

330 CMR: DEPARTMENT OF FOOD & AGRICULTURE

330 CMR 6.00: SEEDS, APPLES AND POTATOES

Section

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6.01: Purpose

330 CMR 6.00 is intended to supplement the requirements of M.G.L. c. 94, §§ 101 through 109, 117G through 117L and M.G.L. c. 128, § 84 through 101.

6.02: Definitions

Department, Department of Food and Agriculture

Hermetically-sealed, meeting the requirements established by the United States Department of Agriculture at 7 CFR § 201c (a) through (e), as amended.

Mulch, a protective covering of any suitable substance placed with seed which acts to retain sufficient moisture to support seed germination and sustain early seedling growth and aid in the prevention of the evaporation of soil moisture, the control of weeds and the prevention of erosion.

Person, any individual, corporation, partnership, association or other business organization.

6.03: Requirements for Seeds Sold or Offered For Sale within the Commonwealth

(1) Seed Germination Standards.

(a) The germination standards for vegetable seeds are identified in a publication available from the Department and entitled, "Massachusetts Germination Standards for Vegetable Seeds".

(b) The germination standards for flower seeds are identified in a publication available from the Department and entitled, "Massachusetts Germination Standards for Flower Seeds".

(2) Noxious Weed Seeds. In addition to those seeds provided in M.G.L. c. 128, § 84, the following seeds shall be considered "Noxious-Weed Seeds": Black medick or yellow trefoil, Medicago lupulina and sucking clover, Trifolium dubium, large hop clover, and Trifolium campestre.

(3) Agricultural Seed. No person shall sell agricultural seed, including a mixture, containing more than 15% inert matter unless the seed is coated with special materials or has been preplanted in a container, mat, tape or other similar planting device.

(4) Hermetically-sealed seed. Agricultural or vegetable seed packaged in hermetically-sealed containers may be sold, exposed for sale or 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. Agricultural or vegetable seed in hermetically-sealed containers may be sold, exposed for sale, or offered for sale at the expiration of a 36 month period only if the seed is retested within nine months, exclusive of the calendar month in which the retest was completed, immediately prior to being sold, exposed for sale or offered for sale.

(5) Seed Potatoes. The Department adopts the United States Standards for Grades of Seed Potatoes established by the United States Department of Agriculture at 7 CFR 51.3000 *et seq.*, as amended, as the Massachusetts Standards for the Grades of Seed Potatoes.

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(6) Labeling of Seed.

(a) Vegetable Seeds. For the purposes of M.G.L. c. 128, § 87, "kinds" of vegetable seeds are those listed in regulations established by the United States Department of Agriculture at 7 CFR 201.2(i), as amended.

(b) Flower Seeds. The requirement in M.G.L. c. 128, § 88 that flower seeds be labeled to show "the name of the kind and variety if known or a statement of type and performance characteristics," shall be met in one of the following ways:

1. For seeds of plants grown primarily for their blooms:
 - a. If the seeds are the single name variety, the kind and variety names shall be stated.
 - b. 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 of color of bloom shall be indicated.
 - c. 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 types of bloom shall be indicated. In addition, it shall be clearly indicated that the seeds is mixed or assorted.
 - d. If the seeds consist of an assortment or mixture of kinds, it shall be clearly indicated that the seeds are assorted or mixed and the specific use of the assortment or mixture shall be indicated; or
2. 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 plant.

(c) Agricultural Seed. For the purposes of M.G.L. c. 128, § 86, kinds of agricultural seeds are those listed in regulations established by the United States Department of Agriculture at 7 CFR 201.2(h), as amended and the varieties of agricultural seeds listed in 7 CFR §201.10, as amended, will be considered to have commonly accepted variety or cultivar names.

(d) Restricted Noxious Weeds. If any restricted noxious weeds are in a lot of seed, the name and number per pound must appear under the heading "Restricted Noxious Weeds" or "Noxious Weed Seeds".

(e) White Sweet Clover Seed. No person shall label sweet clover seed containing more than 5% yellow sweet clover seed (more than 1.25% mottle seeds) as white sweet clover. Such seed shall be labeled as sweet clover or as a mixture.

(f) Agricultural Seeds for Lawn or Turf Purposes.

1. No person shall label a container of agricultural seeds as for lawn or turf purposes if less than 5% of the total weight consists of any one or combination of the following grasses or any variety of these grasses: colonial bentgrass, creeping bentgrass, velvet bentgrass, Kentucky bluegrass, chewing fescues, hard fescue, red fescue, sheep fescue, tall fescue, annual ryegrass and perennial ryegrass.
2. The following agricultural seeds shall be designated as Undesirable Crop Seed on the label of lawn or turf mixture if present in an amount less than 5% and when not listed as a component of the lawn or turf mixture: colonial bentgrass, creeping bentgrass, velvet bentgrass, Bermuda grass, rough bluegrass, meadow fescue, tall fescue, orchard grass, Redtop, and timothy. The label will also state the percentage by weight of the Undesirable Crop Seed. 330 CMR 6.03(6)(f)2. shall not apply to mixtures labeled as pasture, forage or hay mixtures.

(g) Tree and Shrub Seeds. In addition to the labeling requirements established in M.G.L. c. 128, § 89, all tree and shrub seed packaged in containers of one quarter pound or more may include on the label the range of elevation at which seed is grown, and if the elevation is unknown, then that fact shall be stated.

(h) Treated Seed. Treated seed shall be labeled in accordance with the provisions of regulations established by the United States Department of Agriculture at 7 CFR 201.31(a), as amended.

(i) Labeling Requirements for Seed in Preplanted Containers and Other Similar Devices. All seed preplanted in containers, mats, tapes or other planting devices shall be considered "seed" or "seeds" for purposes of M.G.L. c. 128, §§ 84 through 100 and 330 CMR 6.02. In addition, if the quantity of preplanted seed can not be determined visually, the label shall state the minimum number of seeds per container or per square foot.

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(j) Labeling of Seed Distributed to Wholesalers. After seed has been processed, it must be labeled before distribution to any person including a wholesaler. Each bag or bulk lot must be completely labeled when supplied to a retailer or consumer. Labeling of seed supplied to a wholesaler, one whose predominant business is to supply seed to other distributors rather than to consumers of seed, may be by invoice if each bag or container is clearly identified by a lot number stenciled on the container or if the seed is in bulk. Each bag or container that is not so identified must bear complete labeling.

(k) Seeds for Sprouting for Salad or Culinary Purposes. The following information shall be on all labels of seed sold for sprouting for salad or culinary purposes:

1. Commonly accepted name of kind(s) of seeds;
2. Lot number;
3. Percentage by weight of each pure seed component in excess of 5% of the whole, other crop seeds, inert matter and weed seeds if occurring;
4. Percentage of germination of each pure seed component; and
5. The calendar month and year the test was completed to determine such percentage.

(l) Relabeling. The following information shall appear on a label when relabeling seed in their containers:

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

(m) Combination Mulch, Seed, and Fertilizer Products. The word "combination" followed by the words "mulch-seeds-fertilizer," as applicable, must appear on the upper 30% of the principal display panel. The word "combination" must be the largest and the most conspicuous type on the container, equal to or larger than the product name. The words "mulch-seed-fertilizer" shall be no smaller than $\frac{1}{2}$ the size of the word "combination" and in close proximity to the word "combination." These products shall contain a minimum of 70% mulch.

6.04: Apples

(1) Establishments of Official Grades. The Department adopts the United States Standards for Apples, established by the United States Department of Agriculture at 7 CFR 51.300 *et seq.*, as amended, as the "Massachusetts Grades of Apples".

(2) Marking of Apples.

(a) Each package of apples packed or repacked within the Commonwealth and intended for sale within the Commonwealth shall be marked at the time of packaging with the official grade designation applicable to the contents of the package as identified in the "Massachusetts Grades of Apples". This identifying grademark shall be preceded by the words "United States" or the letters "U.S".

(b) Specialty packages or mixed varieties of apples of U.S. Fancy Grade or better shall list the varieties or use the term "mixed varieties" in the grademark.

(c) All closed master cartons or other packages closed by any means of fastening shall be labeled with the same markings as on the packages within, and the number of packages in the carton.

(3) Controlled Atmosphere Storage.

(a) No person shall own or operate a controlled atmosphere room or storage building in the Commonwealth or package or repackage apples represented as exposed to controlled atmosphere or modified atmosphere and intended for sale in the Commonwealth unless registered with the Department and assigned a registration number or registered with another state and assigned a registration number pursuant to laws or regulations at least as stringent as M.G.L. c. 94, § 109.

(b) Upon receipt of a completed application, the Department may register an applicant and assign a registration number preceded by the letters, "Mass. C.A.". Each registration shall expire on July 31 following the date of issuance.

(c) All registrants, whether registered by the Department or by another state, shall:

1. clearly mark all containers or apples represented as having been exposed to controlled atmosphere or modified atmosphere with the Controlled Atmosphere number assigned by the Department;

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2. determine and record the percentage of oxygen in the controlled or modified atmosphere storage room daily; and
3. ensure that the percentage of oxygen shall be reduced to 5% within 20 days of the date of sealing the container.

6.05: Potatoes

The Department adopts the United State Standards for Grades of Potatoes as promulgated by the United States Department of Agriculture in 7 CFR 51.1540, *et seq.*, as amended, as the official grades of potatoes packed, repacked, sold, distributed, offered or exposed for sale or distribution in the Commonwealth.

REGULATORY AUTHORITY

330 CMR 6.00: M.G.L. c. 94 §§ 101 through 109, 117G through 117L; M.G.L. c. 128, §§ 84 through 101.

(PAGES 43 THROUGH 60 ARE RESERVED FOR FUTURE USE.)