

# Regulatory Analysis Form

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INDEPENDENT REGULATORY  
REVIEW COMMISSION

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IRRC Number: 2699

(1) Agency: *Agriculture*

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

2-158

(3) Short Title  
*Standards for Seed Certification*

(4) PA Code Cite  
*7 Pa. Code, Chapter 115*

(5) Agency Contacts & Telephone Numbers  
Primary Contact: *Joe Garvey, Bureau of Plant Industry, (717) 787-4894*  
Secondary Contact: *Charles Boettinger, Bureau of Plant Industry, (717) 787-4894*

(6) Type of Rulemaking (check one)

**Proposed Rulemaking**  X  
Final Order Adopting Regulation  
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 proposed regulations are provided to establish general provisions for seed certification. The proposed regulation defines seed certification standards consistent with the requirements of the Seed Act (Act of November 29, 2004, P.L. 1302 (164))(3 Pa.C.S.A. §§ 7101-7122). Additional changes in the regulations are proposed in order to conform to changes in the Federal Seed Act and Regulations Part 201.67 – 201.78, the Crop Standards and Procedures of the Association of Official Seed Certifying Agencies (AOSCA), and the new USDA State National Harmonization Program For Seed Potatoes.*

(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 (164)) (3 Pa.C.S.A. §§ 7101-7122).*

## Regulatory Analysis Form

(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 amended regulation is mandated under the Seed Act (Act of November 29, 2004, P.L. 1302 (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. In addition, provisions for seed certification are mandated under the Federal Seed Act Regulations Part 201.67 through 201.78.*

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

*These regulations insure that certified seed that farmers are purchasing and planting are true to their identity and meet established standards.*

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

*The proposed 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 certified 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 and seed distributors buying, planting and selling certified seed will benefit from these regulations which will insure good quality, clean seed with integrity of variety.*

## Regulatory Analysis Form

(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 proposed regulations will have no adverse affect.*

(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 proposal will affect the 36 seed growers who are involved in certified seed production.*

(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.*

(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.*

## Regulatory Analysis Form

(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 proposed 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.*

## Regulatory Analysis Form

(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
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
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
<b>COSTS:</b>						
Regulated	NA	NA	NA	NA	NA	NA
Local Government	NA	NA	NA	NA	NA	NA
State Government	NA	NA	NA	NA	NA	NA
Total Costs	NA	NA	NA	NA	NA	NA
<b>REVENUE LOSSES:</b>						
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 with these proposed regulations.*

## Regulatory Analysis Form

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

Program	FY -3	FY -2	FY -1	Current FY
<i>NA</i>	<i>NA</i>	<i>NA</i>	<i>NA</i>	<i>NA</i>

(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 amending the regulations. The amended 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 nonregulatory alternatives. The regulations are mandated by the Seed Act. The proposed regulations establish the seed certification criteria key to the program. The proposed regulations are necessary to insure an adequate program and maintain conformity with the Seed Act (Act of November 29, 2004, P.L. 1302 (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 nonregulatory alternatives to leave the current regulations in place. The current regulations are in conflict with the Federal Seed Act and Regulations.*

## Regulatory Analysis Form

(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.

*There are no provisions of this proposal that are more stringent than federal standards.*

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

*Each state and private certifying agency is expected to be in compliance with the Federal Seed Act and the AOSCA Standards and Procedures. 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 proposal will amend an existing regulation of the Seed Act (Act of November 29, 2004, P.L. 1302 (164)) (3 Pa.C.S.A. §§ 7101-7122). The changes amend 7 PA. Code, Chapter 115.*

(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.*

## Regulatory Analysis Form

(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 as a final form regulation. The Department projects this will occur by June 2008. 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, Federal Seed Act and Regulations or the Standards and Procedures of AOSCA.*



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

*[Signature]*

By: \_\_\_\_\_  
(Deputy Attorney General)

APR 23 2008

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. 2-158

DATE OF ADOPTION 11/9/07

BY *[Signature]*

TITLE Secretary

EXECUTIVE OFFICER CHAIRMAN OR SECRETARY

Copy below is hereby approved as to form and legality  
Executive of Independent Agency

*[Signature]*

BY: Andrew C. Clark  
MAR 31 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 PROPOSED RULEMAKING

Department of Agriculture  
Bureau of Plant Industry  
7 Pa. Code Chapter 115  
Standards for Seed Certification

**PROPOSED RULEMAKING**  
**DEPARTMENT OF AGRICULTURE**  
**PART V. BUREAU OF PLANT INDUSTRY**  
**[7 PA. CODE CH. 115.]**  
**STANDARDS FOR SEED CERTIFICATION**

The Department of Agriculture (Department), under the authority conferred by the act of November 29, 2004, P.L. 1302 (No. 164), effective January 28, 2005, known as the Seed Act (Act)(3 Pa.C.S.A. §§ 7101-7122) and under the specific authority of sections 11 and 17 of the Act (3 Pa.C.S.A. §§ 7111 and 7117), regarding regulation and enforcement of the Act, proposes to amend Chapter 115 of the regulations (relating to standards for seed certification). The Act replaces the act of August 17, 1965, P.L. 354, known as “The Pennsylvania Seed Act of 1965”, and all amendments thereto.

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].” (3 Pa.C.S.A. § 7111(a)) In addition, section 7111 establishes specific powers and duties of the Department and provides for delegation of such authority. (3 Pa.C.S.A. §§ 7111(b) and (c)) Section 7117 of the act specifically delineates that the Department “...shall promulgate and enforce rules and regulations necessary of administration and implementation of [the act].” (3 Pa.C.S.A. § 7117) Therefore, consistent with that authority and in order to establish regulations

which are consistent with the provisions of the Act, the Department hereby proposes the following amendments to 7 *Pennsylvania Code*, Chapter 115, entitled Standards for Seed Certification.

## **BACKGROUND**

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

The major features and amendments to the proposed regulations are summarized as follows:

### **SUMMARY OF MAJOR FEATURES AND AMENDMENTS**

#### **§ 115.71. Definitions.**

The Department amended the definition of commercial hybrid field corn, by deleting “modified single cross” as a type of commercial hybrid field corn and replacing it with “top cross.” In addition, the Department added two more types (inbred line and open-pollination) to the definition of commercial hybrid field corn.

#### **§ 115.82. Isolation requirements.**

The Department deleted the current table, in subsection (d), related to the minimum number of border rows required for fields of various sizes and replaced it with an updated table.

**§ 115.211. Seed standards.**

The Department added the word “restricted” to the last sentence of this section.

**§ 115.271. Seed source.**

The Department added language clarifying that seed potatoes will be limited to 8 generations. In accordance with that change, the Department changed the language stating that foundation G3 was the minimum acceptable source to produce certified G4 to foundation G7 being the minimum acceptable source to produce certified G8.

**§ 115.282. Diseases.**

The Department reduced the tolerance allowed for diseases in Leaf Roll G4 through G8 from 2 percent to 1 percent.

**§ 115.283. Varietal mixtures.**

The Department added G4 through G8 to the chart related to prenuclear varietal mixtures.

**§ 115.293. Eligibility factors for tags.**

The Department expanded the generations eligible for production and tagging by deleting the language limiting such generations to generations 1, 2 and 3 and adding language which makes generations 1 through 7 eligible for production and tagging.

**§ 115.302. [Treatment for diseases.] Reserved**

The Department deleted and reserved this section of the regulations.

**§ 115.321. Preplanting.**

The Department amended a grammatical error in subsection (c) by changing is to are. In addition, the Department modified the language of subsection (c)(4) to assure the citation to the Act was correct.

**§ 115.444. Harvesting.**

The Department amended subsection (a)(5) to assure the citation to the Act was correct.

## **Subchapter T. Interagency Turf Grass**

The Department added a full subchapter to deal with interagency turf grass standards and seed certification. Turf grass requirements are set forth at section 7104(b)(2) of the Act but are not covered by the current regulations.

### **115.451. Purpose.**

The purpose of this section is to provide a system for maintaining the genetic and mechanical purity of certified seed when repackaged or combined in mixtures of kinds and varieties. The requirements of this subchapter apply when the Department participates with an out-of-state certification agency in the seed certification process.

### **115.452. Definitions.**

The Department established definitions which are important to clarify and understand the substantive provisions of this section.

### **115.453. Interagency Standards and Procedures.**

This section delineates varieties which are eligible for interagency certification, the agencies or organizations which may certify this variety of seeds and the procedures and documentation necessary for final certification.

**115.454. Prior Approval of Cooperation.**

This provision delineates that prior approval is not necessary unless the original certifying agency prohibits or limits such certification by a statement on its tag.

**115.455. Conditioner's Application and Requirements.**

These provisions set forth the application requirements for Conditioners of seed.

**115.456. Conditioner's Facilities.**

This section establishes standards which a Conditioner's facilities must meet.

**115.457. Conditioner's Required Records.**

This section delineates specific recordkeeping requirements for Conditioners.

**115.458. Inspection of Conditioning Operations.**

These provisions set forth the Department's authority to inspect Conditioning operations, their seed stocks and their records.

**115.459. Appointment of Responsible Individual.**

This section requires approved Conditioners to designate an individual who will be responsible for performing such duties as may be required by the Department.

**115.460. Sampling and Testing by the Department.**

The provisions of this section delineate the sampling and testing techniques and standards to be carried out by the Department.

**115.461. Mixing Procedures for Certified Turfgrass.**

This section sets forth the mixing procedures which must be followed and adhered to by Conditioners when mixing certified turfgrasses.

**115.462. Minimum Seed Standards for Interagency Certification of Turfgrass Seed.**

The provisions of this section establish specific standards for certified turfgrass seed and establish an emergency provision for use of substandard turfgrass mixtures.

**115.463. Interagency Certification Tags and Tagging.**

This section sets the standards for turfgrass certification tags or labels.



**115.464. Rejection of Interagency Certification Components' Seed Lots.**

These provisions delineate the specific reasons for which the Department may or shall reject any certified component seed lot for interagency certification.

**115.465. Fees.**

This section informs the regulated community that fees for interagency certification or established at section 7109 of the Act.

**FISCAL IMPACT**

**Commonwealth**

The proposed regulations will not impose additional fiscal impacts upon the Commonwealth for administration and enforcement. The regulations 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 regulations will impose no additional costs and have no fiscal impact upon political subdivisions. The regulations do not impose any additional burden of enforcement or review on political subdivisions.

**Private sector**

The proposed regulations 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 provisions of the act and will not impose additional costs on the regulated community.

**General public**

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

**PAPERWORK REQUIREMENTS**

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

**PUBLIC COMMENT PERIOD**

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

**REGULATORY REVIEW**

Under Section 5(a) of the Regulatory Review Act, the Act of June 30, 1989 (P.L. 73, No. 19), (71 P.S. §§ 745.1 – 745.15), as amended by Act 24 of June 25, 1997 (P.L. 252, No. 24), the Department submitted a copy of this proposed regulation on

May 2, 2008, to the Independent Regulatory Review Commission (Commission) 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 regulation, the Department has provided the Commission 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 the Commission has any objections to any portion of the proposed regulation, it will notify the Department within 30 days after the close of the public comment period. Such 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 publication of the regulation, 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; Attn: Joe Garvey (717) 787-4843.

### **EFFECTIVE DATE**

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

DENNIS C WOLFF,  
Secretary

## CHAPTER 115. STANDARDS FOR SEED CERTIFICATION

Subchap.	Sec.
A. [Reserved]	115.1
B. [Reserved]	115.31
C. TRENCHING CELERY	115.41
D. CORN—COMMERCIAL HYBRIDS	115.71
E. [Reserved]	115.111
F. CORN—SINGLE CROSSES	115.151
G. DEERTONGUE GRASS	115.191
H. LEGUME CROP	115.221
I. [Reserved]	115.251
J. POTATO	115.271
K. SMALL GRAIN	115.301
L. SOD	115.311
M. [Reserved]	115.341
N. TOBACCO	115.361
O. [Reserved]	115.371
P. [Reserved]	115.381
Q. [Reserved]	115.391
R. SOYBEANS	115.401
S. TREES	115.411
<u>T. INTERAGENCY TURFGRASS</u>	<u>115.421</u>

## Authority

The provisions of this Chapter 115 issued under act of April 11, 1929 (P. L. 488, No. 205) (3 P. S. § § 291—297), unless otherwise noted.

### Subchapter A. [Reserved].

§ 115.1. [Reserved].

\*\*\*

### Subchapter D. CORN—COMMERCIAL HYBRIDS

#### GENERAL REQUIREMENTS

Sec.

115.71. Definitions.

115.72. Acreage.

#### FIELD STANDARDS

115.81. Land requirements.

115.82. Isolation requirements.

115.83. Plant ratio.

115.84. Male sterile ear parents.

115.85. Pollen restoring lines.

- 115.86. Redivision of fields.
- 115.87. Replanting fields.
- 115.88. Detasseling.
- 115.89. Inspection and mixture requirements.

### **SEED STANDARDS**

- 115.91. Labeling.
- 115.92. Processing of uncertified hybrids.
- 115.93. Ear inspection.
- 115.94. Seed standards.

### **GENERAL REQUIREMENTS**

#### **§ 115.71. Definitions.**

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

*Commercial hybrid field corn*—Corn planted for the production of corn for food or feed purposes, or for other commercial or farm use except for seed. It may consist of any one of the following:

- (i) *Double-Cross*—The first generation of a cross between two single crosses.
- (ii) *Three-Way or Line Cross*—The first generation of a cross between a single cross and an inbred line.

(iii) *Single-Cross*—A first generation cross between two inbred lines to be used for commercial production and not for the production of double, three-way and line crosses.

(iv) [*Modified Single Cross*—A cross in which either the male, female or both parents are sister line crosses. For example:  $(A_1 \times A_2) \times B$  or  $(A_1 \times A_2) \times (B_1 \times B_2)$  or  $A \times (B_1 \times B_2)$ .] *Top Cross*—The first generation hybrid of a cross between an inbred line and an open-pollinated variety or the first generation hybrid between a single cross and an open-pollinated variety.

(v) *Inbred line* - A relatively true-breeding strain resulting from at least five successive generations of controlled self-fertilization or of backcrossing to a recurrent parent with selection, or its equivalent, for specific characteristics.

(vi) *Open-pollination* – Pollination that occurs naturally as opposed to controlled pollination, such as by detasseling, cytoplasmic male sterility, self-incompatibility or similar processes.

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#### § 115.82. Isolation requirements.

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(d) The following table indicates the minimum number of border rows required for fields of various sizes, when located at different distances from other corn:

[Minimum Distance From Contaminant                      Minimum Numbers of Male Border Rows Required  
0-9 acres   10-19 acres   20-29 acres   30-39 acres   40-acres

600	2	-	-	-	-
540	4	4	2	-	-
480	6	4	4	4	2
420	8	8	6	6	6
360	10	10	8	8	8
300	12	10	10	10	8
240	12	12	12	10	10
180	14	14	12	12	12 ]

Minimum Distance From Contaminant                      Minimum Numbers of Male Border Rows Required

	0-20 Acres	>20 Acres
660	0	0
570	4	2
490	6	2
410	8	4
330	10	6
270	12	8
210	14	10
150	16	12
90	18	14
<90	24*	16**

\*minimum of 60' including border rows.

\*\*minimum of 40' including border rows.



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**Subchapter G. DEERTONGUE GRASS**

**GENERAL REQUIREMENTS**

Sec.

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**SEED STANDARDS—DEERTONGUE GRASS**

115.211. Seed standards.

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**SEED STANDARDS—DEERTONGUE GRASS**

**§ 115.211. Seed standards.**

The following seed standards apply:

	<i>Certified Class</i>
Pure Seed (minimum)	97%
Other crop seed	2%
*Weed seeds	1%
Inert matter (maximum)	3%
Germination (minimum)	70%

\*A maximum of nine restricted noxious weed seeds per pound is allowed.

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**Subchapter J. POTATO**

**GENERAL STANDARDS**

Sec.

\*\*\*

**GENERAL STANDARDS**

**§ 115.271. Seed source.**

Seed potatoes grown in Pennsylvania will be limited to 8 generations. [Foundation—

G3] Foundation G7 is the minimum acceptable source to produce [certified—G4] Certified G8. When out-of-State source is used, tags shall indicate generation. Signed documentation will be accepted in lieu of tag. Plantlets and mini-tubers entered shall come from an authorized source. Inspections of plantlets shall be made at the discretion of the certification office.

### Source

The provisions of this § 115.271 amended April 6, 1990, effective April 7, 1990, 20 Pa.B. 1878. Immediately preceding text appears at serial page (48889).

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### § 115.282. Diseases.

(a) *Potatoes other than Prenuclear seed potatoes.* The Department will inspect fields of potatoes at least twice during the growing season. Other inspections, which may include digging, may be made. A final inspection shall be made at shipping time for grade.

- (1) First field inspection will be made as early as possible to make accurate identification of diseases.
- (2) Second or later inspections will take place at blossom time and before the vines are killed.
- (3) Seed lots will be rejected if found to contain more than the following diseases:

*Maximum Percent Allowed*

<i>Disease</i>	<i>G1 &amp; G2</i>	<i>G3</i>	<i>G4-G8</i>
Mosaic	.25	.5	2
Leaf Roll	.25	.5	[ 2 ] 1
Spindle Tuber	.25	.5	1
Yellow Dwarf	.25	.5	1
Total Virus including, Mosaic, Leaf Roll, Spindle Tuber and Yellow Dwarf	.50	1.0	3
Ring Rot	.00	.00	.00
***			

**§ 115.283. Varietal mixtures.**

The maximum percentage of varietal mixture allowed is as follows:

Prenuclear	0%
G1	0%
G2	0%
G3	.25%
G4-G8	.25%

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**§ 115.293. Eligibility factors for tags.**

(a) To be eligible to produce and tag generation 1[, 2 and 3] through 7 for recertification, the entire farm production shall be in the Certification Program.

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## Subchapter K. SMALL GRAIN

### GENERAL STANDARDS

Sec.

115.301. Definition.

115.302. [Treatment for diseases.] Reserved

115.303. Field inspections.

115.304. Isolation.

115.305. Field standards.

115.306. Seed standards.

### GENERAL STANDARDS

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§ 115.302. [Treatment for diseases.] Reserved

[The seed should be treated before planting to control seed-borne diseases as recommended by the County Agricultural Extension Agent located at each county seat.]

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## Subchapter L. SOD

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## INSPECTIONS

### § 115.321. Preplanting.

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(c) The seed standards for sod quality grass seed [is] are as follows:

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(4) A sod seed analysis based on the rules of the Association of Official Seed Analysts, c/o Illinois State Seed Laboratory, Post Office Box 4906, 801 Sangamen Avenue, Springfield, Illinois 62706 and section [3] 4 of [The Pennsylvania] the Seed Act [of 1965(3 P. S. § 285.3)] (3 Pa.C.S.A. § 7104) shall be the basis of determining seed standards.

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## Subchapter S. TREES

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### § 115.444. Harvesting.

(a) The following requirements apply to harvesting seed material:

\*\*\*

(5) The analysis tag shall state the weight of seed in the container in addition to information required by [The Pennsylvania] the Seed Act [of 1965(3 P. S. § § 285-1—285.11)] (3 Pa.C.S.A. § 7101 et seq.).

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**Subchapter T. INTERAGENCY TURFGRASS**

Sec.

115.451. Purpose.

115.452. Definitions.

115.453. Interagency Standards and Procedures.

115.454. Prior Approval of Cooperation.

115.455. Conditioner's Application and Requirements.

115.456. Conditioner's Facilities.

115.457. Conditioner's Required Records.

115.458. Inspection of Conditioning Operations.

115.459. Appointment of Responsible Individual.

115.460. Sampling and Testing by the Department.

115.461. Mixing Procedures for Certified Turfgrass.

115.462. Minimum Seed Standards for Interagency Certification of Turfgrass Seed.

115.463. Interagency Certification Tags and Tagging.

115.464. Rejection of Interagency Certification Components' Seed Lots.

115.465. Fees.

**115.451. Purpose.**

(a) The purpose of this section is to provide a system for maintaining the genetic and mechanical purity of certified seed when repackaged or combined in mixtures of kinds and varieties.

(b) The requirements of this subchapter apply when the Department participates with an out-of-state certification agency in the seed certification process.

**115.452. Definitions.**

In addition to the definitions found at 7 Pennsylvania Code, section 113.1 (7 Pa. Code § 113.1) the following definitions shall apply to this subchapter:

*Component* - A specific lot of a single variety that is used in a mixture.

*Interagency certified mixture* - In this subchapter refers to different kinds or varieties of seed certified by the state of origin that have been mixed under the Department's supervision and found by the Department to have met the specific minimum seed standards set forth in this subchapter.

*Mixing Report* - A form used by the Department to list each component of a specific mixture and the lots and amounts used in the mixture.

*Official sample* - A sample taken by a representative of the Department using sampling techniques recognized by the Association of Official Seed Certifying Agencies.

*Sod Quality* - Seed which has met the quality standards established by the state of origin for use in cultivated sod and has been so labeled by the state of origin.

**115.453. Interagency Standards and Procedures.**

(a) Varieties eligible for interagency certification shall be those approved by a member of the Association of Official Seed Certifying Agencies.

(b) Only seed certification by member agencies of the Association of Official Seed Certifying Agencies or agencies recognized by it may be used in the interagency certification program.

(c) The seed certification standards as adopted by the Pennsylvania Department of Agriculture for the kinds to be certified shall be applied to interagency certified seed. These standards are found in the following subchapters which relate to the kind of seed in question. In the absence of Pennsylvania standards, the seed standards of the state in which the seed was grown and certified shall be applied.

(d) Seed shall not be recognized for final certification by the Department unless it is received in containers carrying documentary evidence of its eligibility supplied by another certifying agency including:

(1) Variety and kind.

(2) Amount of seed.

(3) Class of seed.

(4) Inspection or lot number traceable to the previous certifying agency's records.

**115.454. Prior Approval of Cooperation.**

The Department shall not require advance approval of another certifying agency to engage in interagency certification activities unless the original certifying agency prohibits or limits such certification by a statement on its tag.



**115.455. Conditioner's Application and Requirements.**

(a) Conditioners desiring interagency certification of seed shall apply annually to the Pennsylvania Department of Agriculture and shall meet the requirements of this subchapter.

(b) Conditioners shall notify the Department of Agriculture far enough in advance of the date of mixing to allow for sampling and testing of component lots by the Department.

(c) Conditioners shall be responsible for all applicable fees for application, sampling and testing according to the PA Seed Act 164, January 29, 2005.

(d) The identity of the seed shall be maintained at all times.

**115.456. Conditioner's Facilities.**

(a) Facilities shall be available to perform the function requested without introducing contaminants or admixtures.

(b) Equipment used for making mixtures of turf grasses shall have all areas which come into direct contact with the seed accessible for thorough cleaning by the conditioner and inspection by the Department.

**115.457. Conditioner's Required Records.**

(a) Records of all movement of seed and procedures shall be adequate to account for all incoming seed and seed that has passed final certification. The following records shall be included:

(1) Receiving records consisting of:

(i) Variety and kind.

(ii) Name and address of shipper.

(iii) Shipper's lot number or inspection number.

(iv) Date of shipment.

(v) Date received.

(vi) Weight received.

(vii) Receiving lot number assigned by consignee.

(viii) Name and address of delivering carrier.

(2) Records of mixing or rebagging consisting of:

(i) Variety and kind of each component.

(ii) Lot number of each component.

(iii) Lot number and name assigned to each mixture.

(iv) Weight of each bag and number of bags used in each component.

(v) Weight of each bag and number of bags in completed lot.

(vi) Date of mixing or rebagging.

(3) Disposition or stock records of completed lot consisting of:

(i) Name of mixture and lot number.

(ii) Weight of bags and number of bags in final lot.

(iii) Invoice number and weight of each shipment made from the lot.

(iv) Balance of lot remaining after each shipment.

(4) Invoice or other sales records consisting of:

(i) Name of mixture and lot number.

(ii) Name and address of buyer or consignee.

(iii) Date sold or shipped.

(iv) Number of bags and weight of bags sold or shipped.

(b) Conditioners shall permit inspection by the Department of all records of all lots of the kind of seed certified, including both certified and non-certified lots.

**115.458. Inspection of Conditioning Operations and Records.**

The Department shall make as many inspections of both seed and records as may be required to ascertain that only seed meeting the requirements of this subchapter is labeled with interagency certification tags.

**115.459. Appointment of Responsible Individual.**

Approved conditioners who have met the requirements in 115.456 through 115.458 of this subchapter shall designate an individual who shall be responsible to the Pennsylvania Department of Agriculture for performing such duties as may be required.

**115.460. Sampling and Testing by the Department.**

(a) When mixing lots of seed for certification, the conditioner shall use only lots of seed pre-approved by the Department. Before approving of a lot, the Department shall:

(1) Take an official sample of each component.

(2) Perform tests necessary to verify the eligibility of each component lot.

(b) After the different components have been mixed under the supervision of the Department, the conditioner shall permit the Department to take an official sample of each mixture to retain for reference.

(c) Samples of component lots and certified mixes shall be retained by the Department for three years.

**115.461. Mixing Procedures for Certified Turfgrass.**

(a) Before mixing, the conditioner shall ensure that:

(1) All mixing equipment, pallets, scales and floor area adjacent to and around the mixing area are clean and free from seed and foreign material.

(2) Sufficient quantities of new containers are marked with the name of the mixture.

(3) Sufficient quantities of properly completed analysis tags are prepared.

(4) Analysis test reports for purity, germination, and sod quality, if applicable, from the state of origin shall be supplied for the Department's records for each lot of each component used in the mixture.

(5) A mixing report shall be completed for the Department with the following information:

(i) The business name, address and phone number of the conditioner.

(ii) The lot number, state of origin and percentage of each component used.

(iii) The name, lot number and date of the mixture

(iv) The weight of each package of the mixture and the total number of packages in the mixture.

(v) The starting and ending numbers of the certification labels used and the total number of certification labels issued.

(vi) A copy of the analysis label either printed on or attached to the report.

(vii) The signature of the designated representative of the conditioner and the signature of the Department's representative at the completion of the mixing and packaging process.

(6) Each component used is assembled in close proximity to the mixing area.

(7) Each container of each component is clean and sealed, with a certification tag attached.

(8) No damaged containers shall be accepted.

(9) Sufficient personnel are available to complete the mixing process.

(b) Before mixing a Department representative shall:

(1) Inspect all equipment for cleanliness.

(2) Inspect the mixing area for cleanliness.

(3) Inspect the new containers provided for the mixture to ensure that they are appropriate.

(4) Inspect the analysis tags for completeness and accuracy

(5) Inspect each component to ensure that the correct lots are present in the proper amounts, and that all containers of seed to be used in certified mixtures bear a certification tag.

(c) A Department representative shall be present during the mixing process and shall supervise the loading and bagging of the mixed lot after the components have been thoroughly mixed for the appropriate length of time.

(d) A Department representative shall have the sole responsibility to:

(1) Draw an official sample of the completed mixture.

(2) Determine whether the mixer should be cleaned before the next seed mixture is made.

**115.462. Minimum Seed Standards for Interagency Certification of Turfgrass Seed.**

(a) Turfgrass mixtures intended for use in Pennsylvania certified sod and other states certified sod shall meet the following requirements:

(1) Component lots shall be those designated as Sod Quality by the state of origin; the minimum seed standards found in 115.321 of this chapter; or the standards required by the state into which the mixture is to be shipped.

(2) Varieties and mixtures of varieties may be approved for use by the state in which they are to be shipped.

(3) It is the responsibility of the conditioner to inform the Department that a certain mixture is to comply with a certain states' standards.

(4) The seed analysis tag shall bear the statement "Eligible for \_\_\_\_\_ Certified Sod", where appropriate.

(b) For certified mixtures made for sod growers, other than those in (a) above, the components used shall be sod quality.

(c) The components for all other mixtures shall comply with the following seed standards:

<u>Kind</u>	<u>Min. Purity</u>	<u>Max. Other Varieties</u>	<u>Min. Germ</u>	<u>Max. Other Crop*</u>	<u>Max. Weed+</u>
<u>Kentucky Bluegrass</u>	<u>96%</u>	<u>2%</u>	<u>80%</u>	<u>.25%</u>	<u>.2%</u>

<u>Red Fescues</u>	<u>97%</u>	<u>2%</u>	<u>85%</u>	<u>.25%</u>	<u>.2%</u>
<u>Hard</u>	<u>97%</u>	<u>2%</u>	<u>85%</u>	<u>.25%</u>	<u>.2%</u>
<u>Fescues</u>					
<u>Tall Fescue</u>	<u>97%</u>	<u>2%</u>	<u>85%</u>	<u>.25%</u>	<u>.2%</u>
<u>Perennial</u>	<u>97%</u>	<u>2%</u>	<u>85%</u>	<u>.50%</u>	<u>.2%</u>
<u>Ryegrass</u>					
<u>Bentgrass**</u>	<u>98%</u>	<u>3%</u>	<u>85%</u>	<u>.25%</u>	<u>.2%</u>
<u>Rough</u>	<u>96%</u>	<u>2%</u>	<u>80%</u>	<u>.25%</u>	<u>.2%</u>
<u>Bluegrass</u>					

\*Up to 18 seeds per pound is the maximum amount of the following species:

Annual bluegrass (Poa annua), Big Bluegrass (Poa ampla), Rough bluegrass (Poa trivialis), Meadow fescue (Festuca elatior), Tall Fescue (F. arundinacea-except in lots containing tall fescue), Ryegrass (Lolium spp.-except in lots containing ryegrass), Bentgrass (Agrostis spp.-except in lots containing bentgrass), Timothy (Phleum pratense), Smooth Brome (Bromus inermis), Wild oat (Avena fatua), Foxtail (Setaria spp.) Panicum spp., Nutsedge (Cyperus spp.), Bermudagrass (Cynodon dactylon), Velvetgrass (Holcus lanatus), Orchardgrass (Dactylis glomerata). Up to 90 seeds per pound is the maximum amount permitted of the following objectionable weed seeds: Dock and Sorrel (Rumex spp), Plantain (Plantago spp.), Black medic (Medicago lupulina), Chickweeds (Cerastium spp. and Stellaria spp.), Field Pennycress (Thlaspi arvense), Wild carrot (Daucus carota), Speedwell(Veronica spp.), Spurge(Euphorbia spp.), Wood sorrel (Oxalis stricta), Yarrow (Achillea millefolium), Clover (Trifolium spp.). In addition, no noxious weed seeds are permitted.

\*\*Bentgrass purity and germination standards may be 96% minimum pure seed and 80% germination for specific varieties as determined by the certifying agency of the state of origin.

(d) In an emergency, and at the discretion of the Department, seed lots failing to meet these standards for other than genetic reasons may be used for interagency certified mixtures. Use of such lots shall be made only when the Department determines that there is a serious shortage of seed meeting these standards.

**115.463. Interagency Certification Tags and Tagging.**

(a) Certification tags issued by the Department for interagency certified seed will be serially numbered and shall show the class of seed.

(b) The analysis tags supplied by the conditioner shall carry the name of the mixture and the number of the lot, shall show clearly the certifying agencies involved and the kinds and varieties of seed, as well as conform with section 4 of the Seed Act (related to Labels and labeling (3 Pa.C.S.A. § 7104).

**115.464. Rejection of Interagency Certification Components' Seed Lots.**

The Department shall reject any certified component seed lot for interagency certification that fails to meet the seed standards as described in this subchapter or that exhibits seed damaged or contamination. This damage or contamination may include but is not limited to:

- (1) Rodent or insect damage.
- (2) Moisture damage.
- (3) Disease.
- (4) Weed seed.
- (5) Other crop seeds.



(6) Inert matter.

**115.465. Fees.**

Fees for Interagency Certification are set forth at section 9 of the Seed Act (3 Pa.C.S.A. § 7109).

COMMONWEALTH OF PENNSYLVANIA



GOVERNOR'S OFFICE OF GENERAL COUNSEL  
DEPARTMENT OF AGRICULTURE

2301 N. Cameron Street • Room 201  
Harrisburg, Pennsylvania 17110-9408

OFFICE OF CHIEF COUNSEL

Tel: 717-787-8744  
Fax: 717-787-1270

May 2, 2008

Independent Regulatory Review Commission  
333 Market Street, 14<sup>TH</sup> Floor  
Harrisburg, PA 17120

**RE: NOTICE OF PROPOSED RULEMAKING**  
**Department of Agriculture**  
**Bureau of Plant Industry**  
**7 Pa. Code Chapter 115.**  
**Standards for Seed Certification**  
**I.D. No. 2-158**

Dear Sir or Madam:

Please find enclosed copies of the Face Sheet, Preamble, Annex "A" and Regulatory Analysis Form with respect to the above proposed regulation.

Copies of these documents have been submitted to the majority and minority chairpersons of the House and Senate Agriculture and Rural Affairs Committees and to the Legislative Reference Bureau on this date.

The proposed regulation will be published in the May 17, 2008 edition of the *Pennsylvania Bulletin*. If I may be of further information, please advise.

Sincerely,

A handwritten signature in cursive script that reads "David C. Kennedy".

David C. Kennedy  
Assistant Counsel

Enclosures

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

I.D. NUMBER: 2-158  
 SUBJECT: STANDARDS FOR SEED CERTIFICATION  
 AGENCY: DEPARTMENT OF AGRICULTURE

**TYPE OF REGULATION**

- X Proposed Regulation  
 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

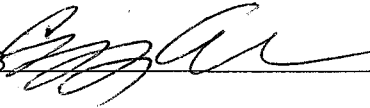
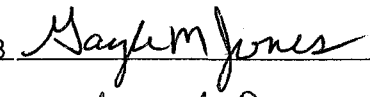
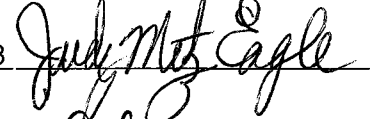

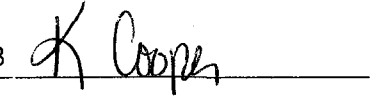

**RECEIVED**

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INDEPENDENT REGULATORY  
 REVIEW COMMISSION

11:32 Am

**FILING OF REGULATION**

DATE	SIGNATURE		DESIGNATION
5-2-08		HERSHEY	HOUSE COMMITTEE ON AGRICULTURE & RURAL AFFAIRS
5-2-08		HANNA	MAJORITY CHAIRMAN <u>HANNA</u>
5-2-08		O'PAKE	SENATE COMMITTEE ON AGRICULTURE & RURAL AFFAIRS
5-2-08		BRUBAKER	MAJORITY CHAIRMAN <u>BRUBAKER</u>
5-2-08		IRRC	INDEPENDENT REGULATORY REVIEW COMMISSION
			ATTORNEY GENERAL (for Final Omitted only)
5-2-08		IRB	LEGISLATIVE REFERENCE BUREAU (for Proposed only)