ARTICLE 74-02
SEED

Chapter
74-02-01 Seed Representation and Labeling
74-02-02 Seed Sale

CHAPTER 74-02-01
SEED REPRESENTATION AND LABELING

Section
74-02-01-01 Seed Testing Fees - Sample Size [Repealed]
74-02-01-02 Hermetically Sealed Containers
74-02-01-03 Flower Seed Labeling Requirements
74-02-01-04 Sale and Exchange of Seed
74-02-01-05 Labeling of Registered and Certified Seed Brought Into North Dakota [Repealed]
74-02-01-06 Clarification of Pure Live Seed and How It Pertains to Germination
74-02-01-07 Rules for Affidavit of Analysis for Bagged Agricultural Seed [Repealed]

74-02-01-01. Seed testing fees - Sample size.

Repealed effective May 1, 2001.

74-02-01-02. Hermetically sealed containers.

A container will be considered hermetically sealed if all of the following conditions have been met:

1. The seed was packaged within nine months after harvest.

2. The container used does not allow water vapor penetration through any wall, including the seals, greater than five-hundredths grams of water per twenty-four hours per one hundred square inches [645.16 square centimeters] of surface at one hundred degrees Fahrenheit [37.78 degrees Celsius] with a relative humidity on one side of ninety percent and on the other side of zero percent. Water vapor penetration shall be measured as: gram water / twenty-four hour / one hundred degrees Fahrenheit / ninety percent relative humidity versus zero percent relative humidity.

3. The seed in the container does not exceed the percentage of moisture, on a wet basis, as listed in section 201-36c-c of the rules and regulations of the Federal Seed Act.

4. The container is conspicuously labeled in not less than nine point type to indicate:

   a. That the container is hermetically sealed;

   b. That the seed has been preconditioned as to moisture content; and

   c. The calendar month and year in which the germination test was completed.

5. The percentage of germination of vegetable seed at the time of packaging was equal to or above the standards in section 201.31 of the rules and regulations of the Federal Seed Act which pertains to germination standards for vegetable seeds.

History: Amended effective January 2, 2006.
General Authority: NDCC 4.1-53-11
Law Implemented: NDCC 4.1-53-16, 4.1-53-27, 4.1-53-52

74-02-01-03. Flower seed labeling requirements.

1. Labeling kind and variety or type and performance characteristics of flower seeds. The requirements of subsection 2 of North Dakota Century Code section 4-09-11.1 specifying 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 North Dakota Century Code chapter 4-09 shall be met as follows:

   a. For the 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, 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 "wild flower mixture", "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 paragraph unless the specific use of the mixture is also stated.

   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".

2. Kinds of flower seeds subject to germination labeling requirements and germination standards for flower seeds. The kinds of flower seeds listed below are those for which standard testing procedures have been prescribed and which are therefore required to be labeled in accordance with the germination labeling provisions of subsection 2 of North Dakota Century Code section 4-09-11.1. The percentage listed opposite each kind is the germination standard for that kind. For the kinds marked with an asterisk, this percentage is the total of percentage germination and percentage hard seed. For other kinds, it is the percentage germination.

```
Kind                                                Percent

African daisy - dimorphotheca aurantiaca ............. 55
Ageratum - ageratum mexicanum ......................... 60
Alyssum - alyssum compactum, alyssum maritimum,
  alyssum procumbens, alyssum saxatile ............... 60
Anemone - anemone coronaria, anemone pulsatilla ...... 55
Angel's trumpet - datura arborea ...................... 60
Arabis - arabis alpina ............................... 60
Aster, China - callistephus chinensis except pompon,
  powderpuff, and princess types ..................... 55
Aster, China - callistephus chinensis, pompon,
```

powderpuff, and princess types 50
Aubrietia - aubrietia deltoides 45
Balsam - impatiens balsamina 70
Calendula - calendula officinalis 65
California poppy - eschscholtzia californica 60
Calliopsis - coreopsis bicolor, coreopsis drummondi,
coreopsis elegans 65
Campanula:
Canterbury bells - campanula medium 60
Cup and saucer bellflower - campanula medium
calycanthema 60
Carpathian bellflower - campanula carpatica 50
Peach bellflower - campanula persicifolia 50
Candytuft, annual - iberis amara, iberis umbellata.... 65
Candytuft, perennial - ibersis gibraltarica,
ibersis sempervirens 55
Castor bean - ricinus communis 60
Cathedral bells - cobaea scandens 65
Celosia - celosia argentea 65
Centaurea: basket flower - centaurea americana,
cornflower, centaurea cyanus,
Dusty miller - centaurea candidissima, royal
centaurea - centaurea imperialis
Sweet sultan - centaurea moschata,
velvet centaurea -
centaurea gymnocarpa 60
Chinese forget-me-not - cynoglossum amabile 55
Chrysanthemum, annual - chrysanthemum carinatum,
chrysanthemum coronarium, chrysanthemum segetum 40
Clarkia - clarkia elegans 65
Cleome - cleome gigantea 65
Columbine - aquilegia species 50
Coral bells - heuchera sanguinea 55
Coreopsis, perennial - coreopsis lanceolata 40
Cosmos: sensation, mammoth and crested types -
cosmos bipinnatus: Klondyke type - cosmos sulphureus 65
Dahlia - dahlis species 55
Delphinium, perennial: belladonna and bellamosum
types; cardinal larkspur - delphinium cardinale;
chinensis types; Pacific giant, gold medal and
other hybrids of delphinium elatum 55
Dianthus:
Carnation - dianthus caryophyllus 60
China pinks - dianthus chinensis, heddewigi,
heddensis 70
Grass pinks - dianthus plumarius 60
Maiden pinks - dianthus deltoides 60
Sweet william - dianthus barbatus 70
Sweet wivelsfield - dianthus allwoodi 60
Dracaena - dracaena indivisa 55
English daisy - bellis perennis 55
Foxglove - digitalis species 60
Gaillardia, annual - gaillardia pulchella,
gaillardia picta; perennial - gaillardia
grandiflora 45

Geum - geum species 55
Gilia - gilia species 65
Godetia - godetia amoena, godetia grandiflora 65
Gourds: yellow flowered - cucurbita pepo; white flowered - lagenaria sisceraria; dishcloth - luffa cylindrica 70
Gypsophila: annual baby's breath - gypsophila elegans; perennial baby's breath - gypsophila paniculata, gypsophila pacifica, gypsophila repens 70
Helichrysum - helichrysum monstosum 60
Hollyhock - althea rosea 65
Ipomoea: cypress vine - ipomoea quamoclit; moonflower - ipomoea noctiflora; morning glories, cardinal climber, hearts and honey vine - ipomoea species 75
Job's tears - coix lacrymajobi 70
Kochia - kochia childsi 55
Larkspur, annual - delphinium ajacis 60
Lantana - lantana camara, lantana hybrida 35
Linaria - linaria species 65
Lobelia, annual - lobelia erinus 65
Lunaria, annual - lunaria annua 65
Lupine - lupinus species 65
Marigold - tagetes species 65
Marvel of Peru - mirabilis jalapa 60
Migonette - reseda odorata 55
Myosotis - myosotis alpestris, myosotis oblongata, myosotis palustris 50
Nasturtium - tropaeolum species 60
Nemesia - nemesia species 65
Nemophila - nemophila insignis 70
Nicotiana - nicotiana affinis, nicotiana sanderae, nicotiana sylvestris 65
Nierembergia - nierembergia species 55
Nigella - nigella damascena 55
Pansy - viola tricolor 60
Penstemon - penstemon barbatus, penstemon grandiflorus, penstemon laevigatus, penstemon pupescens 60
Petunia - petunia species 45
Phacelia - phacelia campanularia, phacelia minor, phacelia tanacetifolia 65
Phlox, annual - phlox drummondi all types and varieties 55
Physalis - physalis species 60
Poppy: shirley poppy - papaver rhoeas; Iceland poppy - papaver nudicaule; oriental poppy - papaver orientalis; tulip poppy - papaver glaucum 60
Portulaca - portulaca grandiflora 55
Salpiglossis - salpiglossis gloxinaeflora, salpiglossis sinuata 60
Salvia - scarlet sage - salvia splendens; mealycup sage (blue bedder) - salvia farinacea 50
Saponaria - saponaria ocymoides, saponaria vaccaria 60
Scabiosa, annual - scabiosa atropurpurea 50

Scabiosa, perennial - scabiosa caucasica 40
Schizanthus - schizanthus species 60
Shasta daisy - chrysanthemum maximum,
chrysanthemum leucanthemum 65
Snapdragon - antirrhinum species 55
Solanum - solanum species 60
Stocks: common - mathiola incana; evening scented -
mathiola bicornis 65
Sunflower - helianthus species 65
Sweet pea, annual and perennial other than dwarf
bush - lathyrus odoratus, lathyrus latifolius 75
Sweet pea, dwarf bush - lathyrus odoratus 65
Thunbergia - thunbergia alata 60
Torch flower - tithonia speciosa 70
Tritoma - kniphofia species 65
Verbena, annual - verbena hybrida 35
Vinca - vinca rosea 60
Viola - viola cornuta 55
Wallflower - cheiranthus allioni 65
Zinnia (except linearis and creeping) - zinnia
augustifolla, zinnia elegans, zinnia grandiflora,
zinnia gracillima, zinnia haegeana, zinnia
multiflora, zinnia pumila 65
Zinnia, linearis and creeping - zinnia linearis,
sanvitalia procumbens 50

A mixture of kinds of flower seeds will be considered to be below standard if the germination of any kind or combination of kinds constituting twenty-five percent or more of the mixture by number is below standard for the kind or kinds involved.

General Authority: NDCC 4.1-53-11
Law Implemented: NDCC 4.1-53-28, 4.1-53-29, 4.1-53-30

74-02-01-04. Sale and exchange of seed.

The definition of terms used in this section and in North Dakota Century Code section 4-09-15 shall be defined in this section and in North Dakota Century Code section 4-09-01.

The exemptions found in North Dakota Century Code sections 4.1-53-61 and 4.1-53-57 do not apply to a farmer who sells only the farmer's own seed which has been publicly advertised for sale. For the purposes of this section, "publicly advertised for sale" includes advertising in newspapers, periodicals, pamphlets, or posters, by radio or television, or in any other media. For the purposes of this section and North Dakota Century Code sections 4.1-53-61 and 4.1-53-57, "sells only the farmer's own seed" includes any disposition of seed or transaction whereby the farmer sells, exchanges, or trades the farmer's own seed. The exemptions found in North Dakota Century Code sections 4.1-53-61 and 4.1-53-57 also do not apply to any farmer who is engaged in the seed business. For the purposes of this section, "engaged in the seed business" includes the sale of any seed by a person which seed was not grown on that person's own farm, publicly advertising for sale any seed, or making use of any third party as an agent or broker to bring a buyer and seller of seed together for purposes of sale, exchange, or trade.

The exemptions found in North Dakota Century Code sections 4.1-53-61 and 4.1-53-57 do not apply to seed for which a certificate of plant variety protection has been applied for or issued, except regarding the replanting of seed on the farmer's own farm. In the absence of contractual obligations between the variety owner and a first purchaser, a farmer may replant seed varieties protected by plant

variety protection for an indeterminate length of time provided the exemptions listed in North Dakota Century Code sections 4.1-53-61 and 4.1-53-57 are complied with in full.

History: Amended effective May 1, 1988; January 2, 2006.
General Authority: NDCC 4.1-53-11
Law Implemented: NDCC 4.1-53-57(4), 4.1-53-61

74-02-01-05. Labeling of registered and certified seed brought into North Dakota.

Repealed effective December 18, 1989.

74-02-01-06. Clarification of pure live seed and how it pertains to germination.

"Pure live seed" means the product of the percentage of germination plus hard seed and the percentage of pure seed divided by one hundred.

$$\text{Pure live seed} = \frac{\text{Purity x germination}}{100}$$

History: Effective December 18, 1989.
General Authority: NDCC 4.1-53-11
Law Implemented: NDCC 4.1-53-11

74-02-01-07. Rules for affidavit of analysis for bagged agricultural seed.

Repealed effective January 2, 2006.