

**ARTICLE 74-02
SEED**

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**CHAPTER 74-02-01
SEED REPRESENTATION AND LABELING**

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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Repealed effective May 1, 2001.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 4.1-52-10

Law Implemented: NDCC 4.1-53-15, 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 - <i>dimorphotheca aurantiaca</i>	55
Ageratum - <i>ageratum mexicanum</i>	60
Alyssum - <i>alyssum compactum</i> , <i>alyssum maritimum</i> , <i>alyssum procumbens</i> , <i>alyssum saxatile</i>	60
Anemone - <i>anemone coronaria</i> , <i>anemone pulsatilla</i>	55
Angel's trumpet - <i>datura arborea</i>	60
Arabis - <i>arabis alpina</i>	60
Aster, China - <i>callistephus chinensis</i> except pompon, powderpuff, and princess types	55
Aster, China - <i>callistephus chinensis</i> , pompon,	

powderpuff, and princess types	50
Aubrietia - aubrietia deltoides	45
Balsam - impatiens balsamina	70
Calendula - calendula officinalis	65
California poppy - eschscholtzia californica	60
Calliopsis - coreopsis bicolor, coreopsis drummondii, 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 - iberis gibraltarica, iberis 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 childsii	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
Mignonette - 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 glauca	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 drummondii 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 4.1-52-10

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 4.1-52-10

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.

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

History: Effective December 18, 1989.

General Authority: NDCC 4.1-52-10

Law Implemented: NDCC 4.1-53-13, 4.1-53-16

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

Repealed effective January 2, 2006.