

## CHAPTER 21

### SEEDS

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#### 21.112 COMMISSIONER, DUTIES; SEED POTATOES.

*[For text of subd 1, see M.S.1982]*

Subd. 2. **Advisory seed potato certification task force.** The commissioner may appoint an advisory seed potato certification task force. If the task force is appointed each member shall be a grower in Minnesota of certified seed potatoes. The task force shall expire, and the terms, compensation and removal of members shall be as provided in section 15.059.

**History:** 1983 c 260 s 12

21.47	[Repealed, 1983 c 293 s 115]
21.48	[Repealed, 1983 c 293 s 115]
21.49	[Repealed, 1983 c 293 s 115]
21.50	[Repealed, 1983 c 293 s 115]
21.502	[Repealed, 1983 c 293 s 115]
21.503	[Repealed, 1983 c 293 s 115]
21.51	[Repealed, 1983 c 293 s 115]
21.52	[Repealed, 1983 c 293 s 115]
21.53	[Repealed, 1983 c 293 s 115]
21.54	Subdivision 1. [Repealed, 1983 c 293 s 115]
	Subd. 2. [Repealed, 1983 c 293 s 115]
	Subd. 3. [Repealed, 1993 c 293 s 115]
	Subd. 4. [Repealed, Ex1961 c 6 s 5; 1983 c 293 s 115]
21.55	[Repealed, 1983 c 293 s 115]
21.56	[Repealed; 1983 c 293 s 115]
21.57	[Repealed, 1983 c 293 s 115]
21.58	[Repealed, 1983 c 293 s 115]

#### 21.80 MINNESOTA SEED LAW.

Sections 21.80 to 21.92 may be cited as the "Minnesota Seed Law."

**History:** 1983 c 293 s 39

**21.81 DEFINITIONS.**

Subdivision 1. **Scope.** The terms used in sections 21.80 to 21.92 have the meanings given them in this section.

Subd. 2. **Advertisement.** "Advertisement" means any representation, other than on a label, disseminated in any manner or by any means, relating to seed within the scope of sections 21.80 to 21.92.

Subd. 3. **Agricultural seeds.** "Agricultural seeds" includes the seeds of grass, forage, cereal, oil, fiber crops, seeds of vegetables grown for processing, and any other kinds of seeds commonly recognized within this state as agricultural or field seeds, lawn seeds, or mixtures of those seeds, and may include noxious weed seed when the commissioner determines that the seed is being used as agricultural seed.

Subd. 4. **Blend.** "Blend" means seed consisting of more than one variety of a kind, each in excess of five percent of the whole.

Subd. 5. **Certified seed.** "Certified seed" means certified, registered, or foundation seed, or any other term conveying a similar meaning when referring to seed that has been produced, conditioned, and labeled in compliance with the rules of an officially recognized seed certification agency.

Subd. 6. **Commissioner.** "Commissioner" means the commissioner of agriculture or his authorized agent and may include a county agricultural inspector.

Subd. 7. **Conditioning.** "Conditioning" means cleaning to remove chaff, sterile florets, immature seeds, weed seeds, inert matter, and other crop seeds, scarifying, combining to obtain uniform quality, or any other operation which would change the purity or germination of the seed and require retesting to determine the quality of the seed. Conditioning does not include such operations as packaging, labeling, combining uniform lots of the same kind or variety without cleaning or preparing a mixture without cleaning, if it would not require retesting to determine the quality of the seed.

Subd. 8. **Flower seeds.** "Flower seeds" includes seeds of herbacious 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.

Subd. 9. **Genuine grower's declaration.** A "genuine grower's declaration" is a statement signed by the grower which gives for a lot of agricultural seed, the lot number, kind, variety, origin, weight, year of production, date of shipment, and to whom it was sold, shipped, or delivered.

Subd. 10. **Germination.** "Germination" means the percentage of seeds other than hard seeds which are capable of producing normal seedlings under favorable growing conditions. Broken, weak, diseased, malformed, or abnormal seedlings shall not be considered as having germinated.

Subd. 11. **Hybrid.** "Hybrid" when applied to kinds or varieties of seed means the first generation seed 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 an open pollinated variety; or (c) two selected clones, seed lines, varieties, or species. "Controlling the pollination" means to use a method of hybridization which will produce pure seed which is at least 75 percent hybrid seed. The second generation or subsequent generations from these crosses are not hybrids. Hybrid designations shall be treated as variety names.

Subd. 12. **Initial labeler.** "Initial labeler" means a person who is the first to label for sale within this state an agricultural, vegetable, flower, tree, or shrub seed.

Subd. 13. **Kind.** "Kind" means one or more related species or subspecies which singly or collectively is known by one common name, such as wheat, oats, or sweet clover.

Subd. 14. **Label.** "Label" includes a tag or other device attached to or written, stamped, or printed on any container or accompanying any lot of bulk seeds purporting to set forth the kind of seeds contained, or any other information relating to the labeled seed and includes invoices under which any seed is imported into the state.

Subd. 15. **Lot.** "Lot" means a definite quantity of seed identified by a lot number or other mark, every portion or bag of which is uniform within recognized tolerances for the factors which appear in the labeling.

Subd. 16. **Mixture.** "Mixture" means seeds consisting of more than one kind, each in excess of five percent of the whole.

Subd. 17. **Noxious weed seeds.** "Noxious weed seeds" includes prohibited and restricted noxious weed seeds.

Subd. 18. **Person.** "Person" means an individual, partnership, corporation, company, society, association, or firm.

Subd. 19. **Prohibited noxious weed seeds.** "Prohibited noxious weed seeds" are those weed seeds which are prohibited from being present in any agricultural, vegetable, flower, tree or shrub seed. They are the seeds of weeds which are highly destructive and difficult to control by good cultural practices or by the use of herbicides. They not only reproduce by seed but also may spread by underground reproductive parts such as roots and rootstocks and aboveground reproductive parts such as runners and stolons.

Subd. 20. **Pure live seed.** "Pure live seed" means the product of the percent germination multiplied by the percent pure seed divided by 100 percent.

Subd. 21. **Pure seed.** "Pure seed" means seed exclusive of inert matter and all other seeds not of the kind of seed being considered as defined by the rules for testing seeds of the association of official seed analysts.

Subd. 22. **Record.** "Record" includes all information relating to seed shipments and includes a file sample of each lot of seed. For tree and shrub seed, the record includes all documents regarding statement of origin and elevation where the seed originated.

Subd. 23. **Restricted noxious weed seeds.** "Restricted noxious weed seeds" are those weed seeds which, if present in agricultural, vegetable, flower, tree or shrub seed, shall be named on the label together with the number per pound of seed specified and which shall not exceed the legal limit. They are seeds of weeds which are objectionable in fields, lawns, and gardens of this state and can be controlled by good cultural practice and use of herbicides.

Subd. 24. **Screenings.** "Screenings" means chaff, sterile florets, immature seed, weed seeds, inert matter, and other material removed from seed in any kind of conditioning and which contains less than 25 percent by weight of live agricultural or vegetable seed.

Subd. 25. **Seizure.** "Seizure" means a legal process carried out by a court order against a definite amount of seed.

Subd. 26. **Sell.** "Sell," when applying to agricultural, vegetable, flower, tree or shrub seed, and seed samples, includes:

(a) selling or transferring ownership;

(b) offering and exposing for sale, exchange, distribution, giving away, and transportation in or into this state;

(c) having in possession with intent to sell, exchange, distribute, give away, or transport in or into this state;

(d) storing, carrying, and handling in aid of traffic in seeds, whether done in person or through an agent, employee, or other person; and

(e) receiving, accepting, and holding on consignment for sale.

Subd. 27. **Stop sale.** "Stop sale" means an administrative order restraining the sale, use, disposition, and movement of a definite amount of seed.

Subd. 28. **Treated.** "Treated" means that the seed has received an application of a substance or that it has been subjected to a process for which a claim is made.

Subd. 29. **Tree and shrub seeds.** "Tree and shrub seeds" includes seeds of woody plants commonly known and sold as tree and shrub seeds in this state.

Subd. 30. **Tree seed collector's declaration.** A "tree seed collector's declaration" is a statement signed by a grower or person having knowledge of the place of collection which gives for a lot of seed: the lot number, common or scientific name of the species, subspecies if appropriate, origin, elevation, and quantity of tree and shrub seed.

Subd. 31. **Type.** "Type" means a group of varieties so nearly similar that individual varieties cannot be clearly differentiated except under special conditions.

Subd. 32. **Vegetable seeds.** "Vegetable seeds" includes the seeds of those crops which are grown in gardens and on truck farms that are generally known and sold under the name of vegetable or herb seeds in this state.

Subd. 33. **Variety.** "Variety" means a subdivision of a kind characterized by growth, yield, plant, fruit, seed, or other characteristics by which it can be differentiated from other plants of the same kind.

Subd. 34. **Weed seeds.** "Weed seeds" includes the seeds of all plants generally recognized as weeds within this state, including noxious weed seeds.

**History:** 1983 c 293 s 40

## 21.82 LABEL REQUIREMENTS; AGRICULTURAL, VEGETABLE, OR FLOWER SEEDS.

Subdivision 1. **Form.** Each container of agricultural, vegetable, or flower seed which is offered for sale for sowing purposes shall bear or have attached in a conspicuous place a plainly written or printed label or tag in the English language giving the information required by this section. This statement shall not be modified or denied in the labeling or on another label attached to the container.

Subd. 2. **Content.** For agricultural, vegetable, or flower seeds, except as otherwise provided in subdivisions 4, 5, 6, 7 and 8, the label shall contain:

(a) The name of the kind or kind and variety for each agricultural or vegetable seed component in excess of five percent of the whole and the percentage by weight of each in order of its predominance. The commissioner shall by rule designate the kinds that are required to be labeled as to variety. If the variety of those kinds generally labeled as to variety is not stated and it is not required to be stated, the label shall show the name of the kind and the words: "Variety not stated."

(1) 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 five 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 75 percent hybrid seed as a result of incompletely controlled pollination in a cross shall be labeled to show the percentage of pure seed that is hybrid seed or a statement such as "contains from 75 percent to 95 percent 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. The word hybrid shall be shown on the label in conjunction with the kind.

(2) Blends shall be listed on the label using the term "blend" in conjunction with the kind.

(3) Mixtures shall be listed on the label using the term "mixture," "mix," or "mixed."

(b) Lot number or other lot identification.

(c) Origin, if known, or that the origin is unknown.

(d) Percentage by weight of all weed seeds present in agricultural, vegetable, or flower seed. This percentage may not exceed one percent. If weed seeds are not present in vegetable or flower seeds, the heading "weed seeds" may be omitted from the label.

(e) Name and rate of occurrence per pound of each kind of restricted noxious weed seeds present. They shall be listed under the heading "noxious weed seeds." If noxious weed seeds are not present in vegetable or flower seeds, the heading "noxious weed seeds" may be omitted from the label.

(f) Percentage by weight of agricultural, vegetable, or flower seeds other than those required to be named on the label. They shall be listed under the heading "other crop." If "other crop" seeds are not present in vegetable or flower seeds, the heading "other crop" may be omitted from the label.

(g) Percentage by weight of inert matter.

(h) Net weight of contents, to appear on either the container or the label, except that in the case of vegetable or flower seed containers with contents of 200 seeds or less, a statement indicating the number of seeds in the container may be listed along with or in lieu of the net weight of contents.

(i) For each named agricultural or vegetable seed:

(1) percentage of germination, exclusive of hard seed;

(2) percentage of hard seed, if present; and

(3) the calendar month and year the percentages were determined by test.

(j) Name and address of the person who labeled the seed or who sells the seed within this state, or a code number which has been registered with the commissioner.

**Subd. 3. Treated seed.** For all named agricultural, vegetable, or flower seeds which are treated, for which a separate label may be used, the label shall contain:

(a) a word or statement to indicate that the seed has been treated;

(b) the commonly accepted, coined, chemical, or abbreviated generic chemical name of the applied substance;

(c) the caution statement "Do not use for food, feed, or oil purposes" if the substance in the amount present with the seed is harmful to human or other vertebrate animals;

(d) in the case of mercurials or similarly toxic substances, a poison statement and symbol;

(e) a word or statement describing the process used when the treatment is not of pesticide origin; and

(f) the date beyond which the inoculant is considered ineffective if the seed is treated with an inoculant. It shall be listed on the label as "inoculant: expires (month and year)" or wording that conveys the same meaning.

Subd. 4. **Hybrid seed corn.** For hybrid seed corn purposes a label shall contain:

(a) a statement indicating the number of seeds in the container may be listed along with or in lieu of the net weight of contents; and

(b) for each variety of hybrid seed field corn, the day classification as determined by the originator or owner. The day classification shall approximate the number of days of growing season necessary from emergence of the corn plant above ground to relative maturity and shall conform to the day classification established by the director of the Minnesota agricultural experiment station for the appropriate zone.

Subd. 5. **Grass seed.** For grass seed and mixtures of grass seeds intended for lawn and turf purposes, the requirements in clauses (a) to (c) must be met.

(a) The label shall contain the percentage by weight of inert matter, up to ten percent by weight except for those kinds specified by rule. The percentage by weight of foreign material not common to grass seed must be listed as a separate item in close association with the inert matter percentage.

(b) If the seed contains no "other crop" seed, the following statement may be used and may be flagged: "contains no other crop seed."

(c) When grass seeds are sold outside their original containers, the labeling requirements are met if the seed is weighed from a properly labeled container in the presence of the purchaser.

Subd. 6. **Coated agricultural seeds.** For coated agricultural seeds the label shall contain:

(a) percentage by weight of pure seeds with coating material removed;

(b) percentage by weight of coating material shown as a separate item in close association with the percentage of inert matter; and

(c) percentage of germination determined on 400 pellets with or without seeds.

Subd. 7. **Vegetable seeds.** For vegetable seeds prepared for use in home gardens or household plantings the requirements in clauses (a) to (d) apply. The origin may be omitted from the label.

(a) The label shall contain the following:

(1) the year for which the seed was packed for sale listed as "packed for (year)," or the percentage of germination and the calendar month and year that the percentages were determined by test; and

(2) for vegetable seeds which germinate less than the standard last established by the commissioner:

(i) percentage of germination, exclusive of hard seed;

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

(iii) the words "below standard" in not less than eight point type and the month and year the percentages were determined by test.

(b) The percentage by weight of pure seed may be omitted from a label if the total is more than 90 percent.

(c) The percentage by weight of inert matter may be omitted from a label if it is less than ten percent.

(d) The labeling requirements for vegetable seeds sold outside their original containers are met if the seed is weighed from a properly labeled container in the presence of the purchaser.

Subd. 8. **Flower seeds.** (a) All flower seed labels shall contain:

(1) the name of the kind and variety or a statement of type and performance characteristics as prescribed by rules;

(2) the year for which the seed was packed for sale listed as "packed for (year)," or the percentage of germination and the calendar month and year that the percentage was determined by test; and

(3) for flower seeds which germinate less than the standard last established by the commissioner:

(i) the percentage of germination exclusive of hard seed; and

(ii) the words "below standard" in not less than eight point type and the month and year this percentage was determined by test.

(b) The origin may be omitted from the label.

(c) The percentage by weight of pure seed may be omitted from a label if the total is more than 90 percent.

(d) The percentage by weight of inert matter may be omitted from a label if it is less than ten percent.

**History:** 1983 c 293 s 41

## 21.83 LABEL REQUIREMENTS; TREE OR SHRUB SEEDS.

Subdivision 1. **Form.** Each container of tree or shrub seed which is offered for sale for sowing purposes shall bear or have attached in a conspicuous place a plainly written or printed label or tag in the English language giving the information required by this section. This label statement shall not be modified or denied in the labeling or on another label attached to the container, except that labeling of seed supplied under a contractual agreement may be made by an invoice accompanying the shipment or by an analysis tag attached to the invoice if each bag or other container is clearly identified by a lot number stenciled on the container. Each bag or container that is not so stenciled must carry complete labeling.

Subd. 2. **Label content.** For all tree or shrub seed subject to this section the label shall contain:

(a) the common name of the species, and the subspecies if appropriate;

(b) the scientific name of the genus and species, and the subspecies if appropriate;

(c) the lot number or other lot identification;

(d) for seed collected from a predominantly indigenous stand, the area of collection given by latitude and longitude, or geographic description, or political subdivision such as state or county;

(e) for seed collected from a predominantly nonindigenous stand, the identity of the area of collection and the origin of the stand or the words "origin not indigenous";

(f) the elevation or the upper and lower limits of elevation within which the seed was collected;

(g) the percentage of pure seed by weight;

(h) for those kinds of seed for which standard testing procedures are prescribed:

(1) the percentage of germination exclusive of hard seed;  
 (2) the percentage of hard seed, if present; and  
 (3) the calendar month and year the percentages were determined by test; or  
 (4) in lieu of the requirements of clauses (1) to (3), the seed may be labeled "test is in progress, results will be supplied upon request";

(i) for those species for which standard germination testing procedures have not been prescribed by the commissioner, the calendar year in which the seed was collected; and

(j) the name and address of the person who labeled the seed or who sells the seed within this state.

Subd. 3. **Treated seed.** For all treated tree and shrub seeds for which a separate label may be used the label shall contain:

(a) a word or statement to indicate that the seed has been treated;

(b) the commonly accepted, coined, chemical, or abbreviated generic chemical name of the applied substance;

(c) the caution statement "Do not use for food, feed, or oil purposes" if the substance in the amount present with the seed is harmful to human or other vertebrate animals;

(d) in the case of mercurials or similarly toxic substances, a poison statement and symbol;

(e) a word or statement describing the process used when the treatment is not of pesticide origin;

(f) if the seed has been treated with an inoculant, the date beyond which the inoculant is considered ineffective. It shall be listed on the label as "inoculant: expires (month and year)" or wording which conveys the same meaning.

**History:** 1983 c 293 s 42

## 21.84 RECORDS.

Each person whose name appears on the label of agricultural, vegetable, flower, tree or shrub seeds subject to section 21.82 or 21.83 shall keep for three years complete records of each lot of agricultural, vegetable, flower, tree or shrub seed sold in this state and shall keep for one year a file sample of each lot of seed after disposition of the lot. In addition, the grower shall have as a part of the record a "genuine grower's declaration" or a "tree seed collector's declaration."

**History:** 1983 c 293 s 43

## 21.85 DUTIES OF THE COMMISSIONER.

Subdivision 1. **Enforcement.** The commissioner shall administer and enforce sections 21.80 to 21.92.

Subd. 2. **Seed laboratory.** The commissioner shall establish and maintain a seed laboratory for seed testing, employing necessary agents and assistants to administer and enforce sections 21.80 to 21.92, none of whom, except those who are employed on a regular full-time basis, shall come within or be governed by chapter 43A. The compensation for the unclassified employees shall be on the basis of a rating and salary scale determined by the commissioner's plan of the department of employee relations or the appropriate bargaining unit contract.

Subd. 3. **Entry upon premises.** For the purpose of administering and enforcing sections 21.80 to 21.92 the commissioner may enter upon any public or private premises during regular business hours in order to have access to seeds and the



records concerning the seeds that are subject to sections 21.80 to 21.92, and to enter any truck or other conveyor by land, water, or air at any time when the conveyor is accessible, for the same purpose.

**Subd. 4. Inspection and sampling.** The commissioner shall sample, inspect, make analysis of and test seeds subject to sections 21.80 to 21.92 that are offered for sale for sowing purposes at the time and place and to the extent necessary to determine whether the seeds are in compliance with sections 21.80 to 21.92.

**Subd. 5. Notice of violation.** The commissioner shall promptly notify the person who sold, labeled, or transported seed that has been:

- (1) found to be in violation of sections 21.80 to 21.92;
- (2) placed under a stop sale order; or
- (3) seized on complaint of the commissioner to a court of competent jurisdiction.

**Subd. 6. Stop sale orders.** The commissioner may issue and enforce a written or printed "stop sale" order to the owner or custodian of any lot of seed which he finds to be in violation of sections 21.80 to 21.92. The order shall prohibit further sale, conditioning, and movement of the seed, except on approval of the enforcing officer, until the officer has evidence that the law has been complied with and has issued a release from the "stop sale" order. With respect to seed which has been denied sale, conditioning, or movement, the owner or custodian of the seed may appeal from the order to a court where the seeds are found, for the discharge of the seeds from the order prohibiting the sale, conditioning, or movement in accordance with the findings of the court. This subdivision does not limit the right of the enforcement officer to proceed in a different fashion.

**Subd. 7. Seizure.** Any lot of seed not in compliance with sections 21.80 to 21.92 is subject to seizure on complaint of the commissioner to a court of competent jurisdiction in the locality where the seed is located. If the court finds the seed to be in violation and orders the condemnation of the seed, it shall be denatured, destroyed, relabeled, or otherwise disposed of in compliance with law. In no instance shall the court order dispose of the seed without first giving the claimant an opportunity to apply to the court for the release of the seed or permission to condition or relabel it into compliance.

**Subd. 8. Injunction.** When the commissioner applies to any court for a temporary or permanent injunction restraining any person from violating or continuing to violate sections 21.80 to 21.92, the injunction shall be issued without requiring a bond.

**Subd. 9. Prosecutions.** When the commissioner finds that a person has violated any part of sections 21.80 to 21.92, he may initiate court proceedings in the locality in which the violation occurred. No prosecution shall be instituted without a person having an opportunity to appear in person or by a representative before the commissioner to provide evidence. Either a county attorney or the attorney general may prosecute actions under sections 21.80 to 21.92.

**Subd. 10. Commissioner may alter requirements in emergencies.** In the event of acute shortages of any seed or seeds, or the occurrence of other conditions which in the opinion of the commissioner create an emergency which would make impractical the enforcement of any requirement of sections 21.80 to 21.92 relating to the percentage of purity and weed seed content of any seed or seeds, the commissioner may temporarily change and alter any requirement relating to percentage of purity and weed seed content for the duration of the emergency.

Subd. 11. **Rules.** The commissioner may make necessary rules, including temporary rules, for the proper enforcement of sections 21.80 to 21.92. Existing rules shall remain in effect unless temporary or permanent rules are made that supersede them.

Subd. 12. **Service testing and identification.** The commissioner shall provide for purity and germination tests of seeds and identification of seeds and plants for farmers, dealers, and others. He may establish and collect fees for testing and identification.

Subd. 13. **Sampling export seed.** The commissioner may sample agricultural, vegetable, flower, tree or shrub seeds which are destined for export to other countries. He may establish and collect suitable fees from the exporter for this service.

Subd. 14. **Cooperation with United States department of agriculture.** The commissioner shall cooperate with the United States department of agriculture in seed law enforcement.

**History:** 1983 c 293 s 44

## 21.86 UNLAWFUL ACTS.

Subdivision 1. **Prohibitions.** A person may not advertise or sell any agricultural, vegetable, flower, or tree and shrub seed if:

(a) A test to determine the percentage of germination required by sections 21.82 and 21.83 has not been completed within a nine-month period, exclusive of the calendar month in which the test was completed. This prohibition does not apply to tree, shrub, agricultural, or vegetable seeds packaged in hermetically sealed containers. Seeds packaged in hermetically sealed containers under the conditions defined by rule may be offered for sale for a period of 36 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 offered for sale more than 36 months after the last day of the month in which they were tested prior to packaging, they must be retested within a nine-month period, exclusive of the calendar month in which the retest was completed;

(b) It is not labeled in accordance with sections 21.82 and 21.83 or has false or misleading labeling;

(c) False or misleading advertisement has been used in respect to its sale;

(d) It contains prohibited noxious weed seeds;

(e) It consists of or contains restricted noxious weed seeds in excess of 25 seeds per pound or in excess of the number declared on the label attached to the container of the seed or associated with the seed;

(f) It contains more than one percent by weight of all weed seeds;

(g) It contains less than the stated net weight of contents;

(h) It contains less than the stated number of seeds in the container;

(i) It contains any labeling, advertising, or other representation subject to sections 21.82 and 21.83 representing the seed to be certified unless:

(1) it has been determined by a seed certifying agency that the seed conformed to standards of purity and identity as to kind, species, subspecies, or variety, and also that tree seed was found to be of the origin and elevation claimed, in compliance with the rules pertaining to the seed; and

(2) the seed bears an official label issued for it by a seed certifying agency stating that the seed is of a certified class and a specified kind, species, subspecies, or variety;

(j) It is 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 has been granted under United States Code, title 7, sections 2481 to 2486, specifying sale by variety name only as a class of certified seed. Seed from a certified lot may be labeled as to variety name when used in a blend or mixture by or with approval of the owner of the variety; or

(k) The person whose name appears on the label does not have complete records including a file sample of each lot of agricultural, vegetable, flower, tree or shrub seed sold in this state as required in section 21.84.

Subd. 2. **Miscellaneous violations.** No person may:

(a) detach, alter, deface, or destroy any label required in sections 21.82 and 21.83 or alter or substitute seed in a manner that may defeat the purposes of sections 21.82 and 21.83;

(b) hinder or obstruct in any way any authorized person in the performance of duties under sections 21.80 to 21.92;

(c) fail to comply with a "stop sale" order or to move or otherwise handle or dispose of any lot of seed held under a stop sale order or attached tags, except with express permission of the enforcing officer for the purpose specified;

(d) use the word "type" in any labeling in connection with the name of any agricultural seed variety;

(e) use the word "trace" as a substitute for any statement which is required; or

(f) plant any agricultural seed which the person knows contains weed seeds or noxious weed seeds in excess of the limits for that seed.

**History:** 1983 c 293 s 45

### 21.87 EXEMPTION.

Sections 21.82 and 21.83 do not apply:

(a) to seed or grain not intended for sowing purposes;

(b) to seed in storage in or being transported or consigned to a conditioning establishment for conditioning, provided that the invoice or label accompanying any shipment of the seeds bears the statement "seeds for conditioning," and provided that any labeling or other representation which may be made with respect to the unconditioned seed is subject to the provisions of sections 21.82 and 21.83; or

(c) to any carrier with respect to seed transported or delivered for transportation in the ordinary course of its business as a carrier, provided that the carrier is not engaged in producing, conditioning, or marketing seeds subject to sections 21.82 and 21.83.

**History:** 1983 c 293 s 46

### 21.88 PENALTIES.

Subdivision 1. **Misdemeanor; gross misdemeanor.** A violation of sections 21.80 to 21.92 or a rule adopted under section 21.85 is a misdemeanor. Each additional day of violation is a separate offense. A subsequent violation by a person is a gross misdemeanor.

Subd. 2. **Unlawful practice.** In addition to other penalties provided by law, a person who violates a provision of sections 21.80 to 21.92 or a rule adopted under section 21.85 has committed an unlawful practice under sections 325F.68 and 325F.69 and is subject to the remedies provided in sections 8.31 and 325F.70.

Subd. 3. **Penalties not to apply.** A person is not subject to the penalties in subdivision 1 or 2 for having sold seeds which were incorrectly labeled or represented as to kind, species, subspecies, if appropriate, variety, type, origin and year, elevation or place of collection if required, if the seeds cannot be identified by examination unless he has failed to obtain an invoice or genuine grower's or tree seed collector's declaration or other labeling information and to take other reasonable precautions to ensure the identity is as stated.

**History:** 1983 c 293 s 47

### 21.89 SEED FEE PERMITS.

Subdivision 1. **Seed fee.** In order to pay for administering and enforcing sections 21.80 to 21.92, the commissioner shall establish the fees charged for various seeds and shall collect the fees on all seeds covered by sections 21.82 to 21.92.

Subd. 2. **Permits; issuance, revocation.** The commissioner shall issue a permit to the initial labeler of agricultural, vegetable, or flower seeds which are offered for sale in Minnesota and which conform to and are labeled under sections 21.80 to 21.92. The person shall furnish to the commissioner an itemized statement of all seeds sold in Minnesota for the periods established by the commissioner. This statement shall be delivered, along with the payment of the fee, to the commissioner no later than 30 days after the end of each reporting period. Any person holding a permit shall show as part of the analysis labels or invoices on all agricultural, vegetable, flower, tree or shrub seeds all information the commissioner requires. The commissioner may revoke any permit in the event of failure to comply with applicable laws and rules.

Subd. 3. **Penalty.** A penalty fee established by the commissioner shall be assessed any permit holder who fails to submit a statement and pay the fee due within the 30 days following the end of each reporting period.

Subd. 4. **Exemptions.** A person who labels for sale agricultural, vegetable, or flower seeds must have a seed fee permit unless:

(a) The person labels and sells less than 50,000 pounds of agricultural seed in Minnesota each calendar year. If more than 50,000 pounds are labeled and sold in Minnesota by any person, the person must have a seed fee permit and pay fees on all seed sold. A person who labels and sells grass seeds and mixtures of grass seeds intended for lawn or turf purposes is not exempted from having a permit and paying seed fees on all seeds in this category sold in Minnesota; or

(b) The agricultural, vegetable, or flower seeds are of the breeder or foundation seed classes of varieties developed by publicly financed research agencies intended for the purpose of increasing the quantity of seed available.

**History:** 1983 c 293 s 48

### 21.90 HYBRID SEED FIELD CORN VARIETY REGISTRATION.

Subdivision 1. **Growing zones.** The director of the agricultural experiment station at the University of Minnesota shall determine, establish, and number or otherwise identify corn growing zones of the state and determine and publish a list of day classifications for each zone which will approximate the number of days

growing season necessary for corn from emergence of the corn plants above ground after planting to relative maturity.

**Subd. 2. Fees.** A record of each hybrid seed field corn variety to be sold in Minnesota shall be registered with the commissioner by February 1 of each year by the originator or owner. The commissioner shall establish the annual fee for registration for each variety. The record shall include the permanent designation of the hybrid as well as the day classification and zone of adaptation, as determined under subdivision 1, which the originator or owner declares to be the zone in which the variety is adapted. In addition, at the time of the first registration of a hybrid seed field corn variety, the originator or owner shall include a sworn statement that his declaration of the zone of adaptation was based on actual field trials in that zone and that the field trials substantiate his declaration as to the day and zone classifications to which the variety is adapted. The name or number used to designate a hybrid seed field corn variety in the registration is the only name of all seed corn covered by or sold under that registration.

**Subd. 3. Tests of varieties.** If the commissioner needs to verify that a hybrid seed field corn variety is adapted to the corn growing zone declared by the originator or owner, it must, when grown in several official comparative trials by the director of the Minnesota agricultural experiment station in the declared zone of adaptation, have an average kernel moisture at normal harvest time which does not differ from the average kernel moisture content of three or more selected standard varieties adapted for grain production in that particular growing zone by more than four percentage points. If a new variety when tested has more than six percentage points of moisture over the standard variety, it must have the relative maturity increased by five days in the correct zone of adaptation before it can be sold the second year. If it does not exceed the standard varieties by more than five percentage points of moisture the second year tested, it can be sold the third year with the same relative maturity. If upon being tested the third year the moisture percentage points are found to be over the four percentage points allowed, the variety then must have the relative maturity increased by five days in the correct zone. The varieties to be used as standard varieties for determining adaptability to a zone shall be selected for each zone by the director of the Minnesota agricultural experiment station with the advice and consent of the commissioner of agriculture. Should a person, firm, originator, or owner of a hybrid seed field corn variety wish to offer hybrid seed for sale or distribution in this state, the person, firm, originator, or owner not having distributed any products in Minnesota during the past ten years, or not having any record of testing by an agency acceptable to the commissioner, then after registration of the variety the commissioner is required to have the variety tested for one year by the director of the Minnesota agricultural experiment station before it may be distributed in Minnesota. Should any person, firm, originator, or owner of a seed field corn variety be guilty of two successive violations with respect to the declaration of relative maturity date and zone number, then the violator must commence a program of pretesting for varieties as determined by the commissioner. The list of varieties to be used as standards in each growing zone shall be sent by the commissioner not later than February 1 of each year to each seed firm registering hybrid varieties with the commissioner as of the previous April 1. To assist in defraying the expenses of the Minnesota agricultural experiment station in carrying out the provisions of this section, there shall be transferred annually from the seed inspection fund to the agricultural experiment station a sum which shall

at least equal 80 percent of the total revenue from all hybrid seed field corn variety registrations.

**History:** 1983 c 293 s 49

#### 21.91 SEED CERTIFICATION AGENCIES.

Subdivision 1. **Minnesota.** The official seed certification agency for Minnesota shall be determined by the commissioner of agriculture and the director of the Minnesota agricultural experiment station.

Subd. 2. **Other jurisdictions.** The official seed certification agency for other jurisdictions shall be determined and the identity filed as a public record in the office of the commissioner of agriculture. The determination shall be made by the commissioner of agriculture and the director of the Minnesota agricultural experiment station.

**History:** 1983 c 293 s 50

#### 21.92 SEED INSPECTION FUND.

There is established in the state treasury an account known as the seed inspection fund. Fees and penalties collected by the commissioner under sections 21.80 to 21.92 shall be deposited into this account. The rates at which the fees are charged may be adjusted pursuant to section 16A.28. Money in this account, including interest earned and any appropriations made by the legislature for the purposes of sections 21.80 to 21.92, is annually appropriated to the commissioner for the administration and enforcement of sections 21.80 to 21.92.

**History:** 1983 c 293 s 51