

Regulatory Analysis Form

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INDEPENDENT REGULATORY
REVIEW COMMISSION

(1) Agency: *Agriculture*

(2) I.D. Number (Governor's Office Use)

2-156

IRRC Number:

2697

(3) Short Title

Seed Testing, Labeling and Standards

(4) PA Code Cite

7 Pa. Code, Chapter 111

(5) Agency Contacts & Telephone Numbers

Primary Contact: *Joe Garvey, Bureau of Plant Industry, (717) 787-4894*

Secondary Contact: *John Breitsman, Bureau of Plant Industry, (717) 772-5215*

(6) Type of Rulemaking (check one)

Proposed Rulemaking

Final Order Adopting Regulation ☒ X

Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

No ☒ X

Yes: By the Attorney General

Yes: By the Governor

(8) Briefly explain the regulation in clear and non-technical language.

The regulations are provided to establish seed testing, labeling and standards criteria for seed producers and distributors. The regulation defines seed testing requirements, labeling terminology and requirements and procedures for seed distributors consistent with the requirements of the Seed Act (Act of November 29, 2004, P.L. 1302 (No.164))(3 Pa.C.S.A. §§ 7101-7122).

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

Seed Act (Act of November 29, 2004, P.L. 1302 (No.164)) (3 Pa.C.S.A. §§ 7101-7122).

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(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

Yes. This final-form regulation is mandated under the Seed Act (Act of November 29, 2004, P.L. 1302 (No.164)) (3 Pa.C.S.A. §§ 7101-7122). Section 7111(a) (relating to duty and responsibility of the department) sets forth the specific duties and the authority of the Department and mandates that the Department promulgate these regulations.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

The promulgation and implementation of this final-form regulation is necessary to comply with the statute. The final-form regulation will be in compliance with the new statute and will eliminate incompatibility and redundancy that occurs with the statute and the current regulations.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

The regulations are developed to ensure that the public health, safety and environment of the citizens of the Commonwealth of Pennsylvania are not negatively impacted by the marketing and use of untested or adulterated seed.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

Farmers, seeds distributors and home gardeners will benefit from the changes to these regulations. These changes will eliminate redundancies that have occurred with the amending of the Seed Act. A more uniform method of seed labeling will allow for a more understandable seed label for the purchaser of seed products.

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(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

The regulations will have no adverse affects.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

This regulation affects an estimated 325 licensed seed distributors. Licensed seed distributors are required to follow new labeling requirements established in the Seed Act.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

Industry representatives affected by these regulations were invited to provide input into the development of the regulations. The industry provided important guidance to the Department regarding the structure and duties of seed distributors. Representatives from PennAg Industry's Seed Council, Atlantic Seed Association and American Seed Trade Association reviewed and provided input to the Department during the drafting process. A possible result is that only one public comment, a positive response from PennAg Industry, was receive during the public comment period for the proposed regulation.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures, which may be required.

The fee schedule and all associated fees are now established in the Seed Act. There are no new costs associated with these regulations.

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(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures, which may be required.

There will be no costs and/or savings to local government. Local government is not associated with the implementation of the regulations.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures, which may be required.

There will be no costs and/or savings to state government. There are no additional state government staff resources necessary to implement these regulations.

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(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year (2006-07)	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated	NA	NA	NA	NA	NA	NA
Local Government	NA	NA	NA	NA	NA	NA
State Government	NA	NA	NA	NA	NA	NA
Total Savings	NA	NA	NA	NA	NA	NA
COSTS:						
Regulated	NA	NA	NA	NA	NA	NA
Local Government	0	0	0	0	0	0
State Government	NA	NA	NA	NA	NA	NA
Total Costs	NA	NA	NA	NA	NA	NA
REVENUE LOSSES:						
Regulated	NA	NA	NA	NA	NA	NA
Local Government	NA	NA	NA	NA	NA	NA
State Government	NA	NA	NA	NA	NA	NA
Total Revenue Losses	NA	NA	NA	NA	NA	NA

(20a) Explain how the cost estimates listed above were derived.

There will be no savings or increased costs associated with these regulations.

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(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
NA	NA	NA	NA	NA

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

There are no adverse affects and costs associated with the final-form regulations. The final-form regulations create uniformity and consistency with the Seed Act. All fees associated with the Seed Program are established in the Seed Act.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

There are no non-regulatory alternatives. These regulations are mandated by the Seed Act. The regulations establish the seed testing, labeling and standards criteria key to the program. The regulations are necessary to insure an adequate program and maintain conformity with the Seed Act (Act of November 29, 2004, P.L. 1302 (No.164)) (3 Pa.C.S.A. §§ 7101-7122).

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

There are no non-regulatory alternatives to leave the current regulations in place. The current regulations are in conflict with the Seed Act and the Association of Official Seed Analysts (AOSA) Rules For Testing Seed.

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(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

The current, proposed and this final-form regulation are more stringent than the Federal Seed Act. The Federal Seed Act does not cover labeling and testing requirements for flower, tree and shrub seeds. The Pennsylvania Seed Act provides additional consumer protection by requiring all seeds that are sold in the Commonwealth to be properly tested and labeled.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

These regulations compare favorably with surrounding states. Therefore the criteria of this proposal will not put the Commonwealth of Pennsylvania at a competitive disadvantage with other states.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

Yes. This final-form regulation will amend an existing regulation of the Seed Act (Act of November 29, 2004, P.L. 1302 (No.164)) (3 Pa.C.S.A. §§ 7101-7122). The changes amend 7 PA. Code, Chapter 111.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

The Department held a public meeting with interested parties on December 12, 2006 in the Agriculture Building.

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(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports, which will be required as a result of implementation, if available.

No. There will be no changes.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

There are none.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The regulations will become effective upon publication in the Pennsylvania Bulletin. The Department projects this will occur by January 2009. Compliance with the regulation is required within 30 days of publication of the regulations.

(31) Provide the schedule for continual review of the regulation.

The Department will continually assess this regulation and make revisions when needed to address valid administrative concerns, changes in technology and changes or revisions to the Seed Act.

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Copy below is hereby approved as to form and legality.
Attorney General

By: _____
(Deputy Attorney General)

DATE OF APPROVAL

! Check if applicable.
Copy not approved. Objections attached.

Copy below is hereby certified to be true and
correct copy of a document issued, prescribed or
promulgated by:

Department of Agriculture

DOCUMENT/FISCAL NOTE NO. 2-156

DATE OF ADOPTION 10-31-08

BY D. Wayne

TITLE Secretary

EXECUTIVE OFFICER CHAIRMAN OR SECRETARY

Copy below is hereby approved as to form and legality
Executive or Independent Agencies

BY: Anthony C. Clark

NOV 26 2008

DATE OF APPROVAL

(Deputy General Counsel)
(~~Chief Counsel - Independent Agency~~)
(Strike inapplicable title)

! Check if applicable. No Attorney General Approval or
objection within 30 days after submission.

NOTICE OF FINAL RULEMAKING

**Department of Agriculture
Bureau of Plant Industry
7 Pa. Code Chapter 111
Seed Testing, Labeling and Standards**

FINAL RULEMAKING
DEPARTMENT OF AGRICULTURE

[7 PA. CODE CH. 111]

Seed Testing, Labeling and Standards

The Department of Agriculture (Department) hereby amends the current regulation at 7 Pa. Code Chapter 111 (relating to seed testing, labeling and standards) to read as set forth in Annex A.

Statutory Authority

The Department of Agriculture (Department), under the authority of 3 Pa.C.S. Chapter 71 (relating to Seed Act) (act) and under the specific authority of sections 7111 and 7117 of the act (relating to powers and duties of secretary and department; and rules and regulations) hereby amend Chapter 111 (relating to seed testing, labeling and standards). The act replaces The Pennsylvania Seed Act of 1965 (3 P. S. §§ 285-1--285-11).

Section 7111 of the act authorizes and empowers the Department to enforce the provisions of the act and to "... prescribe, modify and enforce such reasonable rules, regulations, standards, tolerances and orders as in the judgment of the secretary shall be necessary to carry out the provisions of [the act]." See 3 Pa.C.S. § 7111(a). In addition, section 7111 of the act establishes specific powers and duties of the Department and provides for delegation of such authority. See 3 Pa.C.S. § 7111(b) and (c). Section 7117 of the act specifically delineates that the Department "... shall promulgate and enforce

rules and regulations necessary for administration and implementation of [the act]." See 3 Pa.C.S. § 7117. Therefore, consistent with that authority and to institute regulations which are consistent with the provisions of the act, the Department hereby establishes the following amendments to Chapter 111.

Purpose of the Final-Form Regulation

The regulations are required to establish regulations which are consistent with the provisions of the act. The promulgation and implementation of these amended regulations is necessary to comply with the statute. The amended regulations will be in compliance with the new statute and will eliminate incompatibility and redundancy that occurs with the statute and the current regulations.

The regulations are provided to establish seed testing, labeling and standards criteria for seed producers and distributors. The regulation defines seed testing requirements, labeling terminology and requirements and procedures for seed distributors consistent with the requirements of the act. The regulations will ensure that the public health, safety and environment of the citizens of the Commonwealth of Pennsylvania are not negatively impacted by the marketing and use of untested or adulterated seed.

The more uniform method of seed labeling set forth in this regulation will allow for a more understandable seed label for the purchaser of seed products. Farmers, seeds distributors and home gardeners will benefit from the changes implemented by this regulation.

Comment and Responses

Interested persons were invited to submit written comments regarding the proposed regulation within 30 days following publication in the *Pennsylvania Bulletin* (38 *Pennsylvania Bulletin* 2256 (May 17, 2008)). The Department received only one comment on the proposed regulation. The comment was from PennAg Industry and set forth their approval and support of the proposed amendments to the regulations at Chapter 111. The Department sent a letter to PennAg Industry informing them of the right to receive a copy of the final-form regulation. The Department received no comments from the Independent Regulatory Review Commission. Because the comment received was positive and requested no changes to the proposed regulation, the Department has made no changes from the Proposed regulation to the Final-Form regulation.

The Comment and Response is set forth herein and will be published in the *Pennsylvania Bulletin* as part of this final-form Preamble and along with the Annex A. The Department will also make the regulation, including this Preamble and the Annex A available for review on the Department's website at www.agriculture.state.pa.us. If you would like to request a hard copy of the Annex A or Preamble, please call the Department of Agriculture, Bureau of Plant Industry, contact person Joe Garvey (717) 787-4894.

Comment

PennAg Industries Association (PennAg) submitted a comment letter for this regulation in which PennAg expressed its support of the proposed regulations. PennAg appreciated the acknowledgement the Department gave the PennAg Seed Council in the

regulations. PennAg stated that the regulations would continue to provide more uniformity within the seed industry, therefore benefiting the seed producers and marketers and consumers purchasing and using the products. PennAg also mentioned that the provisions in this chapter are part of a national seed industry initiative working toward the adoption of Recommended Uniform State Seed Laws (RUSSL). Along with RUSSL, the proposed regulations would allow for compliance and continuity with federal seed regulation, the United States Department of Agriculture's Animal and Plant Health Inspection Service national harmonization program and certification standards of the Association of Official Seed Certifying Agencies. The proposed regulations would allow Pennsylvania's seed industry to remain part of the competitive seed market.

Response

The Department acknowledged PennAg's comment in writing. The Department appreciates PennAg's support of the regulation. No changes were made to the proposed regulation.

Fiscal Impact

Commonwealth

The final-form regulations will not impose any additional fiscal impacts upon the Commonwealth. The fee schedule and all associated fees are now established in the Seed Act. There are no new costs associated with these regulations. There are no adverse affects or costs associated with amending the regulations. The amended regulations create uniformity and consistency with the Seed Act. There will be no costs and/or

savings to state government. There are no additional state government staff resources necessary to implement these regulations.

Political Subdivisions

Local government is not associated with the implementation or enforcement of the regulations. Therefore, the final-form regulations will impose no additional work or costs and have no fiscal impact upon any political subdivision. The regulations will impose no additional burden of enforcement on political subdivisions.

Private Sector

The final-form regulations will impose no additional costs on the private sector. The fee schedule and all associated fees are now established in the Seed Act.

General Public

The final-form regulations will impose no direct costs and have no fiscal impact on the general public. Farmers, seeds distributors and home gardeners will benefit from the changes to these regulations. These changes will eliminate redundancies that have occurred with the amendment of the Seed Act. A more uniform method of seed labeling will allow for a more understandable seed label for the purchaser of seed products.

Paperwork Requirements

The final-form regulations will not result in any increase in paperwork. Review and administrative procedures will be very similar to the existing system overseen by the Department.

Effective date

The final-form regulation will be effective upon final-form publication in the *Pennsylvania Bulletin*. The Department projects this will occur by January 2009. Compliance with the regulation is required within 30 days of publication of the regulations.

Additional Information

Further information is available by contacting the Department of Agriculture, Bureau of Plant Industry, 2301 North Cameron Street, Harrisburg, PA 17110-9408; Attn: Joe Garvey - (717) 787-4894

Regulatory review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Department submitted a copy of the Notice of Proposed Rulemaking published at (38 *Pennsylvania Bulletin* 2256 (May 17, 2008)) on May 2, 2008 to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Agriculture and Rural Affairs Committees (Committees) for review and comment.

In compliance with § 5(b), the Department also provided the Commission and the Committees with copies of all comments received. In preparing this final-form regulation, the Department has considered all comments received from the Commission, the Committees and the public.

This final-form regulation was deemed approved by the House Agriculture and Rural Affairs Government Committee on _____; was deemed approved by the Senate Agriculture and Rural Affairs Committee on _____ and was approved by IRRC on _____.

Findings

The Department finds that:

- (1) Public notice of intention to adopt this final-form regulation has been given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and their attendant regulations at 1 Pa. Code §§ 7.1 and 7.2.
- (2) A public comment period was provided as required by law and all comments received were considered.
- (3) No modifications to this regulation in response to comments received were necessary or made and therefore there is no enlargement of the purpose of the proposed regulation published at 38 *Pennsylvania Bulletin* 2256 (May 17, 2008).
- (4) The adoption of the regulation in the manner provided in this Order is necessary and appropriate for the administration of the authorizing statute.

Order

The Department, acting under the authorizing statute, orders the following:

- (1) The Department of Agriculture amends the regulation at 7 Pa. Code Chapter 111 (relating to seed testing, labeling and standards) to read as set for in Annex A.
- (2) The Secretary of Agriculture shall submit this order and Annex A to the Office of General Counsel and Office of Attorney General for approval as required by law.
- (3) The Secretary of Agriculture shall certify and deposit this order and Annex A with the Legislative Reference Bureau as required by law.
- (4) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

DENNIS C WOLFF,

Secretary

Annex A

TITLE 7. AGRICULTURE

PART V. BUREAU OF PLANT INDUSTRY

CHAPTER 111. SEED TESTING, LABELING AND STANDARDS

GENERAL PROVISIONS

§ 111.1. Sampling and testing of seeds.

The terms used in seed testing and the methods of sampling, inspecting, analyzing, testing and examining agriculture, vegetable, flower, tree and shrub seeds, and lawn and turf mixtures and the tolerance allowed thereof shall be those adopted by the Association of Official Seed Analysts (AOSA), effective October 1, 1981, as amended, except that tolerance will not be allowed for prohibited noxious weed seeds. A copy of the rules may be obtained from the current Secretary-Treasurer [of the association (AOSA)], or from: Botany and Seed Division; Bureau of Plant Industry; Department of Agriculture; 2301 North Cameron Street; Harris- burg, Pennsylvania 17110, at cost] or at www.aosaseed.com.

§ 111.2. Condition of seeds for testing.

(a) Dirty or uncleaned seeds[,] and mixed seed [samples or samples sent by nonresidents of this Commonwealth] kinds when a percentage of analysis is not provided will not be tested.

* * * * *

§ 111.3. Fees and schedule of charges.

(a) The testing fee shall accompany the sample [and no test shall be made until the fee is paid.] or the cost of testing will be billed at the first of every month. A fee will be considered past due when payment is not received within 30 days from day of billing.

(b) Fees shall be paid by check or money order made payable to the Commonwealth of Pennsylvania. Cash will not be accepted [through the mails but is accepted in the laboratory].

(c) A Pennsylvania Noxious Weed Seed Examination shall be included with [all] purity analyses.

[Kind of Seed	<i>Purity Analysis (including Pennsylvania State Noxious Weed Seed Examination)</i>	Combined Purity Analysis and Germination Test	
		Germination Test	Test
Alfalfa	\$ 7.00	\$5.50	\$12
Barley	7.00	5.50	12
Beans, Garden	6.00	6.50	12
Beans, Lima	6.00	7.50	13
Bentgrass	14	8.00	21.50
Big bluestem	26	8.00	33.50
Birdsfoot trefoil	7.00	5.50	12
Bluegrass	15	8.00	22.50
Brome	10	7.50	17
Buckwheat	7.00	5.50	12
Clovers	7.00	5.50	12
Corn	5.00	6.50	11
Crownvetch	8.00	6.50	14
Deertongue grass	10	7.50	17
Fescues	10	7.50	17

Flatpea	6.00	7.50	13
Millets	8.50	6.50	14.50
Oats (including fluorescence test)	8.00	5.50	13
Orchardgrass	12	7.00	18.50
Peas	5.00	6.50	11
Redtop	14	8.00	21.50
Reed Canarygrass	9.00	6.50	15
Rye	7.00	5.50	12
Ryegrass	9.00	6.00	14.50
Ryegrass (including fluorescence test)	9.00	10.50	19
Sorghums	8.00	6.50	14
Soybeans	6.00	7.50	13
Sudangrass	8.00	6.50	14
Timothy	7.00	5.50	12
Tobacco	8.00	6.50	14
Vetch	8.00	6.50	14
Wheat	7.00	5.50	12
Flowers	8.00	6.50	14
Vegetables and Herbs, except beans, corn and peas	8.00	5.50	13
Tree, Forb and Shrub:			
without embryo excision	8.00	9.00	16.50
with embryo excision	8.00	20	27
with embryo excision and removal of pits	8.00	22	29
Mixtures:			
Lawn and Turf:			
Two components	22	16.00	36
Each additional component	8.00	8.00	15
Germination only			8.00 extra
Pasture, hay and conservation:			
Two components	12	14	25
Each additional	5.00	7.00	11

component	
Germination only	6.00 extra
Miscellaneous charges:	
Interstate Noxious	
Weed Examinations:	
Lawn and turf, with	6.00 extra
purity	
Lawn and turf,	20
without purity	
All others, with purity	5.00 extra
Pennsylvania Noxious	
Weed Seed Examination:	
Lawn and Turf	15
Grasses and Mixtures	
All Others	4.00
Cold test	10
Varietal test	12
Moisture test	3.00
Tetrazolium test	12.50
Bio-assay for seed	6.00
treatment	
Phenol test:	
Bluegrass, ryegrass	7.00
Cereals	6.00
Embryo excision test	15
Rush	4.00
Extra laboratory report	2.00
Tests not listed, special	12 per hour]
procedures, extra time,	
etc.	

§ 111.4. Prohibitions and requirements.

* * * * *

(c) [During the months of February to May not more than five samples per firm or corporation shall be tested, unless the number of official law enforcement samples permit

a larger number. No more than one of the five samples will be a mixture as provided for in § 111.3(c)(7) (relating to fees and schedule of charges).

(d)] Samples to be tested shall be sent to the Bureau of Plant Industry at least 30 days before the seeds are to be planted or sold.

[(e)] (d) Procedures for sampling are as follows:

* * * * *

LABELING

§ 111.11. General labeling requirements.

(a) In labeling the kind of agriculture, vegetable, flower, tree or shrub seeds as required in [section 3 of The Pennsylvania Seed Act of 1965 (3 P. S. § 285-3)] 3 Pa.C.S. § 7104 (relating to labels and labeling), of the following [shall] apply:

(1) Names and classifications (that is "crop" or "weed") used shall be those specified in the Rules for Seed Testing by the Association of Official Seed Analysts.

* * * * *

(4) The following kinds of agricultural seed are generally labeled as to variety and shall be labeled to show either the variety name or the words "Variety Not Stated" or "VNS":

* * * * *

§ 111.12. Labeling of flower seeds.

[Section 3 of The Pennsylvania Seed Act of 1965 (3 P. S. § 285-3) requires] The provisions in 3 Pa.C.S. § 7104 (relating to labels and labeling) require that flower seeds be labeled with the name of the kind and variety or a statement of type and performance characteristics as prescribed by the Department of Agriculture. This provision shall be complied with as follows:

* * * * *

(3) It is permissible to label vegetable and flower seed kinds in containers of 1 pound or less with the statement: "Packed for (YY)" and "Sell by (12/YY)" and an identifying lot number for the calendar year in which they are being offered for sale.

§ 111.13. Labeling of lawn or turf grasses and mixtures.

(a) [In labeling lawn and turf seeds, the following information shall be provided:

(1) The commonly accepted name of the kind or kind and variety of each agricultural seed component in excess of 5.0% of the whole and the percentage by weight of pure seed 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 stated. Percentages of pure seed for mixtures shall be listed under the headings, "Pure Seed."

(2) The percentage by weight of all agricultural seed other than those required to be labeled.

(3) The percentage by weight of inert matter not to exceed 10%, except that 15% inert matter is permitted in Kentucky bluegrass labeled without a variety name. Foreign material, other than material used for coating or pelleting to enhance the planting value, not common to grass seed may not be added.

(4) The percentage by weight of all weed seeds, not to exceed 1.0%.

(5) Noxious weed seeds shall be listed under the heading "Noxious Weed Seeds" or as otherwise specified.

(6) The percentage of germination, exclusive of hard seed; hard seed, if present, and the calendar month and year that the germination test was completed. If a single test date is used for mixtures, it shall be that of the oldest tested component.

(7) Percentages of germination for mixtures shall be listed under the headings, "Germination" or "Germ."

(b) In addition to this section, labeling of lawn and turf mixtures shall comply with the requirements of section 3 of The Pennsylvania Seed Act of 1965 (3 P. S. § 285-3).]

It is permissible to label cool season lawn and turf grass mixtures that include less than 5% white or ladino clover with a "Sell By Date" and 15 month germination period not including the month of test.

(b) Unless otherwise stated as to use, all those kinds listed under cool season lawn and turf grasses and their mixes must have a "Sell by MM/YY" which may be no more than 15 months from the date of test, exclusive of month of test. Those labeled as: "For Forage

Use" or "For Pasture Use" or "For Conservation Use" or some type of qualifying statement indicating that the mixture is not for lawn or turf purposes will require a 9 month date of test not including the month of test and no "Sell By MM/YY" is required.

§ 111.15. [Misleading labeling] (Reserved).

[(a) Notwithstanding § 111.13 (relating to labeling of lawn or turf grasses and mixtures) white clover may be claimed as a component of a mixture in quantities of 1.0% or more and redtop may be claimed as a component in mixtures, other than for lawn and turf, in quantities of 3.0% or more. The germination percentage of each shall be given.

(b) Other components of less than 5.0% shall be totaled and this sum listed as "other crop seed."

(c) Labeling not complying with this section may be considered as misleading.]

§ 111.16. Responsibility for labeling.

* * * * *

(b) The person or dealer shall also be responsible for procuring a new germination test and subsequently attaching new analysis tags before the expiration date of the required [nine] 9-month period or 15 months for cool season lawn and turf grasses as provided in [section 4 of The Pennsylvania Seed Act of 1965 (3 P. S. § 285-4)] 3 Pa.C.S. § 7104 (relating to labels and labeling). Tests shall be made according to the Rules for Testing

Seed published by the Association of Official Seed Analysts, and no test may be considered official unless the rules are followed.

§ 111.17. Labeling of seeds for sprouting.

The following information shall be indicated on labels of seeds sold for sprouting for salad or culinary purposes (otherwise known as health food):

* * * * *

(4) Percentage of germination of a pure seed component and hard seed if applicable.

* * * * *

WEED SEEDS

§ 111.21. [Weed seeds classified] (Reserved).

[The following shall be classified as weed seeds in this Commonwealth and shall be labeled as such:

- (1) Black medic (*Medicago lupulina*).
- (2) Small hop clover (*Trifolium dubium*).
- (3) Large hop clover (*Trifolium procumbens*).
- (4) Carpet grass (*Axonopus affinis*).
- (5) Annual bluegrass (*Poa annua*). When present in agricultural, vegetable and flower seeds other than those lawn and turf grasses and mixtures listed in § 111.23(b)(1) (relating to restricted noxious weed seeds).
- (6) Bulbous bluegrass (*Poa bulbosa*)

§ 111.22. Prohibited noxious weed seeds.

It shall be unlawful to sell or offer for sale seeds that contain the following prohibited weed seeds:

(1) Bindweed, field (*Convolvulus [spp.] arvensis*).

(2) Bindweed, hedge (*Calystegia sepium*).

(3) Quackgrass ([Agropyron] Elytrigia repens).

[(3)](4) * * *

[(4)](5) * * *

[(5)](6) Johnsongrass (*Sorghum halepense*), its crosses with other grasses [and other grasses] which produce seed which are not readily distinguishable from Johnsongrass.

(7) Shattercane (*Sorghum bicolor*).

(8) Marijuana (*Cannabis sativa*).

(9) Mile-a-minute (*Polygonum perfoliatum*).

(10) Kudzu-vine (*Pueraria lobata*).

(11) Purple Loosestrife and cultivars (*Lythrum salicaria*).

(12) Giant Hogweed (*Heracleum mantegazzianum*).

(13) Goatsrue (*Galega officinalis*).

(14) Jimsonweed (*Datura stramonium*).

§ 111.23. Restricted noxious weed seeds.

(a) [Presence] The presence of restricted noxious weed seeds in agricultural, vegetable and flower seed, other than lawn and turf grasses, and mixtures thereof listed in subsection (b)(1) shall be governed by the following:

(1) *List.* The seeds of the following plants shall be restricted noxious weed seeds and shall be listed on the tag or label under the heading "Noxious Weed Seeds" by name and number per pound:

* * * * *

(x) Bull Thistle (*Cirsium vulgare*).

(xi) Musk Thistle (*Carduus nutans*).

* * * * *

(b) [Presence] The presence of restricted noxious weed seeds in lawn and turf grasses and mixtures thereof shall be governed by the following:

(1) Except as provided in paragraph (3), the seeds of the following plants shall be restricted noxious weed seeds and shall be listed on the tag or label under the heading "Undesirable Grass Seeds" or "Restricted Noxious Weed Seeds" by name and number per pound when present in bentgrass, Kentucky bluegrass, chewings fescue, hard fescue, red fescue, varieties of named turf type tall fescue, varieties of perennial ryegrass or mixtures containing these grasses:

* * * * *

MISCELLANEOUS PROVISIONS

§ 111.41. Stop sale procedures.

(a) The owner or custodian of any lot of seeds held under "stop sale" shall be allowed 90 days to correct deficiencies so that the lot conforms to the requirements of this chapter and [The Pennsylvania Seed Act of 1965 (3 P. S. § 285-1-- 285-10)] 3 Pa.C.S. Chapter 71 (relating to the Seed Act).

* * * * *

(e) [Section 2 (22) of The Pennsylvania Seed Act of 1965 (3 P. S. § 2852(22))
containing] The provisions in 3 Pa.C.S. § 7113 (relating to stop-sale orders) containing
further requirements for "stop sale" notice, shall be followed.

PROPOSED RULEMAKING

[7 PA. CODE CH. 111]

Seed Testing, Labeling and Standards

[38 Pa.B. 2256]

[Saturday, May 17, 2008]

The Department of Agriculture (Department), under the authority of 3 Pa.C.S. Chapter 71 (relating to Seed Act) (act) and under the specific authority of sections 7111 and 7117 of the act (relating to powers and duties of secretary and department; and rules and regulations) proposes to amend Chapter 111 (relating to seed testing, labeling and standards). This act replaces The Pennsylvania Seed Act of 1965 (3 P. S. §§ 285-1--285-11).

Section 7111 of the act authorizes and empowers the Department to enforce the provisions of the act and to "... prescribe, modify and enforce such reasonable rules, regulations, standards, tolerances and orders as in the judgment of the secretary shall be necessary to carry out the provisions of [the act]." See 3 Pa.C.S. § 7111(a). In addition, section 7111 of the act establishes specific powers and duties of the Department and provides for delegation of such authority. See 3 Pa.C.S. § 7111(b) and (c). Section 7117 of the act specifically delineates that the Department "... shall promulgate and enforce rules and regulations necessary for administration and implementation of [the act]." See 3 Pa.C.S. § 7117. Therefore, consistent with that authority and to establish regulations which are consistent with the provisions of the act, the Department hereby proposes the following amendments to Chapter 111.

Background

The proposed amendments are made necessary by and are established under the authority of, and in accordance with, the act.

The major features and amendments of the proposal are summarized as follows:

Summary of Major Features and Amendments

§ 111.1. Sampling and testing of seeds.

The Department proposes to delete the part of the language of the last sentence of this section related to receiving a copy of the rules which states, "A copy of the rules may be obtained from the current Secretary-Treasurer of the association (AOSA), or from: Botany and Seed Division, Bureau of Plant Industry, Department of Agriculture, 2301 North Cameron Street, Harrisburg, PA 17110, at cost. The proposal would delete the final portion of that sentence, starting with "or from ..."

§ 111.2. Condition of seeds for testing.

The Department proposes to delete parts of subsection (a) related to nontesting of seed samples of any kind and add language to deny testing of mixed seeds "when the percentage of analysis is not provided."

§ 111.3. Fees and schedule of charges.

The Department amended subsection (a) to allow for billing of the testing fee and amended subsection (b) in a manner that will no longer allow for cash payment of the fees. A minor and a major amendment were made to subsection (c). First, the word "all" was removed because it is implied and therefore redundant. Second, the Department deleted the chart containing the cost of purity analysis, germination testing and combined testing because that chart and those fees now appear in section 7109(b)(5) of the act (relating to unlawful seed sales).

§ 111.4. Prohibitions and requirements.

The Department deleted subsection (c), which referred to the pricing table that was deleted from § 111.3.

§ 111.11. General labeling requirements.

In subsection (a), the Department deleted old citations to the act and replaced them with the proper citations to the new act. In subsection (a)(1), language was added to clarify the names "and classification" used shall be consistent with the Rules for Seed Testing by the Association of Official Seed Analysts.

§ 111.12. Labeling of flower seeds.

The Department deleted old citations to the act and replaced them with the proper citations to the new act. In addition, the Department added paragraph (3). The new paragraph clarifies labeling requirements for vegetable and flower seeds.

§ 111.13. Labeling of lawn or turf grasses and mixtures.

The Department deleted subsections (a) and (b) and replaced them with language consistent with the provisions of the act related to lawn and turf grasses. See section 7104 (b)(2) of the act (relating to labels and labeling).

§ 111.15. Misleading labeling.

The Department rescinded this section because the issues addressed (related to the labeling of lawn and turf grasses and mixtures) are now covered by the act and the revisions to § 111.13.

§ 111.16. Responsibility for labeling.

The Department amended the substantive provisions of the section to assure the citations to the act are correct and to add a provision relating to the expiration time period for lawn

and turf grass analysis.

§ 111.17. Labeling of seeds for sprouting.

The Department amended the substantive provisions of the section to clarify what salad and culinary purposes are and to address hard seed germination when applicable.

§ 111.21. Weed seeds classified.

The Department rescinded this section classifying and regulating weed seeds. Seed classifications are covered by the AOSA's Rules for Testing Seed included in § 111.11(a).

§ 111.22. Prohibited noxious weed seeds.

The Department amended this section by adding additional species to the list of prohibited noxious weed seeds.

§ 111.23. Restricted noxious weed seeds.

The Department amended subsection (a)(1) by adding additional species to the list of noxious weed seeds and added canary grass to subsection (a)(3). In addition, the Department amended subsection (b)(1) to include a reference to "Restricted Noxious Weed Seeds."

§ 111.41. Stop sale procedures.

The Department amended the citations in this provision to assure they were consistent with the act.

Fiscal Impact

Commonwealth

The proposed amendments will not impose additional fiscal impacts upon the Commonwealth for administration and enforcement. The amendments will not require the Department to commit an additional amount of time or manpower to the enforcement of the provisions of the act or regulations.

Political Subdivisions

The proposed amendments will impose no additional costs and have no fiscal impact upon political subdivisions. The amendments do not impose any additional burden of enforcement or review on political subdivisions.

Private Sector

The proposed amendments will not impose additional costs on the regulated community, which is part of the private sector or any other part of the private sector. Any additional fees are set forth in the act and merely referenced in the regulations. There are no new certification or licensure requirements and any new labeling requirements are merely

consistent with the act and will not impose additional costs on the regulated community.

General Public

The proposed amendments will impose no costs and have no fiscal impact on the general public.

Paperwork Requirements

The proposed amendments will not result in a substantial increase of paperwork.

Public Comment Period

Interested persons are invited to submit written comments regarding the proposed amendments within 30 days following publication in the *Pennsylvania Bulletin*.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Department submitted a copy of these proposed amendments on May 2, 2008, to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Agriculture and Rural Affairs Committee and the Senate Agriculture and Rural Affairs Committee (Committees). In addition to submitting the proposed amendments, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form. A copy of this material is available to the public upon request.

If IRRC has any objections to any portion of the proposed amendments, it will notify the Department within 30 days after the close of the public comment period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review, prior to final-form publication of the regulations, by the Department, the General Assembly and the Governor of objections raised.

Contact Person

Further information is available by contacting the Department of Agriculture, Bureau of Plant Industry, 2301 North Cameron Street, Harrisburg, PA 17110-9408; Attention: Joe Garvey, (717) 787-4843.

Effective Date

This proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin*.

DENNIS WOLFF,
Secretary

Fiscal Note: 2-156. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 7. AGRICULTURE

PART V. BUREAU OF PLANT INDUSTRY

CHAPTER 111. SEED TESTING, LABELING AND STANDARDS

GENERAL PROVISIONS

§ 111.1. Sampling and testing of seeds.

The terms used in seed testing and the methods of sampling, inspecting, analyzing, testing and examining agriculture, vegetable, flower, tree and shrub seeds, and lawn and turf mixtures and the tolerance allowed thereof shall be those adopted by the Association of Official Seed Analysts (AOSA), effective October 1, 1981, as amended, except that tolerance will not be allowed for prohibited noxious weed seeds. A copy of the rules may be obtained from the current Secretary-Treasurer **[of the association (] AOSA[), or from: Botany and Seed Division; Bureau of Plant Industry; Department of Agriculture; 2301 North Cameron Street; Harris- burg, Pennsylvania 17110, at cost] or at www.aosaseed.com.**

§ 111.2. Condition of seeds for testing.

(a) Dirty or uncleaned seeds[,] and mixed seed [samples or samples sent by nonresidents of this Commonwealth] kinds when a percentage of analysis is not provided will not be tested.

* * * * *

§ 111.3. Fees and schedule of charges.

(a) The testing fee shall accompany the sample **[and no test shall be made until the fee is paid.] or the cost of testing will be billed at the first of every month. A fee will be considered past due when payment is not received within 30 days from day of billing.**

(b) Fees shall be paid by check or money order made payable to the Commonwealth of Pennsylvania. Cash will not be accepted **[through the mails but is accepted in the laboratory].**

(c) A Pennsylvania Noxious Weed Seed Examination shall be included with **[all]** purity analyses.

Kind of Seed	[Purity Analysis (including Pennsylvania State Noxious Weed Seed Examination)	Germination Test	Combined Purity Analysis and Germination
			Test

Alfalfa	\$ 7.00	\$5.50	\$12
Barley	7.00	5.50	12
Beans, Garden	6.00	6.50	12
Beans, Lima	6.00	7.50	13
Bentgrass	14	8.00	21.50
Big bluestem	26	8.00	33.50
Birdsfoot trefoil	7.00	5.50	12
Bluegrass	15	8.00	22.50
Brome	10	7.50	17
Buckwheat	7.00	5.50	12
Clovers	7.00	5.50	12
Corn	5.00	6.50	11
Crownvetch	8.00	6.50	14
Deertongue grass	10	7.50	17
Fescues	10	7.50	17
Flatpea	6.00	7.50	13
Millet	8.50	6.50	14.50
Oats (including fluorescence test)	8.00	5.50	13
Orchardgrass	12	7.00	18.50
Peas	5.00	6.50	11
Redtop	14	8.00	21.50
Reed Canarygrass	9.00	6.50	15
Rye	7.00	5.50	12
Ryegrass	9.00	6.00	14.50
Ryegrass (including fluorescence test)	9.00	10.50	19
Sorghums	8.00	6.50	14
Soybeans	6.00	7.50	13
Sudangrass	8.00	6.50	14
Timothy	7.00	5.50	12
Tobacco	8.00	6.50	14
Vetch	8.00	6.50	14
Wheat	7.00	5.50	12
Flowers	8.00	6.50	14
Vegetables and Herbs, except beans, corn and peas	8.00	5.50	13
Tree, Forb and Shrub:			
without embryo excision	8.00	9.00	16.50
with embryo excision	8.00	20	27

with embryo excision and removal of pits	8.00	22	29
Mixtures:			
Lawn and Turf:			
Two components	22	16.00	36
Each additional component	8.00	8.00	15
Germination only			8.00 extra
Pasture, hay and conservation:			
Two components	12	14	25
Each additional component	5.00	7.00	11
Germination only		6.00	extra
Miscellaneous charges:			
Interstate Noxious Weed Examinations:			
Lawn and turf, with purity		6.00	extra
Lawn and turf, without purity			20
All others, with purity		5.00	extra
Pennsylvania Noxious Weed Seed Examination:			
Lawn and Turf			15
Grasses and Mixtures			
All Others		4.00	
Cold test		10	
Varietal test		12	
Moisture test		3.00	
Tetrazolium test		12.50	
Bio-assay for seed treatment		6.00	
Phenol test:			
Bluegrass, ryegrass		7.00	
Cereals		6.00	
Embryo excision test		15	
Rush		4.00	
Extra laboratory report		2.00	
Tests not listed, special procedures, extra time, etc.		12 per hour]	

§ 111.4. Prohibitions and requirements.

* * * * *

(c) [During the months of February to May not more than five samples per firm or corporation shall be tested, unless the number of official law enforcement samples permit a larger number. No more than one of the five samples will be a mixture as provided for in § 111.3(c)(7) (relating to fees and schedule of charges).

(d)] Samples to be tested shall be sent to the Bureau of Plant Industry at least 30 days before the seeds are to be planted or sold.

[(e)] (d) Procedures for sampling are as follows:

* * * * *

LABELING

§ 111.11. General labeling requirements.

(a) In labeling the kind of agriculture, vegetable, flower, tree or shrub seeds as required in [section 3 of The Pennsylvania Seed Act of 1965 (3 P. S. § 285-3)] 3 Pa.C.S. § 7104 (relating to labels and labeling), of the following [shall] apply:

(1) Names and classifications (that is "crop" or "weed") used shall be those specified in the Rules for Seed Testing by the Association of Official Seed Analysts.

* * * * *

(4) The following kinds of agricultural seed are generally labeled as to variety and shall be labeled to show either the variety name or the words "Variety Not Stated" or "VNS":

* * * * *

§ 111.12. Labeling of flower seeds.

[Section 3 of The Pennsylvania Seed Act of 1965 (3 P. S. § 285-3) requires] The provisions in 3 Pa.C.S. § 7104 (relating to labels and labeling) require that flower seeds be labeled with the name of the kind and variety or a statement of type and performance characteristics as prescribed by the Department of Agriculture. This provision shall be complied with as follows:

* * * * *

(3) It is permissible to label vegetable and flower seed kinds in containers of 1 pound or less with the statement: "Packed for (YY)" and "Sell by (12/YY)" and an identifying lot number for the calendar year in which they are being offered for sale.

§ 111.13. Labeling of lawn or turf grasses and mixtures.

(a) [In labeling lawn and turf seeds, the following information shall be provided:

(1) The commonly accepted name of the kind or kind and variety of each agricultural seed component in excess of 5.0% of the whole and the percentage by weight of pure seed 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 stated. Percentages of pure seed for mixtures shall be listed under the headings, "Pure Seed."

(2) The percentage by weight of all agricultural seed other than those required to be labeled.

(3) The percentage by weight of inert matter not to exceed 10%, except that 15% inert matter is permitted in Kentucky bluegrass labeled without a variety manner. Foreign material, other than material used for coating or pelleting to enhance the planting value, not common to grass seed may not be added.

(4) The percentage by weight of all weed seeds, not to exceed 1.0%.

(5) Noxious weed seeds shall be listed under the heading "Noxious Weed Seeds" or as otherwise specified.

(6) The percentage of germination, exclusive of hard seed; hard seed, if present, and the calendar month and year that the germination test was completed. If a single test date is used for mixtures, it shall be that of the oldest tested component.

(7) Percentages of germination for mixtures shall be listed under the headings, "Germination" or "Germ."

(b) In addition to this section, labeling of lawn and turf mixtures shall comply with the requirements of section 3 of The Pennsylvania Seed Act of 1965 (3 P. S. § 285-3).]

It is permissible to label cool season lawn and turf grass mixtures that include less than 5% white or ladino clover with a "Sell By Date" and 15 month germination period not including the month of test.

(b) Unless otherwise stated as to use, all those kinds listed under cool season lawn and turf grasses and their mixes must have a "Sell by MM/YY" which may be no more than 15 months from the date of test, exclusive of month of test. Those labeled as: "For Forage Use" or "For Pasture Use" or "For Conservation Use" or some type of qualifying statement indicating that the mixture is not for lawn or turf purposes will require a 9 month date of test not including the month of test and no "Sell By MM/YY" is required.

§ 111.15. [Misleading labeling] (Reserved).

[(a) Notwithstanding § 111.13 (relating to labeling of lawn or turf grasses and

mixtures) white clover may be claimed as a component of a mixture in quantities of 1.0% or more and redtop may be claimed as a component in mixtures, other than for lawn and turf, in quantities of 3.0% or more. The germination percentage of each shall be given.

(b) Other components of less than 5.0% shall be totaled and this sum listed as "other crop seed."

(c) Labeling not complying with this section may be considered as misleading.]

§ 111.16. Responsibility for labeling.

* * * * *

(b) The person or dealer shall also be responsible for procuring a new germination test and subsequently attaching new analysis tags before the expiration date of the required [nine] 9-month period or 15 months for cool season lawn and turf grasses as provided in [section 4 of The Pennsylvania Seed Act of 1965 (3 P. S. § 285-4)] 3 Pa.C.S. § 7104 (relating to labels and labeling). Tests shall be made according to the Rules for Testing Seed published by the Association of Official Seed Analysts, and no test may be considered official unless the rules are followed.

§ 111.17. Labeling of seeds for sprouting.

The following information shall be indicated on labels of seeds sold for sprouting for salad or culinary purposes (otherwise known as health food):

* * * * *

(4) Percentage of germination of a pure seed component and hard seed if applicable.

* * * * *

WEED SEEDS

§ 111.21. [Weed seeds classified] (Reserved).

[The following shall be classified as weed seeds in this Commonwealth and shall be labeled as such:

- (1) Black medic (*Medicago lupulina*).
- (2) Small hop clover (*Trifolium dubium*).
- (3) Large hop clover (*Trifolium procumbens*).
- (4) Carpet grass (*Axonopus affinis*).
- (5) Annual bluegrass (*Poa annua*). When present in agricultural, vegetable and

flower seeds other than those lawn and turf grasses and mixtures listed in § 111.23(b) (1) (relating to restricted noxious weed seeds).

(6) Bulbous bluegrass (*Poa bulbosa*)

§ 111.22. Prohibited noxious weed seeds.

It shall be unlawful to sell or offer for sale seeds that contain the following prohibited weed seeds:

(1) Bindweed, field (*Convolvulus [spp.] arvensis*).

(2) Bindweed, hedge (*Calystegia sepium*).

(3) Quackgrass ([*Agropyron*]) *Elytrigia repens*.

[(3)](4) * * *

[(4)](5) * * *

[(5)](6) Johnsongrass (*Sorghum halepense*), its crosses with other grasses [and other grasses] which produce seed which are not readily distinguishable from Johnsongrass.

(7) Shattercane (*Sorghum bicolor*).

(8) Marijuana (*Cannabis sativa*).

(9) Mile-a-minute (*Polygonum perfoliatum*).

(10) Kudzu-vine (*Pueraria lobata*).

(11) Purple Loosestrife and cultivars (*Lythrum salicaria*).

(12) Giant Hogweed (*Heracleum mantegazzianum*).

(13) Goatsrue (*Galega officinalis*).

(14) Jimsonweed (*Datura stramonium*).

§ 111.23. Restricted noxious weed seeds.

(a) [Presence] The presence of restricted noxious weed seeds in agricultural, vegetable and flower seed, other than lawn and turf grasses, and mixtures thereof listed in subsection **(b)(1)** shall be governed by the following:

(1) List. The seeds of the following plants shall be restricted noxious weed seeds and shall be listed on the tag or label under the heading "Noxious Weed Seeds" by name and number per pound:

* * * * *

(x) **Bull Thistle** (*Cirsium vulgare*).

(xi) **Musk Thistle** (*Carduus nutans*).

* * * * *

(b) **[Presence]** The presence of restricted noxious weed seeds in lawn and turf grasses and mixtures thereof shall be governed by the following:

(1) Except as provided in paragraph (3), the seeds of the following plants shall be restricted noxious weed seeds and shall be listed on the tag or label under the heading "Undesirable Grass Seeds" or "**Restricted Noxious Weed Seeds**" by name and number per pound when present in bentgrass, Kentucky bluegrass, chewings fescue, hard fescue, red fescue, varieties of named turf type tall fescue, varieties of perennial ryegrass or mixtures containing these grasses:

* * * * *

MISCELLANEOUS PROVISIONS

§ 111.41. Stop sale procedures.

(a) The owner or custodian of any lot of seeds held under "stop sale" shall be allowed 90 days to correct deficiencies so that the lot conforms to the requirements of this chapter and **[The Pennsylvania Seed Act of 1965 (3 P. S. § 285-1-- 285-10)] 3 Pa.C.S. Chapter 71 (relating to the Seed Act)**.

* * * * *

(e) **[Section 2 (22) of The Pennsylvania Seed Act of 1965 (3 P. S. § 2852(22)) containing]** The provisions in 3 Pa.C.S. § 7113 (relating to stop-sale orders) contain further requirements for "stop sale" notice, shall be followed.

[Pa.B. Doc. No. 08-920. Filed for public inspection May 16, 2008, 9:00 a.m.]

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LIST OF COMMENTATORS

NAME OF COMMENTATOR

ADDRESS

Amy M. Bradford
PennAg Industries Association

Northwood Office Center
2215 Forest Hills Drive
Suite 39
Harrisburg, PA 17112-



COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE OF GENERAL COUNSEL

February 19, 2008

Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17120

RE: NOTICE OF FINAL REGULATION
Department of Agriculture
Bureau of Plant Industry
7 Pa. Code Chapter 111
Seed Testing, Labeling and Standards
I.D. No. 2-156
Proposed Rulemaking: 38 Pennsylvania Bulletin 2256 (May 17, 2008)
Approved by Office of General Counsel: November 26, 2008

Dear Sir or Madam:

Please find enclosed a copy of the above-referenced final-form regulation (Preamble and Annex "A"). Copies of the Regulatory Analysis Form and Notice of Proposed Rulemaking are also enclosed. This material is submitted to you in accordance with the Regulatory Review Act (at 71 P.S. § 745.5a(a)).

The Department's response to the comment received with respect to the proposed version of this regulation is set forth in the Preamble of the final-form regulation. Enclosed is a document containing the name and address of the commentator for this regulation. Please be aware that the Department, on this same date, sent a copy of the final-form regulation to the commentator pursuant to 71 P.S. § 745.5a(b). Copies of the final-form regulation have been delivered to the appropriate Legislative Committees (the House & Senate Agricultural and Rural Affairs Committees) on this date.

I respectfully request the Commission's approval of this final-form regulation. The Department will provide any assistance you may require to facilitate a thorough review of this final-form regulation. Thank you for your consideration of this document.

Sincerely,

David C. Kennedy, Assistant Counsel
Office of Chief Counsel
Department of Agriculture

Enclosures

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

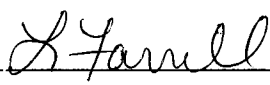
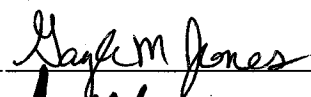
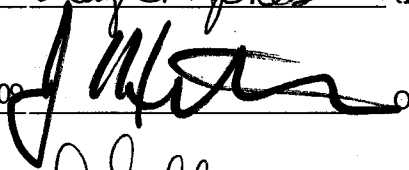
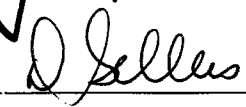
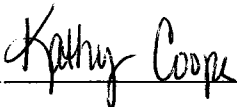
I.D. NUMBER: 2-156
SUBJECT: SEED TESTING, LABELING AND STANDARDS
AGENCY: DEPARTMENT OF AGRICULTURE

TYPE OF REGULATION

Proposed Regulation
X Final Regulation
Final Regulation with Notice of Proposed Rulemaking Omitted
120-day Emergency Certification of the Attorney General
120-day Emergency Certification of the Governor
Delivery of Tolled Regulation
a. With Revisions b. Without Revisions

RECEIVED
2009 FEB 19 PM 3:18
INDEPENDENT REGULATORY
REVIEW COMMISSION

FILING OF REGULATION

DATE	SIGNATURE		DESIGNATION
2-19-09		ROHRER	HOUSE COMMITTEE ON AGRICULTURE & RURAL AFFAIRS
2-19-09		HANNA	MAJORITY CHAIRMAN <u>HANNA</u>
2-19-09		O'PAKE	SENATE COMMITTEE ON AGRICULTURE & RURAL AFFAIRS
2-19-09		BRUBAKER	MAJORITY CHAIRMAN <u>BRUBAKER</u>
2-19-09		IRRC	INDEPENDENT REGULATORY REVIEW COMMISSION
			ATTORNEY GENERAL (for Final Omitted only)
			LEGISLATIVE REFERENCE BUREAU (for Proposed only)