.
CHUFA	1 lb.	1/2 lb.
CLOVER	1/4 lb.	1/8 lb.
CORN	2 lbs.	1 lb.
CORN, POP	1 lb.	1/2 lb.
COTTON	1 lb.	1/2 lb.
COWPEA	1 lb.	1/2 lb.
CROWNVETCH	1/4 lb.	1/8 lb.
FESCUE (ALL)	1/4 lb.	1/8 lb.
FLOWER SEED	2500 seeds	400 seeds
HERB SEED	2500 seeds	400 seeds
JOHNSONGRASS	1/4 lb.	1/8 lb.
LAWN MIXTURES	1/4 lb.	1/8 lb.
LESPEDEZA (ALL)	1/4 lb.	1/8 lb.
LOVEGRASS, WEEPING	1 oz.	1/2 oz.
LUPINE	1 lb.	1/2 lb.
MILLET	1/4 lb.	1/8 lb.
OAT	1 lb.	1/2 lb.
ORCHARDGRASS	1/4 lb.	1/8 lb.
PARTRIDGE PEA	1/4 lb.	1/8 lb.
PASPALUM NICORAE	1/4 lb.	1/8 lb.
PEANUT	2 lbs.	1 lb.
RED TOP	1 oz.	1/2 oz.
RICE	1 lb.	1/2 lb.
RYE	1 lb.	1/2 lb.
RYEGRASS	1/4 lb.	1/8 lb.
SESAME	1/4 lb.	1/8 lb.
SESBANIA	1/4 lb.	1/8 lb.
SORGHUM	1 lb.	1/2 lb.
SOYBEAN	1 lb.	1/2 lb.
ST. AUGUSTINE GRASS	1 oz.	1/2 oz.
SUDANGRASS	1 lb.	1/2 lb.
SUNFLOWER	1 lb.	1/2 lb.
TIMOTHY	1 oz.	1/2 oz.
TOBACCO	1 oz.	1/4 oz.
TREFOIL	1/4 lb.	1/8 lb.
TRITICALE	1 lb.	1/2 lb.
VEGETABLE (V1)	2500 seeds	1/4 lb.
VEGETABLE (V2)	2500 seeds	1/2 lb.
VEGETABLE (V3)	2500 seeds	1 lb.
VELVET BEAN	2 lbs.	1 lb.
VETCH	1 lb.	1/2 lb.
WHEAT	1 lb.	1/2 lb.
WINTERPEA, AUSTRIAN	1 lb.	1/2 lb.
ZOYSIA	1 oz.	1/2 oz.

## VEGETABLES

V1 ASPARAGUS, BROCCOLI, BRUSSEL SPROUTS, CABBAGE, CAULIFLOWER, CELERY, COLLARDS, EGGPLANT, KALE, LETTUCE, MUSTARD, ONION, PARSNIP, PEPPER, RADISH, RAPE, RHUBARB, TOMATO, TURNIP.

V2 ARTICHOKE, BEETS, CANTALOUPE, CUCUMBER, OKRA, SPINACH, SWISS CHARD AND HYBRID SEED OF PUMPKIN, SQUASH AND WATERMELON.\*\*

V3 BEANS, GOURDS, PEAS, PUMPKIN, NEW ZEALAND, SPINACH, SQUASH, WATERMELON.\*\*

NOTE: \*THESE ARE MINIMUM AMOUNTS OF SEED REQUIRED FOR TESTING. ADDITIONAL TESTS MAY REQUIRE MORE SEED.

\*\*IF THE AMOUNT OF SEED IS LIMITED PLEASE SUBMIT 400 SEEDS FOR GERMINATION TEST ONLY OR CALL THE GEORGIA STATE SEED LABORATORY IN ATLANTA OR TIFTON FOR MORE INFORMATION.

Authority O.C.G.A. 2-11-28.

### Chapter 40-12-3.04 Flower Seed Germination Standards

(1) The following standards for the germination of flower seeds are hereby adopted. For the kinds marked with an asterisk (\*), the standard shown includes the total of germination and hard seed percentages.

Kind	% Germination
(a) Achillea (The Pearl) – <i>Achillea ptarmica</i>	50
(b) African Daisy or Cape Marigold – <i>Castalis tragus</i> (syn. <i>Dimorphothecca aurantiaca</i> )	55
(c) African Violet – <i>Saintpaulia</i> spp	30
(d) Ageratum – <i>Ageratum mexicanum</i>	60
(e) Agrostemma (rose campion) – <i>Lychnis coronaria</i>	



(f)	(syn. <i>Agrostemma coronaria</i> ) Alyssum – <i>Alyssum compactum</i> , <i>A. maritimum</i> , <i>A. procumbens</i> , <i>A. saxatile</i>	65 60
(g)	Amaranthus – <i>Amaranthus</i> spp	65
(h)	Anagallis (pimpernel) – <i>Anagallis arvensis</i> , <i>A. coerulea</i> , <i>A. grandiflora</i>	60
(i)	Anemone – <i>Anemone coronaria</i> , <i>Pulsatilla vulgaris</i> (syn. <i>A. pulsatilla</i> )	55
(j)	Angel's Trumpet – <i>Datura arborea</i>	60
(k)	Arabis – <i>Arabis alpina</i>	60
(l)	Arctotis (African-daisy, lilac) – <i>Arctotis</i> <i>stoechadifolia</i> var. <i>grandis</i>	45
(m)	Armeria – <i>Armeria formosa</i>	55
(n)	Asparagus, fern – <i>Asparagus plumosus</i>	50
(o)	Asparagus, Sprenger – <i>Asparagus densiflorus</i> <i>cv. sprengeri</i>	55
(p)	Aster, China – <i>Callistephus chinensis</i> ; except Pompon, Powderpuff and Princess types	55
(q)	Aster, China – <i>Callistephus chinensis</i> ; Powderpuff and Princess types	55 50
(r)	Aubrieta – <i>Aubrieta deltoidea</i>	45
(s)	Baby Smilax – <i>Asparagus asparagoides</i>	25
(t)	Balsam – <i>Impatiens balsamina</i>	70
(u)	Begonia – <i>Begonia</i> spp. (fibrous rooted)	60
(v)	Begonia – <i>Begonia</i> spp. (tuberous rooted)	50
(w)	Bells of Ireland – <i>Moluccella laevis</i>	60
(x)	Brachycome (Swan River daisy) <i>iberidifolia</i>	60
	Canterbury bells – <i>Campanula medium</i>	60
	Cup and saucer bellflower – <i>Campanula medium</i> <i>cv. calycanthema</i>	60
	Carpathian bellflower – <i>Campanula carpatica</i>	50
	Peach bellflower – <i>Campanula persicifolia</i>	50
	Candytuft, annual – <i>Iberis mara</i> , <i>I. umbellata</i>	65
	Candytuft, perennial – <i>Iberis gibraltarica</i> , <i>I. sempervirens</i>	55
	Castorbean – <i>Ricinus communis</i>	60
	Cathedral bells – <i>Cobaea scandens</i>	65
	Celosia – <i>Celosia argentea</i>	65

Basket flower – <i>Centaurea americana</i> ; Corn flower – <i>C. cyanus</i> ; Dusty-miller – <i>C. cineraria</i> ; Royal centaurea – <i>C. imperialis</i> ; Sweet sultan – <i>C. moschata</i> ; Velvet Centaurea – <i>C. gymnocarpa</i>	60
Cerastium (Snow-in-summer) – <i>Cerastium biebersteinii</i> and <i>C. tomentosum</i>	65
Chinese forget-me-not – <i>Cynoglossum amabile</i>	55
Chrysanthemum, annual – <i>Chrysanthemum carinatum</i> , <i>C. coronarium</i> , <i>C. segetum</i>	40
Cineraria – <i>Senecio cruentus</i>	60
Clarkia – <i>Clarkia elegans</i>	65
Cleome – <i>Cleome gigantea</i>	65
Coleus – <i>Coleus blumei</i>	65
Columbine – <i>Aquilegia</i> spp	50
Coral bells – <i>Heuchera sanguinea</i>	55
Coreopsis, perennial – <i>Coreopsis lanceolata</i>	40
Corn, ornamental – <i>Zea mays bipinnatus</i> ; Klondyke type – <i>C. sulphureus</i>	75
Crossandra – <i>Crossandra infundibuliformis</i>	65
Dahlia – <i>Dahlia</i> spp	50
Daylily – <i>Hemerocallis</i> spp	55
Perennial – Belladonna and Bellamosum types; Cardinal larkspur – <i>Delphinium cardinale</i> ; Chinensis types – Pacific giant, Gold medal and other hybrids of <i>D. elatum</i>	45
Carnation – <i>Dianthus caryophyllus</i>	55
China Pinks – <i>Dianthus chinensis</i> , <i>D. heddewigi</i> , <i>D. heddensis</i>	60
Grass Pinks – <i>Dianthus plumarius</i>	70
Maiden Pinks – <i>Dianthus deltoides</i>	60
Sweet William – <i>Dianthus barbatus</i>	60
Sweet Wivelsfield – <i>Dianthus X allwoodi</i>	70
Didiscus – (blue lace flower) – <i>Didiscus coeruleus</i>	60
Doronicum (Caucasian leopardbane) – <i>Doronicum orientale</i>	65
Dracaena – <i>Dracaena indivisa</i>	60
Dragon tree – <i>Dracaena draco</i>	55
English daisy – <i>Bellis perennis</i>	40
Golden flax – <i>Linum flavum</i> ; Flowering Flax – <i>L. grandiflorum</i> ; Perennial Flax – <i>L. perenne</i>	55
	60

Flowering maple – <i>Abutilon</i> spp	35
Foxglove – <i>Digitalis</i> spp	60
Annual – <i>Gaillardia pulchella</i> , <i>G. picta</i> ;	Perennial –
<i>G. grandiflora</i>	45
Gerbera (Transvaal Daisy) – <i>Gerbera jamesoni</i>	60
Geum – <i>Geum</i> spp	55
Gilia – <i>Gilia</i> spp	65
Gloriosa daisy (Rudbeckia) – <i>Echinacea purpurea</i> and <i>Rudbeckia hirta</i>	60
Gloxinia – <i>Sinningia speciosa</i>	40
Godetia – <i>Clarkia amoena</i> , <i>C. concinna</i> (syn. <i>Godetia</i> spp)	65
Yellow flowered – <i>Cucurbita pepo</i> ; White flowered – <i>Lagenaria</i> Dishcloth – <i>Luffa</i> <i>sisceraria</i> ; <i>aegyptiaca</i>	70
Annual baby's breath – <i>Gypsophila elegans</i> ;	
Perennial baby's breath – <i>G. paniculata</i> , <i>G. pacifica</i> , <i>G. repens</i>	70
Helichrysum – <i>Helichrysum monstrosum</i>	60
Heliopsis – <i>Heliopsis scabra</i>	55
Heliotrope – <i>Heliotropium</i> spp	35
Helipterum – <i>Helipterum roseum</i> (acroclinium)	60
Hesperis (sweet rocket) – <i>Hesperis matronalis</i>	65
*Hollyhock – <i>Alcea</i> (syn. <i>Althea rosea</i> <i>rosea</i> )	65
Hunnemannia (Mexican tulip-poppy) – <i>Hunnemannia fumariifolia</i>	60
Hyacinth Bean – <i>Lablab purpureus</i> (syn. <i>Dolichos</i> <i>lablab</i> )	70
Impatiens – <i>Impatiens hostii</i> , <i>I. sultani</i>	55
Cypress vine – <i>Ipomoea</i> Moonflower – <i>quamoclit</i> ; <i>I. turbinata</i> ; Morning-glories, Cardinal climber,	
Hearts and Honey Vine – <i>Ipomoea</i> spp	75
Jerusalem Cross (Maltese cross) – <i>Lychnis</i> <i>chalcedonica</i>	70
Job's Tears – <i>Coix lacryma-jobi</i>	70
Kochia – <i>Kochia childsii</i>	55
Larkspur, annual – <i>Consolida ajacis</i> (syn. <i>Delphinium ajacis</i> )	60

Lantana – <i>Lantana camara</i> , <i>L. hybrida</i>	35
Lilium (regal lily) – <i>Lilium regale</i>	50
Linaria – <i>Linaria</i> spp	65
Lobelia, edging – <i>Lobelia erinus</i>	65
Lunaria, annual – <i>Lunaria annua</i>	65
*Lupine – <i>Lupinus</i> spp	65
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 Plant (mimosa) – <i>Mimosa pudica</i>	65
Shasta Daisy – <i>Leucanthemum X superbum</i> ; (syn. <i>Chrysanthemum maximum</i> )	65
Silk Oak – <i>Grevillea robusta</i>	25
Snapdragon – <i>Antirrhinum</i> spp	55
Sneezeweed – <i>Helenium autumnale</i>	40
Solanum – <i>Solanum</i> spp	60
Statice – <i>Limonium</i> (Flower Heads) <i>sinuata</i>	50
Common – <i>Matthiola</i> Evening Scented – <i>incana</i> ;	
<i>Matthiola bicornis</i>	65
Sunflower – <i>Helianthus</i> spp	70
Sunrose – <i>Helianthemum</i> spp	30
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>Machaeantha 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 – <i>Kniphofia</i> spp	65
Verbena, annual – <i>Verbena X hybrida</i>	35
Vinca – <i>Catharanthus roseus</i>	60
Viola – <i>Viola cornuta</i>	55
Virginian stocks – <i>Malcolmia maritima</i>	65
Wallflower – <i>Erysimum hieraciifolium</i> (syn. <i>Cheiranthus allioni</i> )	65
Yucca (Adam's needle) – <i>Yucca filamentosa</i>	50
(except Linearis and Creeping) – <i>Zinnia</i> <i>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
Linearis and Creeping – <i>Zinnia linearis</i> , <i>Sanvitalia procumbens</i>	50

(2) Flower seed kinds not listed shall have a germination standard of 50%.

(3) Flower seeds that germinate less than the standard may be sold, offered for sale, exposed for sale, or transported within this State if labeled with the words 'below standard' in not less than 8-point type, provided that no seed marked 'below standard' shall be sold if it falls below 30% germination.

(4) A mixture of flower seed kinds will be considered to be below the standard if the germination of any kind or combination of kinds constituting 25% or more of the mixture is below standard for the kind or kinds involved. Authority O.C.G.A. 2-11-22.

**RULES OF GEORGIA DEPARTMENT OF AGRICULTURE SEED DIVISION**

**CHAPTER 40-12-4 LIMITATIONS ON NOXIOUS WEED SEEDS**

**TABLE OF CONTENTS**

40-12-4-.01 Limitations on Noxious Weed Seeds

**40-12-4-.01 Limitations on Noxious Weed Seeds.**

It is unlawful to sell, offer for sale, or expose for sale, any agricultural or vegetable seed for planting purposes in this State if the noxious weed seeds per pound of pure seed is in excess of the following limitations:

(a) **Prohibited Noxious Weed Seeds. Name Limitations**

1.	Balloonvine ( <i>Cardiospermum halicacabum</i> )	Prohibited
2.	Bindweed, field ( <i>Convolvulus arvensis</i> )	Prohibited
3.	Bindweed, hedge ( <i>Calystegia sepium</i> )	Prohibited
4.	Cocklebur ( <i>Xanthium</i> spp.)	Prohibited
5.	Crotalaria ( <i>Crotalaria</i> spp.)	Prohibited
6.	Morningglory, Giant or Moonflower ( <i>Ipomoea turbinata</i> )	Prohibited
7.	Nutsedge, purple ( <i>Cyperus rotundus</i> )	Prohibited
8.	Nutsedge, yellow ( <i>Cyperus esculentus</i> )	Prohibited
9.	Tropical Soda Apple ( <i>Solanum viarum</i> )	Prohibited
10.	Tossock, serrated ( <i>Nassella trichotoma</i> )	Prohibited

(b) **Restricted Noxious Weed Seeds. Name Limitations**

1.	Bermudagrass ( <i>Cynodon dactylon</i> )	300 per pound
2.	Blueweed ( <i>Helianthus ciliaris</i> )	200 per pound
3.	Cheat or Chess ( <i>Bromus commutatus</i> and/or <i>Bromus secalinus</i> )	300 per pound
4.	Corncockle ( <i>Agrostemma githago</i> )	100 per pound
5.	Darnel ( <i>Lolium temulentum</i> )	200 per pound
6.	Dock ( <i>Rumex</i> spp.)	100 per pound

7.	Dodder ( <i>Cuscuta</i> spp.)	100 per pound
8.	Foxtail, giant ( <i>Setaria faberi</i> )	100 per pound
9.	Horsenettle ( <i>Solanum carolinense</i> )	200 per pound
10.	Johnsongrass ( <i>Sorghum halepense</i> )	100 per pound
11.	Knapweed, Russian ( <i>Acroptilon repens</i> )	100 per pound
12.	Mustard, wild and turnips ( <i>Brassica</i> spp.) except for Winter Rape, <i>Brassica napus</i> var. <i>biennis</i> , and Rape, <i>B. rapa</i> var. <i>rapa</i>	27 per pound
13.	Nightshade, Silverleaf or Purple ( <i>Solanum elaeagnifolium</i> ).	200 per pound
14.	Onion, wild or wild garlic ( <i>Allium</i> spp.)	27 per pound
15.	Panicum, Texas or Texas millet ( <i>Panicum texanum</i> )	27 per pound
16.	Plantain, bracted ( <i>Plantago aristata</i> )	200 per pound
17.	Plantain, buckhorn ( <i>Plantago lanceolata</i> )	200 per pound
18.	Quackgrass ( <i>Elytrigia repens</i> )	100 per pound
19.	Radish, wild ( <i>Raphanus raphanistrum</i> )	27 per pound
20.	Rice, red ( <i>Oryza rufipogon</i> )	300 per pound
21.	Sandbur, field ( <i>Cenchrus incertus</i> )	27 per pound
22.	Sorghum alnum ( <i>Sorghum X alnum</i> )	100 per pound
23.	Sorrel, red or sheep ( <i>Rumex acetosella</i> )	200 per pound
24.	Thistle, blessed ( <i>Cnicus benedictus</i> )	9 per pound
25.	Thistle, Canada ( <i>Cirsium arvense</i> )	100 per pound

(c) **Sum total of Noxious Weed Seeds**..... 300 per pound Authority  
O.C.G.A. 2-11-21.

## RULES OF GEORGIA DEPARTMENT OF AGRICULTURE SEED DIVISION

### CHAPTER 40-12-5 LABELING REQUIREMENTS

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- 40-12-5-.01 Label Format
- 40-12-5-.02 Label or Tag Requirements
- 40-12-5-.03 Seed in Hermetically Sealed Containers
- 40-12-5-.04 Labeling Kind and Variety or Type and Performance

#### **Characteristics of Flower Seeds**

**40-12-5-.01 Label Format.** Analysis tags or labels shall substantially comply with the following formats, according to the kind being marketed.

#### (a) **Agricultural Seed Label Format.**

Kind & Variety \_\_\_\_\_  
 Where Grown \_\_\_\_\_ Net Wt. \_\_\_\_\_ Lot No. \_\_\_\_\_  
 Pure Seed \_\_\_\_\_ % Germination \_\_\_\_\_ %  
 Inert Matter \_\_\_\_\_ % Hard or Dormant Seed \_\_\_\_\_ %  
 Other Crop Seed \_\_\_\_\_ % Total Germ. & Hard or  
 Dormant Seed \_\_\_\_\_ %  
 Weed Seed \_\_\_\_\_ % Date of Test \_\_\_\_\_, 20\_\_\_\_  
 Name and Number of Noxious Weed Seed Per Pound \_\_\_\_\_  
 Name \_\_\_\_\_  
 Address \_\_\_\_\_

**(b) Mixed Agricultural Seed Label Format.**

Seed Mixture Lot No. Where Grown Net Wt.				
Kind & Variety	Pure Seed Percent	Germination Percent	Hard or Dormant Seed Percent	Date of Test

Inert \_\_\_\_\_ % Other Crop Seed \_\_\_\_\_ % Weed Seed \_\_\_\_\_ %  
 Name and Number of Noxious Weed Seed Per Pound \_\_\_\_\_  
 Name \_\_\_\_\_  
 Address \_\_\_\_\_

**(c) Vegetable Seed Label Format** for containers of more than one pound.

Kind & Variety or Type & Performance \_\_\_\_\_  
 Characteristics \_\_\_\_\_  
 Net Wt. or Seed Count \_\_\_\_\_  
 Lot No. \_\_\_\_\_ Date of Test \_\_\_\_\_, 20\_\_\_\_  
 Germination \_\_\_\_\_ % Hard or Dormant Seed \_\_\_\_\_ %  
 Name & Address \_\_\_\_\_  
 \_\_\_\_\_

**(d) Flower Seed Label Format** for containers other than packets and other than preplanted containers, mats, tapes, or other planting devices and not prepared for use in home flower gardens or household plantings.

Kind & Variety or Type & Performance	
Characteristics	
Net Wt. or Seed Count	
Lot No.	Date of Test _____, 20____
Germination _____%	Hard or Dormant Seed _____%
Name & Address	

Authority O.C.G.A. 2-11-28.

#### **40-12-5-.02 Label or Tag Requirements.**

##### **(1) Requirements for Labeling Tags and Records.**

- (a) Abbreviations in labeling are not permitted.
- (b) All information required on the analysis tag shall be placed on one side of the label and no other information shall be placed on the tag with the analysis.
- (c) All information required on the analysis tag shall be truthful and not misleading or illegible.
- (d) A complete analysis shall be given on labeling tags and the purity component percentages must total one hundred (100) percent. Blank spaces or incomplete analyses are not permitted. Either numerals or the word "none" shall be used to express a percentage or number per pound.
- (e) All invoices and records pertaining to the shipment or sale of seed shall show each lot number.

##### **(2) Descriptive Information.**

- (a) Descriptive information that may be misleading when associated with the variety and kind names on the label shall be separated from the latter by placing in parentheses. Terms descriptive as to color, shape, size, habit of growth, disease-resistance, or other characteristics of the kind or variety may be associated with the name of the kind or variety provided it is done in a manner which clearly indicates the descriptive term is not a part of the name of the kind or variety; for example, Oshkosh pepper (yellow), Copenhagen Market (round head) cabbage, and Kentucky Wonder (pole) garden bean.
- (b) Terms descriptive of the manner or method of production or processing the seed (for example, certified, registered, delinted, scarified, treated, and hulled), may be associated with the name of the kind or variety of seed, providing such terms are not misleading.
- (c) The place of origin shall not be used in connection with the variety or kind names, unless it is a part of the generally recognized name of variety or kind.



(3) **Hybrid Seed.** Seed shall not be designated in labeling as “hybrid” seed unless it comes within the definition of “hybrid” in Code section 2-11-21.

(4) **Brand Names.**

(a) Brand names and terms taken from trademarks may be associated with the name of the kind or variety of seed as an indication of source: *Provided*, that the terms are clearly identified as being other than a part of the name of the kind or variety; for example, Ox Brand Golden Cross sweet corn.

(b) Seed shall not be advertised under a trademark or brand name in any manner that may create the impression that the trademark or brand name is a variety name.

(c) If seed advertised under a trademark or brand name is a mixture of varieties and if the variety names are not stated in the advertising, a description similar to a varietal description or a comparison with a named variety shall not be used if it creates the impression that the seed is of a single variety.

(5) **Origin.**

(a) 'Origin' or 'where grown' shall be shown on the label for agricultural seed. Whenever such seed originates in more than one state, the name of each state shall be shown on the label.

(b) In the case of an agricultural seed mixture, a single origin may be shown on the label if it applies to all pure seed components in the mixture, but if the pure seed components of the mixture originate from different states, origin shall be stated separately for each such component.

(6) **Lawn and Turf Seed Mixtures.**

(a) Pursuant to Code section 2-11-22, seed mixtures intended for lawn and turf purposes shall be designated as 'mixed' or 'mixture' on the label.

(b) Seed mixture components as illustrated in Rule section 40-12-5-.01 (b) must be labeled in columnar form and in order of predominance to show the commonly accepted name of kind, variety, origin and percentage by weight of each in excess of 5 percent of the whole.

(7) **Open Containers of Seed.**

(a) Open containers of agricultural seed or of more than one pound of vegetable seed shall be deemed to have met labeling requirements if the seed is weighed from a properly labeled container in the presence of the purchaser.

(b) If the seed is treated with a pesticide, an appropriate treatment label pursuant to Code section 2-11-22 shall be displayed on the open container and a copy of the treatment labeling shall be provided with all seed sold from that container.

(8) **Colorant Dyeing of Treated Seed.** All seed bearing a seed treatment in excess of a recognized tolerance or for which no tolerance or exemption from tolerance is recognized by the Federal Food, Drug and Cosmetic Act shall be denatured by a suitable colorant dye to impart an unnatural color to the seed to prevent their subsequent use as food for man or animal.

(9) **Use of Disclaimers.** A disclaimer, nonwarranty, or limited warranty used in any invoice or other labeling, or advertisement shall not directly or indirectly deny or modify any information required by the Georgia Seed Law, Rules and Regulations.

(10) **Mixed Cowpeas.** Cowpeas (a.k.a. southernpeas) consisting of mixed varieties may be sold by labeling them as "mixed cowpeas" or "mixed southernpeas." The percentage of pure seed shall represent all cowpeas and a germination test shall be based on a uniform sample of all varieties in the seed lot. Cowpeas shall be labeled "mixed" when they contain more than one other variety or a combination of other varieties in excess of five (5) percent by weight.

(11) **Soybean Lots Containing Cowpeas.** Soybean seed lots containing cowpeas or southernpeas are prohibited from being sold, offered for sale, exposed for sale or transported within this state.

(12) **Labeling Hard Seed or Dormant Seed.** Pursuant to Code section 2-11-22, when hard seed or dormant seed occurs in a seed lot, the label shall show the percentage of such in addition to the percent germination. Following this information, the 'total germination and hard seed' or 'total germination and dormant seed' may be stated as such, if desired.

(13) **Relabeling Expired Tags.** Relabeling expired tags by obtaining a new germination test and subsequently updating or replacing the old tag is the responsibility of the dealer on whose premises the seed are located. The following information shall appear on a label for relabeling seeds in their original containers:

(a) The calendar month and year the germination test was completed to determine such percentage.

(b) For those seed kinds requiring percent germination to be shown, the percent germination plus hard or dormant seed, as reported for the new germination test.

(c) The same lot designation as on the original labels.

(d) The identity of the labeling person if different from the original labeler.

Authority O.C.G.A. 2-11-28.

#### **40-12-5-.03 Seed in Hermetically Sealed Containers.**

(1) Agricultural or vegetable seeds packaged in hermetically sealed containers may be sold, exposed for sale, or offered for sale or transportation for a period of 24 months after the last day of the month that the seeds were

tested for germination prior to packaging. If seeds in hermetically sealed containers are sold, exposed for sale, or offered for sale or transportation more than 24 months after the last day of the month in which they were tested prior to packaging, they must have been retested within a nine (9) month period, exclusive of the calendar month in which the retest was completed, immediately prior to sale, exposure for sale, or offering for sale or transportation.

(2) The following standards, requirements and conditions must be met before seed is considered to be hermetically sealed under the provisions of this Act.

(a) The seed was packaged within 9 months after harvest.

(b) The container used does not allow water vapor penetration through any wall, including the seals, greater than 0.05 grams of water per 24 hours per 100 square inches of surface at 100°F. with a relative humidity on one side of 90 percent and on the other side 0 percent. Water vapor penetration or WVP is measured by the standards of the U.S. Bureau of Standards as: gm.H<sub>2</sub>O/24 hr./100 sq. in./100°F./90% RH v.0% RH

(c) The seed in the container shall not exceed the percent moisture, on a wet weight basis, as listed below:

Maximum Percent

2. Vegetable Seeds Seed Moisture

(iii)	Bluegrass, Kentucky	6.0
(iv)	Clover, Crimson	8.0
(v)	Fescue, Red	8.0
(vi)	Ryegrass, Annual	8.0
(vii)	Ryegrass, Perennial	8.0
(viii)	All others	6.0
(ix)	Mixture of above kinds	8.0

(i)	Bean, Garden	7.0
(ii)	Bean, Lima	7.0
(iii)	Beet	7.5
(iv)	Broccoli	5.0
(v)	Brussels Sprouts	5.0
(vi)	Cabbage	5.0

(vii)	Carrot	7.0
(viii)	Cauliflower	5.0
(ix)	Celeriac	7.0
(x)	Celery	7.0
(xi)	Chard, Swiss	7.5
(xii)	Chinese Cabbage	5.0
(xiii)	Chives	6.5
(xiv)	Collards	5.0
(xv)	Corn, Sweet	8.0
(xvi)	Cucumber	6.0
(xvii)	Eggplant	6.0
(xviii)	Kale	5.0
(xix)	Kohlrabi	5.0
(xx)	Leek	6.5
(xxi)	Lettuce	5.5
(xxii)	Muskmelon	6.0
(xxiii)	Mustard, India	5.0
(xxiv)	Onion	6.5
(xxv)	Onion, Welsh	6.5
(xxvi)	Parsley	6.5
(xxvii)	Parsnip	6.0
(xxviii)	Pea	7.0
(xxix)	Pepper	4.5
(xxx)	Pumpkin	6.0

(xxxix)	Radish	5.0
(xxxix)	Rutabaga	5.0
(xxxix)	Spinach	8.0
(xxxix)	Squash	6.0
(xxxix)	Tomato	5.5
(xxxix)	Turnip	5.0
(xxxix)	Watermelon	6.5
(xxxix)	All others	6.0

(d) The container is conspicuously labeled in not less than 8-point type to indicate:

1. That the container is hermetically sealed;
2. That the seed has been preconditioned as to moisture content; and
3. The calendar month and year in which the germination test was completed.

(e) The percentage of seed germination at the time of packaging was equal to or above the standards specified elsewhere in this Act. Authority  
O.C.G.A. 2-11-23.

**40-12-5-.04 Labeling Kind and Variety or Type and Performance Characteristics of Flower Seeds.**

The requirements of Code section 2-11-22(i) of the Georgia Seed Law stating that flower seeds shall be labeled with, “the name of the kind and variety or a statement of type and performance characteristics as prescribed in the rules and regulations promulgated under the provisions of this Act,” shall be met as follows:

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

1. If the seeds are of a single named variety, the kind and variety shall be stated, for example, “Marigold, Butterball.”
2. If the seeds are of a single type and color for which there is no specific variety name, the type of plant (if significant), and the type and color of bloom shall be indicated, for example, “Scabiosa, Tall, Large Flowered, Double, Pink.”

3. If the seeds consist of an assortment or mixture of colors or varieties of a single kind, the kind name, the type of plant (if significant) and the type or types of bloom shall be indicated. In addition, it shall be clearly indicated that the seed is mixed or assorted. An example of labeling such a mixture or assortment is "Marigold, Dwarf Double French, Mixed Colors."

4. If the seeds consist of an assortment or mixture of kinds or kinds and varieties, it shall be clearly indicated that the seed is assorted or mixed and the specific use of the assortment or mixture shall be indicated, for example "Cut Flower Mixture," or "Rock Garden Mixture." Such statements as "General Purpose Mixture," "Wonder Mixture," or any other statement which fails to indicate the specific use of the seed shall not be considered as meeting the requirements of this provision unless the specific use of the mixture is also stated. Containers with over 3 grams of seed shall list the kind or kind and variety names of each component present in excess of 5.0% of the whole in the order of their predominance giving the percentage by weight of each. Components of 5.0% or less shall be listed but need not be in order of predominance. A single percentage by weight shall be given for these components. If no component of a mixture exceeds 5% of the whole, the statement "No component in excess of 5%" may be used. Containers with 3 grams of seed or less shall list the components without giving percentage by weight and need not be in order of predominance.

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

Authority O.C.G.A. 2-11-22.

## **RULES OF THE GEORGIA DEPARTMENT OF AGRICULTURE SEED DIVISION**

### **CHAPTER 40-12-6 SEED ARBITRATION**

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40-12-6-.01 Scope of Arbitration

**40-12-6-.01 Scope of Arbitration**

(1) Pursuant to Code section 2-11-70, arbitration of complaints of seed and commercial fruit and nut tree purchasers against seed and commercial fruit and nut tree sellers relating to the quality and performance of the seed and the identity of the variety of fruit and nut trees is mandatory as a prerequisite to the purchaser's right to maintain a legal action against the seller. The Seed Arbitration Council, as established in Code section 2-11-74, shall investigate, hold informal hearings, make findings and render recommendations in the nature of arbitration proceedings where damages suffered by seed and commercial fruit and nut tree purchasers are caused by the alleged failure of the seed to perform as represented or to conform to the description of the labeling thereof as required by law or to be the variety of fruit or nut tree represented by the seller. Pursuant to Code section 2-11-76, findings and recommendations of the Council are not required to be accepted by either the purchaser or seller of seed or commercial fruit or nut trees and are not admissible as evidence in litigation. However, in any litigation involving a complaint which has been the subject of arbitration, any party may introduce Arbitration Council investigations and proceedings as the court may see fit.

(2) For the purpose of Seed Arbitration, "seed" is defined as stated in the Georgia Seed Law, Code section 2-11-21.

(3) For the purposes of Chapter 40-12-6 concerning commercial fruit and nut tree arbitration, the application of the term "seed" shall also apply to commercial fruit and nut trees.

(4) The use of a disclaimer or denial of warranty clause on any invoice, advertisement, label or labeling, or any other written, printed or graphic matter used in conjunction with the distribution of any seed shall not relieve or exempt any person from any provisions of seed arbitration according to the Georgia Seed Law. Authority O.C.G.A. 2-11-77.

#### **40-12-6-.02 Label Notice.**

(1) The label or invoice language setting forth the requirement for filing an arbitration complaint under the Georgia Seed Law shall substantially comply with the format of the Recommended Uniform State Seed Law (RUSSEL) of the Association of American Seed Control Officials (AASCO). A label or invoice notice in the following language or its equivalent shall be considered to be in compliance with O.C.G.A. 2-11-72(a).

#### NOTICE OF REQUIRED ARBITRATION

Under the seed laws of several states arbitration is required as a prerequisite to maintaining a legal action against the seller of the seed in any dispute relating to the quality or performance of the seed sold. The purchaser shall file a complaint along with the required filing fee (where applicable) with the Commissioner or Chief Agricultural Officer within such time as to permit inspection of the crops, plant or trees by the designated agency and the seedsman from whom the seed was purchased. A copy of the complaint shall be sent to the seller by certified or registered mail or as otherwise provided by state statute.

(2) Additional information may be included for the purpose of providing more uniform labeling among the various states. Authority O.C.G.A. 2-11-77.

#### **40-12-6-.03 Council Members' Tenure.**

(1) In order to provide continuity of experience within the Seed Arbitration Council, members and alternates appointed in 1994 by the Georgia Cooperative Extension Service, the University of Georgia Experiment Stations and the Georgia Department of Agriculture shall have four (4) year terms expiring December 31, 1997. Members and alternates appointed in 1994 by the Georgia Farm Bureau Federation and the Georgia Seedsmen's Association shall have two (2) year terms expiring December 31, 1995. Thereafter, terms of all members and alternates shall be four (4) years. Notwithstanding the above, each member and alternate shall serve at the pleasure of and until their replacement is recommended by their appointing official.

(2) Each alternate may attend any council meeting or hearing but shall serve only in the absence of the member for which he or she is the designated alternate.

(3) Unexpired terms of members or alternates shall be refilled as soon as possible through appointment by their appointing official.

(4) Members and alternates may be reappointed after completion of any specified term. Authority O.C.G.A. 2-11-77.

#### **40-12-6-.04 Investigative Procedures.**

(1) Investigations of seed complaints officially filed shall be conducted only by Seed Arbitration Council members, alternates or persons designated by the Council.

(2) The Seed Arbitration Council shall assemble and record all available facts pertinent to a seed complaint officially filed and shall obtain an official seed sample(s) for reference when available.

(3) Investigations of seed complaints officially filed shall include:



(a) Examination and evaluation of complainant's farming operation, including inspection of the affected crop in the field, the recording of crop field conditions, the taking of plant counts and photographs as appropriate and the completion of a written report thereon.

(b) Examination of seed seller's records pertaining to the seed lot in question, including seed conditioning, seed packaging and labeling and completion of a written report thereon.

(c) If a seed sample is available, varietal grow-out, pathological assay, or other evaluation as appropriate. Authority O.C.G.A. 2-11-77.

#### **40-12-6-.05 Hearing Procedures.**

(1) The Secretary of the Council shall be responsible for setting the tentative hearing date pursuant to Code section 2-11-75.

(2) Prior to scheduled hearings, the Secretary shall provide Council members and alternates with all seed complaint correspondence and investigation records.

(3) The informal hearing process shall provide a setting where each party involved in a seed dispute will be afforded the opportunity to present its side directly to the Council.

(4) Within ten (10) days of receipt of a response from the seller, the Council shall schedule an informal hearing. Notice shall be sent by certified or registered mail to all parties at least two (2) weeks prior to the scheduled hearing date.

(5) Four (4) members and/or alternates shall constitute a quorum and such quorum shall be present for the conducting of all Council business.

(6) All hearings shall be recorded and may be transcribed at the discretion of and upon vote of the Council.

(7) Attorneys may be present at hearings, but shall not participate directly in the hearing.

(8) The following guidelines are recommended for hearing agendas but are not required:

(a) Call to Order by Chairperson or Acting Chairperson.

(b) Introductory remarks and reading of written complaint by Chairperson or other designated member.

(c) Complainant is provided opportunity to describe complaint, present relevant facts and present written estimate of loss.

(d) Seed seller(s) is provided opportunity to present response to seed complaint including presentation of relevant facts.

(e) Council members and/or alternates are provided opportunity to report field observations and present written report.

(f)

Agricultural specialists assigned to investigate seed quality and crop are provided opportunity to present their report.

(g) Council members or serving alternates are provided opportunity to examine complainant or seller and obtain any other pertinent information relating to the complaint.

(h) Council receives and reviews any varietal grow-out test, pathological assays, or other evaluations, as required.

(i) Opportunity given for Council members and/or alternates and other participants to ask questions for clarification.

(j) All participants other than Council members and alternates are dismissed and Council deliberates on complaint and formulates recommendation in closed session.

(k) Council transmits findings and recommendations to the Commissioner within thirty (30) days of the hearing date. In such report, the council may make any recommendations it deems fair and equitable under the circumstances presented. These recommendations are up to the discretion of the council and may include, but are not limited to, the following:

1. That no action be taken;
2. That money damages be paid to the purchaser as a result of the alleged failure of the seed to conform to or perform as represented by the seed label, container, or invoice; or that money damages be paid to the purchaser of a commercial fruit or nut tree(s) as a result of the alleged failure of the tree(s) to be the variety represented to the purchaser. Such damages shall not be less than three times the purchase price in the case of fruit trees or six times the purchase price in the case of nut trees;
3. That the seller reimburse the purchaser for the amount of the filing fee paid to enter the arbitration process; or
4. Such other recommendation found by the council to be fair and equitable to the parties.

(1) The Commissioner transmits the Council's findings and recommendations to the affected parties by certified or registered mail.

(m) Within thirty (30) days of the date the Commissioner mails the Council's decision to the purchaser and seller, the purchaser and seller shall give written

notice to the Commissioner of their acceptance or rejection of the Council's recommendations.

(n) The Commissioner shall notify each party to the complaint of the acceptance or rejection by the purchaser and seller. If the Council's recommendations are rejected, the complainants are to be notified of their right to pursue legal action.

Authority O.C.G.A. 2-11-77.

## **RULES OF GEORGIA DEPARTMENT OF AGRICULTURE SEED DIVISION**

### **CHAPTER 40-12-7 CHARGES FOR SEED SAMPLE ASSAY**

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40-12-7-.01 Charges for Seed Sample Assay

#### **40-12-7-.01 Charges for Seed Sample Assay.**

Pursuant to the Georgia Seed Law, Code section 2-11-25, seed samples shall be tested without charge for farmers who do not have a seed dealer's license. Other service samples shall be categorized and charges made according to the following:

(a) **Service Samples.** Charges for samples submitted from out-of-state sources or by Georgia seed dealers for service testing shall be made in accordance with a schedule established by the Commissioner. The schedule of charges shall be established immediately after the effective date of this rule in 1995 and in January of each third year thereafter.

(b) **Southern Region Plant Introduction Station Samples.** These USDA samples will be tested for germination and viability without priority in timing and as the sample load in the seed laboratories will permit. Sample testing and charges will be established periodically by contract.

(c) **Certification Seed Samples.** These samples shall be tested according to Georgia Crop Improvement Association standards and shall include samples submitted for the state certification program and the state foundation seed agency. No charge will be made for certification seed samples.

(d) **Research Samples.** No charges will be made for samples submitted by the seed trade or government agencies for research toward improving agriculture.

(e) **Referee and Standardization Samples.** No charges will be made for samples submitted for comparative referee tests and methods' standardization to promote uniformity in seed testing. Authority O.C.G.A. 2-11-25.

# **RULES OF GEORGIA DEPARTMENT OF AGRICULTURE SEED DIVISION**

## **CHAPTER 40-12-8 SEED DEALER LICENSE FEES**

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40-12-8-.01 Seed Dealer License Fees

#### **40-12-8-.01 Seed Dealer License Fees.**

Pursuant to Code section 2-11-26, during August 1997, each retail and wholesale seed dealer shall apply for a separate license for each point of sale from which seed are sold, offered for sale, or exposed for sale. Out-of-state wholesale and retail seed dealers who sell or ship seed into this state shall obtain a single license for their headquarters' location in the same manner. Application for license is made on forms supplied through the Seed Division of the Georgia Department of Agriculture. License applicants shall be assessed a fee of \$100 for each three (3) year license period or any portion thereof. All licenses shall expire on July 31, 2000, and every third year thereafter.

Authority O.C.G.A. 2-11-2