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Seed Licensing, Registration, and Other Frequently Asked Questions

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Q. Do I need a seed license to sell seed in the State of Michigan?

- A. Currently, Michigan does not require either seed labelers or seed dealers to be licensed or registered. There is also no requirement that seed products be registered for sale in this state.

This does not mean that the sale of seed in Michigan isn't regulated!

Provisions in Act 329, the Michigan Seed Law, authorize the Michigan Department of Agriculture & Rural Development to regulate the labeling, coloration, advertising, sale, offering, exposing, or transporting for sale of agricultural, vegetable, lawn, flower, and forest tree seeds. Act 329 also authorizes the Director of Agriculture to adopt rules for its enforcement, provides for the inspection and testing of seed, and prescribes penalties for violations.

Act 221, the Certification of Seed law, characterizes certified and certain classes of seed, authorizes the Director of Agriculture to promulgate rules and regulations governing the certification of seed as to certain genetic and other standards, authorizes the designation of official seed certification

agencies, and provides penalties for violations.

These laws, and the regulations adopted under their authority, also establish all of the standards that must be met by any seed sold in the State of Michigan.

Q. An inspector from MDARD issued a "Violation Notice" or "stop sale" to my retail store preventing me from selling specific seed lots because of labeling problems. What do I need to do to have the stop-sale removed?

A. Most of the time the reason the violation notice was issued is that the seed product's label is misbranded, in other words, information that is required by law is missing, or the label contains information that is incorrect or inaccurate. Correcting the problem requires totally replacing the incorrect labels with new ones that are correct. The Seed Law does not permit you to change information by hand on the original label.

If you have the opportunity to review the inspector's "stop sale" notice before he/she leaves the premises, make sure it includes instructions that clearly indicate what is wrong with the label or the seed, and what you are expected to do to correct the problem. If that information has not been included, ask that it be added to the report before the inspector leaves. The report should also provide contact information so that you can reach the inspector when the requested corrections have been made.

Q. I received a seed analysis report indicating that my seed product had problems and that it cannot be sold. How do I correct the problem? Who should I notify when I have corrected the problem?

A. Whether or not the seed can ever be sold depends on the reason for the violation as indicated in the official seed analysis report.

- If test results revealed that the seed's germination has fallen below the required minimum standards, it cannot be sold.
- If the seed's quality does not meet standards for other crop, inert material or weed seed, it cannot be sold unless it can be reprocessed in such a way that it meets those standards.
- The seed is misbranded:
 - Testing showed that it failed to meet the label's stated claims or guarantees.
 - The test date had expired.

In cases of misbranding the problem can usually be corrected by simply replacing the original labels with new labels that reflect the information found in the official seed analysis report. If the test has expired, a new label showing the date of the latest test is required.

If the seed cannot be sold, contact the supplier to see if they will replace it or give you credit for it. Any seed that cannot be sold or returned should be destroyed.

When the problem has been corrected, contact the inspector who issued the violation notice or stop

sale order. It is illegal to resume selling any seed that is the subject of a violation / stop sale notice until a representative of the Michigan Department of Agriculture & Rural Development has verified that the seed has been made legal.

Q. What does the term KIND refer to?

- A. KIND means 1 or more related species or subspecies which singly or collectively is known by 1 common name, including, but not limited to, oats, wheat, soybeans, corn, Kentucky bluegrass, annual ryegrass, and petunia.

Q. What is a seed VARIETY?

- A. VARIETY means a subdivision of a kind which is distinct, uniform, and stable; distinct in the sense that the variety can be differentiated by 1 or more identifiable morphological, physiological, or other characteristics from all other varieties of public knowledge; uniform in the sense that variations in essential and distinctive characteristics are describable, and stable in the sense that the variety will remain unchanged in its essential and distinctive characteristics and its uniformity when reproduced or reconstituted as required by the different categories of varieties; for example, Heritage oats, Augusta wheat, Corsoy soybeans, Marion Kentucky Bluegrass.

Q. What is the difference between a seed MIXTURE and a seed BLEND?

- A. A mixture of seed consists of more than one kind of seed being sold in the same bag/container, each kind present comprising at least 5% of the whole. For example, a MIXTURE may consist of Kentucky bluegrass, annual ryegrass, and tall fescue.

A blend of seed consists of more than one variety of the same kind of seed being sold in the same bag/container, each variety present comprising at least 5% of the whole. For example, a BLEND may consist of different varieties of Kentucky blue grass.

BLENDs are often mistakenly labeled as seed MIXTURES.

Q. What are BRAND NAMES and how do I avoid confusing them with VARIETY names?

- A. The Michigan Seed Law defines BRAND as a word, name, symbol, number, or design used to identify seed of 1 person in such a way as to distinguish it from the seed of another person. USDA officials have found evidence of confusion over the use of variety names and brand or trademark names. This includes names registered with the Trademark Division of the U.S. Patent Office.

Here are some rules to keep in mind:

1. The brand or trademark name must be clearly distinct from the variety name. For example, "Red Giant **Brand** Arthur 71 wheat" adequately distinguishes between "Red Giant" brand and the variety "Arthur 71". "Red Giant Arthur 71 wheat", on the other hand, is not an adequate distinction.
2. A brand name must never take the place of a variety name. Let's say a firm uses "Super Nova" as a brand name for its line of sunflowers. This firm may not relabel or advertise variety "894"

hybrid sunflower seed as variety "Super Nova" hybrid sunflower or even "Super Nova 894" variety.

3. If a brand or trademark name is part of a variety's name, that trademark loses status. Anyone marketing the variety under its name is required to use the exact, legal variety name, including brand or trademark. For instance, say Ajax Seed Company uses "Ajax Deluxe" as a brand or trademark for its line of vegetable seed. If the Ajax people introduce a new tomato variety named "Ajax Deluxe Cherry" they can't retain exclusive rights to that name. If John Doe Seed Company later makes an interstate shipment of seed of this same variety, it must be labeled as "Ajax Deluxe Cherry".

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