



# The National Agricultural Law Center

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## States' Noxious Weed Statutes and Regulations: *Alaska*



This material is based upon work supported by the National Agricultural Library, Agricultural Research Service, U.S. Department of Agriculture

# A National Agricultural Law Center Research Publication

## States' Noxious Weed Statutes: Alaska

### Alaska Statutes

#### Title 3. Agriculture, Animals and Food

#### Chapter 05. Powers and Duties of Commissioners of Natural Resources and Environmental Conservation

#### Sec. 03.05.027. Noxious weed, invasive plant, and agricultural pest management and education

- (a) The commissioner of natural resources shall employ or appoint a state coordinator for noxious weed, invasive plant, and agricultural pest management and education.
- (b) The state coordinator employed or appointed under (a) of this section shall oversee the enforcement of state statutes and regulations regarding noxious weeds, invasive plants, and agricultural pests and shall coordinate with state and federal agencies, state land users, public groups, and private organizations to
- (1) develop, implement, and annually review a comprehensive state strategic plan for the control of noxious weeds, invasive plants, and agricultural pests; the plan must include an early detection and rapid response system for invasive plants consistent with federal guidelines;
  - (2) design and execute a geographically based plant and pest management area program;
  - (3) develop and maintain a statewide database for mapping and monitoring noxious weeds, invasive plants, and agricultural pests;
  - (4) develop integrated plant and pest management programs;
  - (5) regulate and control the entry into the state and transportation of seeds, plants, and other horticultural products;
  - (6) contact and provide educational materials to state land users and other audiences regarding noxious weed, invasive plant, and agricultural pest issues, including identification, management, potential hazards, and landowner responsibilities;



(7) accept contributions of service, materials, or equipment, and, subject to appropriation of money from the United States or its agencies, from a department or agency of the state, or from any other source for use in carrying out the purposes of this section; and

(8) review and make recommendations to state departments and agencies concerning revisions to state regulations and statutes, including revisions and additions to state noxious weed lists.

(c) Each state department, agency, and institution shall cooperate with the state coordinator employed or appointed under (a) of this section in carrying out the tasks specified in (b) of this section.

(d) The state coordinator employed or appointed under (a) of this section shall coordinate with the University of Alaska Cooperative Extension Service, the Alaska Association of Conservation Districts' board of directors, and the Department of Fish and Game in fulfilling the coordinator's responsibilities under (b) of this section.

## **Alaska Administrative Code**

### **Chapter 34 Plant Health and Quarantine**

#### **Article 1 Seed Regulations**

##### **11 AAC 34.010. Labeling**

a) Each lot or package of agricultural seed sold or offered for sale within the state must bear on it or have attached to it in a conspicuous place, a legibly written or printed label or tag, in English, providing the following information:

(1) the commonly accepted name of the kind and variety of the seed;

(2) the country or state where the seed was grown;

(3) the total percentage by weight of pure seed;

(4) the total percentage by weight of all weed seed;

(5) the total percentage by weight of inert matter;

(6) the total percentage by weight of other crop seed;

(7) the name and approximate number per pound of each kind of restricted noxious weed seed, as listed in 11 AAC 34.020;



(8) the percentage of germination of the agricultural seed, together with the month and year the seed was tested;

(9) the percentage of hard seed, if any is present;

(10) the name and address of the person labeling the seed or selling, offering, or exposing the seed for sale within the state; and

(11) the lot number or other lot identification.

(b) Each lot of mixed agricultural seed sold or offered for sale within the state must bear on it or have attached to it in a conspicuous place, a legibly written or printed label or tag, in English, providing the following information:

(1) that the seed is a mixture;

(2) the name and variety and total percentage by weight of each kind of agricultural seed present in order of predominance;

(3) the total percentage by weight of other crop seed less than five percent of the mixture; and

(4) the information listed in (a)(4), (a)(5), (a)(7), (a)(8), (a)(10), and (a)(11) of this section.

(c) Vegetable seed in a container of one-half pound or more sold or offered for sale within the state must bear on the container or have attached to the container in a conspicuous place, a legibly written or printed label or tag, in English, providing the following information:

(1) the name of the kind and the variety and total percentage by weight; and

(2) the information listed in (a)(4) - (a)(8), (a)(10), and (a)(11) of this section.

(d) Vegetable seed in a container of less than one-half pound sold or offered for sale within the state and which meets the germination standards and tolerances in 7 U.S.C. 1551 - 1611 (Federal Seed Act) must bear on the container or have attached to the container in a conspicuous place, a legibly written or printed label or tag, in English, providing the following information:

(1) the name of the kind and variety of the seed;

(2) the name and address of the person or firm labeling the seed, or selling, offering, or exposing the seed for sale within the state;

(3) the year the seed was packed; and

(4) the lot number or other identification.



(e) Vegetable seed in a container of less than one-half pound sold or offered for sale within the state and which does not meet the germination standards and tolerances in 7 U.S.C. 1551 - 1611 (Federal Seed Act) must be labeled, in English, to provide the information required by (d) of this section and the following:

- (1) percentage of germination;
- (2) percentage of hard seed, if applicable; and
- (3) the phrase "substandard germination" in not less than eight-point type.

(f) Any agricultural or vegetable seed treated with toxic substances must be labeled to provide the information required by (a) - (e) of this section and the following:

- (1) a word or statement, in type no less than eight points, that the seed has been treated;
- (2) the commonly accepted coined or chemical name of the applied substances; and
- (3) a caution statement and appropriate poison symbol if the applied substance presents a hazard to human or animal health.

(g) Seed packed in hermetically sealed containers must be labeled to provide the information required by (a) - (f) of this section and the following:

- (1) that the container is hermetically sealed;
- (2) that the seed has been preconditioned as to moisture content;
- (3) that the germination test is valid for a period of not more than 24 months from the date of germination test for seed offered for sale on a wholesale basis, and for a period of not more than 36 months for seed offered for sale at retail; and
- (4) that the germination of seeds at the time of packaging was equal to or above standards and tolerances prescribed in the 7 U.S.C. 1551 - 1611 (Federal Seed Act).

(h) Agricultural seeds, mixed agricultural seeds, or bulk vegetable seeds, are exempt from the provisions of this section when

- (1) the seeds are grown in or sold within the state to be recleaned before being sold, exposed, or offered for sale for seeding purposes;
- (2) the seeds are held for purposes of recleaning; or
- (3) the seeds are held or sold for milling for food or for feeding purposes only.



(i) Tetrazolium viability test results are not considered valid germination tests for the purposes of labeling as required by this section.

(j) Hybrid seed, as defined in 7 C.F.R. 201.2(y), must be labeled in accordance with provisions of 7 C.F.R. 201.11(a).

### **11 AAC 34.020. Prohibited and restricted noxious weeds**

(a) The following are prohibited noxious weeds:

- (1) Bindweed, field (*Convolvulus arvensis*);
- (2) Fieldcress, Austrian (*Rorippa austriaca*);
- (3) Galensoga (*Galensoga parviflora*);
- (4) Hempnettle (*Galeopsis tetrahit*);
- (5) Horsenettle (*Solanum carolinense*);
- (6) Knapweed, Russian (*Centaurea repens*);
- (7) Lettuce, blue-flowering (*Lactuca puichella*);
- (8) Orange Hawkweed (*Hieracium aurantiacum*);
- (9) Purple Loosestrife (*Lythrum salicaria*);
- (10) Quackgrass (*Agropyron repens*);
- (11) Sowthistle, perennial (*Sonchus arvensis*);
- (12) Spurge, leafy (*Euphorbia esula*);
- (13) Thistle, Canada (*Cirsium arvense*);
- (14) Whitetops and its varieties (*Cardaria drabe*, *C. pubescens*, *Lepidium latifolium*).

(b) The following are restricted noxious weeds, with their maximum allowable tolerances:

- (1) Annual bluegrass (*Poa annua*), 90 seeds per pound;
- (2) Blue burr (*Lappula echinatat*), 18 seeds per pound;
- (3) Mustard (*Brassica kaber*, *juncea*), 36 seeds per pound;
- (4) Oats wild (*Avena fatua*), seven seeds per pound;
- (5) Plantain, buckhorn (*Plantago sp.*), 90 seeds per pound;
- (6) Radish (*Raphanus raphanistrum*), 27 seeds per pound;
- (7) Toadflax, yellow (*Linaria vulgaris*), one seed per pound;
- (8) Vetch, tufted (*Vicia cracca*), two seeds per pound;
- (9) Wild Buckwheat (*Polygonum convovulus*), two seeds per pound.

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### **11 AAC 34.030. Weed seed as agricultural seed**

The following seeds, when occurring incidentally in agricultural and vegetable seeds, are classed as weed seeds, except when sold alone or as a specific constituent of a definite seed mixture:

Black Medic (*Medicago lupulina*);  
Cardoon (*Cynara cardunculus*);  
Dandelion (*Taraxacum* species);  
Lupine (*Lupinus* species);  
Pigweed (*Amaranthus* species);  
Radish (*Raphanus sativus*);  
Rape (*Brassica campestris* and *napus*);  
Sunflower (*Helianthus annuus*);  
Yarrow (*Achillea millefolium*); and  
Tufted Vetch (*Vicia cracca*).

### **11 AAC 34.040. Sampling procedure for purity and germination tests**

(a) A sample of seed chosen by an authorized agent of the division of agriculture for the purpose of determining whether or not the seed meets the requirements of this chapter is known as an "official sample," and must be drawn in a manner to represent as nearly as possible the entire lot from which it is taken.

(b) Official samples of seed shall be taken according to procedures which conform as nearly as practicable to those used by the United States Department of Agriculture pursuant to 7 C.F.R. 201.39 - 201.44.



## 11 AAC 34.045. Duties and authority of the director

(a) The duty of enforcing this chapter and of carrying out its provisions and requirements is vested in the director. The duties and authority of the director include the following:

(1) to sample, inspect, make analyses of, and test any agricultural or vegetable seed held, transported, sold, offered, or exposed for sale within the state for planting purposes, at the time, place, and to the extent the director finds necessary to determine whether the seed is in compliance with this chapter;

(2) to sample, inspect, make analyses of any tree, shrub, or flower seed held, transported, sold, offered, or exposed for sale within the state for planting purposes, at the time, place, and the extent as the director may find necessary to determine whether the seed is in compliance with this chapter;

(3) to issue and enforce a written stop sale order or to issue a violation notice, whichever the director determines applicable, to the possessor or owner of any lot of agricultural, vegetable, tree, shrub, or flower seed which is found to be in violation of this chapter; and

(4) to prohibit the further sale, processing, or movement of seed, except on approval of the director, until evidence is obtained that shows that the requirements of this chapter have been complied with and a release from the stop sale order has been issued for the seed.

(b) When seed is denied further sale, processing, or movement under (a)(3) and (a)(4) of this section, the owner or processor of the seed has the right to appeal to a court of competent jurisdiction in the locality in which the seeds were found in violation, asking for a judgment as to the justification of the order and for the discharge of the seed from the order prohibiting the sale, processing, or movement, in accordance with the findings of the court.

(c) The provisions of (a)(3) and (a)(4) of this section do not limit the right of the director to proceed as authorized by other sections of this chapter.

(d) For the purpose of carrying out the provisions of this chapter, the director or his authorized agents, may

(1) enter upon any public or private premises during regular business hours in order to access seeds and associated records maintained under this chapter, and any truck or other conveyer by land, water, or air at any time when the conveyer is accessible, for the same purposes; and

(2) either alone or in the presence of a representative or employee of the person whose premises are entered, examine and inspect any agricultural, vegetable,





tree, shrub, or flower seed in possession, offered, or exposed for sale for planting purposes in this state, for compliance with this chapter.

(e) A sample taken under this section, and the report showing the results of the official test made on a sample, is prima facie evidence of the true condition of the entire lot from which the sample was taken.

(f) A copy of the results of any seed test from a sample taken under this section may be mailed to any person or his authorized representative, known to own, possess, or hold the seed from which the sample was taken.

### **11 AAC 34.050. Germination and purity tests**

Germination and purity tests of seeds must be conducted according to procedures which conform as nearly as practicable to those used by the United States Department of Agriculture pursuant to 7 C.F.R. 201.59 - 201.66.

### **11 AAC 34.060. Laboratory fees and schedule**

(a) Germination and purity tests are performed at the Alaska Seed Testing Laboratory.

(b) State residents may submit seed samples for routine testing free of charge if the samples are limited to three per year per person and are submitted before April 15 of the year.

(c) Samples submitted by residents in excess of three per year or after April 15, or submitted by nonresidents will be charged a service fee as determined by the director.

(d) Samples submitted by residents and nonresidents for germination tests requiring tetrazolium procedures will be charged a service fee to be determined by the director according to a fee schedule based upon the difficulty of the species being tested.

### **11 AAC 34.070. Code of Federal Regulations**

Except where in conflict with specific provisions of this chapter, the rules, regulations and recommendations pertaining to sampling procedures and germination and purity testing procedures and standards contained in 7 C.F.R. 201.39 - 201.44 and 201.59 - 201.66 are adopted by reference and made part of this chapter. Copies of these provisions may be obtained from the U.S. Government Printing Office, Washington, D.C. 20250. Any reference in these provisions to U.S. Government officials and agencies shall be construed to refer to the corresponding officials and agencies of the State of Alaska.



## 11 AAC 34.075. Prohibited acts

(a) No person may sell, offer for sale, expose for sale, or transport for use in planting in the state any agricultural or vegetable seed that

(1) unless exempt under 11 AAC 34.010(h), has not been labeled as required by 11 AAC 34.010;

(2) bears a false or misleading label;

(3) contains any prohibited noxious weed seed, except as allowed in (g) of this section;

(4) contains any restricted noxious weed seed in excess of the permissible tolerance per pound established under 11 AAC 34.020(b), except as allowed in (g) of this section; or

(5) has not been tested within the 18 months preceding the sale, offering, or exposure for sale, or transportation, not including the calendar month in which the test was completed, except for hermetically sealed containers under 11 AAC 34.010(g)(3), and except that

(A) the director will, in his discretion, allow a shorter period for kinds of seed which he finds, under ordinary conditions of handling, will not maintain a germination within the established limits of tolerance during the prescribed time period, or a longer period for kinds of seed which are packaged in a container and under conditions the director determines will, during the longer period, maintain the viability of the seed under ordinary conditions of handling;

(B) a person in possession of seed shall keep on file, available for department inspection, the original or duplicate copy of the latest test made of the seed which must show, in addition to the information required by this chapter, the date and name of the person making the test.

(b) No person may substitute uncertified seed for certified seed.

(c) No person may use tags or seals indicating certification other than as prescribed by the authorized certification agency unless the tuber, horticultural, vegetable, tree, shrub, flower, or cereal grain seed has been produced, tested, examined, and labeled in accordance with this chapter or the official certification agency of another state, territory, or country. No person may

(1) sell, offer for sale, expose for sale, advertise, or transport any tuber, plant, or seed, falsely representing it to be certified; or

(2) use in connection with a tuber, plant, or seed any tags or seals similar to those used in official certification as established by this chapter.



(d) No person may hinder or obstruct in any way, any authorized person in the performance of his duties under this chapter.

(e) No person may sell, offer, or expose for sale, plant, transport or process any seed that is under a stop sale order issued under 11 AAC 34.045(a)(3) or that is in violation of this chapter, without express approval of the director.

(f) No person may plant in this state any agricultural, vegetable, tree, shrub, or flower seed containing any prohibited noxious weeds listed in 11 AAC 34.020(a) or any restricted noxious weeds in excess of the maximum allowable tolerances listed in 11 AAC 34.020(b), except as provided in 11 AAC 34.030, without express written approval of the director, or as provided in (g) of this section.

(g) No person may use, sell, offer, expose for sale, give away, or transport for feeding, seeding, or mulching purposes any seed or grain screenings containing any prohibited noxious weed seed listed in 11 AAC 34.020(a) or any restricted noxious weeds in excess of the maximum allowable tolerances listed in 11 AAC 34.020(b), except as provided in 11 AAC 34.030, and except that the director may allow sale or transport of screenings for

- (1) complete destruction;
- (2) removal outside of the boundaries of the state;
- (3) recleaning to the point of being in compliance with 11 AAC 34.020(a) and (b); or
- (4) processing to make the weed seed nonviable.

(h) No person may sell, offer, or expose for sale for seeding purposes, seed containing more than one and one-half percent by weight of all weed seed.

(i) No person may sell, offer, expose for sale or transportation, or transport a container or package of seed within this state unless the container or package of seed is labeled with a net contents statement, expressed by either weight, volume, or numerical count, except for seed being transported from an owner's field to a warehouse for storage, cleaning, or processing.

(j) No person may sell, offer for sale, or represent potatoes as seed potatoes unless the potatoes have been certified by the official seed certifying agency of the state or country of origin.

### **11 AAC 34.077. Weed seeds in shipment**

Whenever anything brought into a part of the state from another part of the state or from any other state or foreign country is found to be infested with the seed of any prohibited noxious weed, the director will notify the owner or bailee of the shipment to return it to the point of shipment within 48 hours, and the owner or bailee of the shipment shall return it. If the director determines that the seeds can be destroyed by treatment, the



shipment may, at the option and expense of the owner or bailee, be treated under the supervision of the director, and may be released after treatment.

### **11 AAC 34.080. Penalties**

Penalties for violation of this chapter are as provided in AS 03.05.090.

### **11 AAC 34.085. When penalties not applicable**

No person may be subjected to the penalties of AS 03.05.090 for selling, offering, exposing for sale, or transporting in this state any agricultural or vegetable seed that;

(1) is incorrectly labeled or represented as to kind and variety or origin, and which cannot be identified except by a field test, when that person

(A) obtains an invoice or grower's declaration stating the kind, or kind and variety, and origin, if required;

(B) takes the invoice or grower's declaration in good faith; and

(C) takes other precautions as are reasonable to insure the identity of the seeds to be as stated;

(2) does not conform to the label on the container, but is within the tolerances authorized by the director under this chapter; or

(3) is in violation of this chapter, but is allowed sale or movement under specific written permission of the director.

### **11 AAC 34.090. Records**

Each person whose name appears on the label as handling agricultural or vegetable seed subject to this chapter shall keep for two years a complete record of each lot of agricultural or vegetable seed handled, and shall keep for two years a file sample of each lot of seed after final disposition of the lot. All records and samples pertaining to the shipment or shipments involved must be accessible for inspections by the director or his designated agent during customary business hours.

