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DIVISION 1. STATE ADMINISTRATION
PART 1. THE DEPARTMENT OF FOOD AND AGRICULTURE
CHAPTER 1. General Provisions and Definitions

3. It is hereby declared, as a matter of legislative determination, that the provisions of this code are enacted in the exercise of the power of this state for the purposes of promoting and protecting the agricultural industry of the state and for the protection of the public health, safety, and welfare. In all civil actions the provisions of this code shall be liberally construed for the accomplishment of these purposes and for the accomplishment of the purposes of the several divisions of this code, and in criminal actions the rule of construction set forth in Section 4 of the Penal Code shall be the rule of construction for this code.

8. The district attorney of any county in which a violation of any provision of this code occurs shall, upon request of any enforcing officer or other interested person, prosecute such violation. The prosecutor of any municipality has concurrent jurisdiction as to any violation which is committed within his territorial jurisdiction.

9. Unless a different penalty is expressly provided, a violation of any provision of this code is a misdemeanor.

10. Whenever any notice, report, statement, or record is required by this code, it shall be in writing unless it is expressly provided that it may be oral.

10.5. It is unlawful for any person to alter any record or document in the office of a commissioner required to be filed pursuant to any provision of this code or pursuant to rules and regulations authorized by this code, without the approval of the commissioner or an authorized deputy.

11. Whenever any notice, report, statement, or record is required by this code to be kept or made in writing, it shall be in the English language.

18. In all matters which arise under this code, proof of the fact of possession by any person engaged in the sale of a commodity establishes a rebuttable presumption that the commodity is for sale. This presumption is a presumption affecting the burden of producing evidence.

38. "Person" means any individual, partnership, association, corporation, limited liability company, or any organized group of persons whether incorporated or not.

39. "Qualified representative of the commissioner" means a deputy commissioner or inspector who holds an appropriate certificate of qualification issued by the director as provided in Chapter 2 (commencing with Section 2101) of Division 2 of this code.

44. "Sell" includes offer for sale, expose for sale, possess for sale, exchange, barter, or trade.

50. Whenever the term “department” or “Department of Agriculture” appears in any law, it means the “Department of Food and Agriculture.”

Whenever the term “director,” “secretary,” “Director of Agriculture,” or “Secretary of Agriculture” appears in any law, it means the “Secretary of Food and Agriculture.”

Whenever the term “Agricultural Code” appears in any law, it means the “Food and Agricultural Code.”

CHAPTER 2. Fiscal Duties and Powers

281. The director may direct suit in the name of the people of the state, as plaintiff, to be brought for the recovery of any license or other fee against any person required to take out a license or pay any fee pursuant to this code that fails, neglects, or refuses to take out such license or pay such fee, or that, without such license or payment of such fee, carries on or attempts to carry on the business or do any act for which such license or payment of such fee is required. Notwithstanding Section 483.010 of the Code of Civil Procedure, in such case a writ of attachment may be issued in the manner provided by Title 6.5 (commencing with Section 481.010) of Part 2 of the Code of Civil Procedure.

CHAPTER 3. Other Powers and Duties

402. The department shall prevent fraud and deception in any of the following:

(a) Packing or labeling, or in any phase of the marketing, of any agricultural product which is governed by this code.

(b) Labeling and marketing of any commodity that is governed by this code, which is sold to producers for use in the production of crops.

403. The department shall prevent the introduction and spread of injurious insect or animal pests, plant diseases, and noxious weeds.

DIVISION 2. LOCAL ADMINISTRATION

CHAPTER 2. County Agricultural Commissioners and Their Employees

2281. Except as otherwise specifically provided, in all cases where provisions of this code place joint responsibility for the enforcement of laws and regulations on the director and the commissioner, the commissioner shall be responsible for local administration of the enforcement program. The director shall be responsible for overall statewide enforcement and shall issue instructions and make recommendations to the commissioner. Such instructions and recommendations shall govern the procedure to be followed by the commissioner in the discharge of his duties. The director shall furnish

assistance in planning and otherwise developing an adequate county enforcement program, including uniformity, coordination, training, special services, special equipment, and forms, statewide publicity, statewide planning, and emergency assistance.

The instructions and recommendations shall include a cost analysis of the local administration of such programs, determined from data supplied by the commissioner pursuant to Section 2272. Such cost analysis shall identify the joint programs or activities for which funds necessary to maintain adequate

county administration and enforcement have not been provided. The director shall develop, jointly with the commissioners, county priorities for such enforcement programs and activities.

The director shall report annually to the Legislature his findings concerning the cost analysis with specific regard to programs where funds are inadequate for an efficient enforcement program, together with a listing of the priorities jointly established by the director and the commissioners that are contained in the formal instructions and recommendations of the director.

DIVISION 4. PLANT QUARANTINE AND PEST CONTROL **CHAPTER 1. Definitions and General Provisions**

5030. Upon probable cause to believe a person buying, selling, or transporting a shipment of plant material intended to be marketed for commercial purposes is in violation of this division, proof of ownership of the plant material shall be made available for inspection upon request of the director, the commissioner, or any peace officer. If the director or the commissioner has probable cause to believe that a person is in unlawful possession of any shipment of plant material, he or she may request a peace officer to stop the vehicle for inspection. The record of proof of ownership shall contain the following information:

- (a) The name, address, telephone number, and signature of the seller or the seller's authorized representative.
- (b) The name, address, and telephone number of the buyer, or consignee if the commodity has not been sold.
- (c) The common or generic name and quantity of the commodity.
- (d) The name of the country, state, or territory where the commodity was grown.

5031. It is unlawful for any person to knowingly falsify, misrepresent, or cause to be falsified or misrepresented, any information in a record intended to show proof of ownership.

5032. The director or commissioner may compile information and make any necessary investigations relative to suspected violations of this division. The director or commissioner may call and conduct a hearing in furtherance of the investigation.

5033. The person in custody of any records containing information required pursuant to Section 5030 shall exhibit those records upon a demand therefor by the director or commissioner, as their designees, or by a peace officer. The records may include, but are not limited to, certificates of inspection or treatment, bills of sale or consignment, truck invoices, or bills of lading.

CHAPTER 2. California Seed Law
ARTICLE 1. Short Title and Definitions

52251. This chapter shall be known as the "California Seed Law."

52252. Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

52253. "Advertisement" means representations, except those on the label, which are disseminated in any manner or by any means that relate to seed which is subject to this chapter.

52254. "Agricultural seed" means the seed of any domesticated grass or cereal, and of any legume or other plant that is grown as turf, cover crop, forage crop, fiber crop, or field crop, and mixtures of such seeds. It does not, however, include any variety that is generally known and sold as flower seed or vegetable seed.

52254.3. "Board" means the Seed Advisory Board.

52254.4. "Certification" means to certify as to the variety, purity, quality, type, strain, or other genetic character of agricultural or vegetable seed.

52254.5. "Labeler" means any person whose name and address appears on the label pertaining to or attached to a lot or container of agricultural or vegetable seed, or both agricultural and vegetable seed, for sale and distribution within the state.

52255. "Labeling" means all labels, and other written, printed, or graphic representations, in any form whatsoever, which accompany and pertain to any seed whether the seed is in bulk or in containers, and it includes invoices.

52255.5. "Noncommercial seed sharing activity" means the receiving or giving away of seed by a noncommercial entity without the creation of a contractual obligation or an expectation to receive anything of value in return. This definition does not prohibit a noncommercial entity engaging in noncommercial seed sharing activity from receiving the progeny of the seeds it distributes to the extent that the activity does not violate the federal Plant Variety Protection Act (7 U.S.C. Sec. 2321 et seq.). Noncommercial seed sharing activity does not include receiving, storing, or distributing patented seed.

52256.“Noxious weed seed” means the seed or propagule of any species of noxious weed, as defined in Section 5004. As used in this chapter, noxious weed seed are of two classes, prohibited noxious weed seed and restricted noxious weed seed, which are defined in Sections 52257 and 52258, respectively.

52256.5.“Person” also means any individual, partnership, corporation, trust association, cooperative association, or any other business unit or organization.

52257.“Prohibited noxious weed seed” means the seed or propagule of any species of noxious weed which the director, as provided in Section 52332, finds and declares to be a prohibited noxious weed seed and which either: (1) is not known to occur, or is of limited distribution, in this state; (2) is not widely distributed throughout the state and which not only reproduce by seed, but also by underground roots or stems; or (3) is under eradication measures in this state.

52257.5.“Conditioner” means any person who cleans, scarifies, or blends to obtain uniform quality, or who conducts other operations which would change the purity, germination, or identity of any lot of seed, including, but not limited to, packaging, labeling, blending together of uniform lots of the same kind or variety, or the preparation of a mixture.

52257.6.“Process” means any modification of the form or nature of agricultural or vegetable seed, or any treatment of the seed, which renders it inviable.

52257.8.“Research” means any research related to the variety, purity, quality, type, strain, or other genetic and physiological characteristics of agricultural or vegetable seed or the production thereof.

52258.“Restricted noxious weed seed” means the seed or propagule of any species of noxious weed, the seed of which is not otherwise designated as prohibited noxious weed seed, and which the director, as provided in Section 52332, finds and declares to be a restricted noxious weed seed.

52259.“Vegetable seed” means the seed of any crop which is or may be grown in gardens or on truck farms and which is generally known and sold under the name of vegetable seed.

52260.“Weed seed” means any noxious weed seed or vegetable seeds, and any seed that is not included in the definitions of agricultural seed, if it occurs incidentally in agricultural seed or vegetable seeds.

52261.“Viability” means a description of living seeds which are capable of germinating.

52262.“Farm” means a place of agricultural production which has annual sales of agricultural products of one thousand dollars (\$1,000) or more.

ARTICLE 2. General Provisions

52281. This chapter and the terms which are used in it shall be construed so as to conform insofar as possible with the construction which is placed upon the Federal Seed Act (7 U.S.C., Sec. 1551, et

seq.) and regulations which are issued pursuant to that act, and to effectuate its purpose to make uniform the laws of the states adopting it.

52282. The secretary and, under the supervision and direction of the secretary, the commissioner of each county and the qualified representative of the commissioner, shall enforce this chapter and carry

out its provisions and requirements. The secretary shall have the discretion to determine which enforcement activities are conducted by the commissioner in each county and which enforcement activities shall be conducted by department personnel.

52283. The director may cooperate with the United States Department of Agriculture and other agencies in the enforcement of this chapter.

52284. The director may issue such orders, circulars, and announcements as he may deem necessary to further the purposes of this chapter.

52285. If the director or the commissioner finds that any person has violated any provision of this chapter, he may institute proceedings in the court of competent jurisdiction in the area in which the violation occurred, to have such person convicted of the violation, or he may file with the district attorney with the view of prosecution such evidence as may be deemed necessary.

52286. The director shall maintain a properly equipped laboratory for examining and testing seeds.

52287. All prohibited and restricted noxious weed seed which are enumerated in this chapter or in any regulation which is adopted by the director pursuant to this chapter are hereby recognized as noxious within the meaning of the Federal Seed Act (7 U.S.C., Sec. 1551, et seq.).

52288. The Legislature hereby declares all of the following:

(a) It is the intent of this chapter to enable the seed industry, with the aid of the state, to ensure that seed purchased by the consumer-buyer is properly identified and of the quality and amount represented on the tag or label.

(b) The success of agriculture and the seed industry in this state depends upon the continued commitment to industry-funded research in order to improve the quality and variety of seed available to the consumer-buyer.

(c) Noncommercial seed sharing activity contributes significant value to the health of our communities and to the resilience of our food system. This chapter is intended to support noncommercial seed sharing activity and is not intended to supersede any provision of the California Rice Certification Act of 2000 (Chapter 4 (commencing with Section 55000) of Division 20).

52289. The department may post information on its Internet Web site about noncommercial seed sharing activity that includes, but is not limited to, the following:

- (a) Germination or varietal purity standards.
- (b) Compliance with the federal Plant Variety Protection Act (7 U.S.C. Sec. 2321 et seq.).
- (c) Best practices for entities participating in noncommercial seed sharing activities, including public disclosure.

ARTICLE 2.5. Seed Advisory Board

52291. There is in the department a Seed Advisory Board consisting of 11 members appointed by the secretary, seven of whom shall be labelers registered under the provisions of this chapter, two of

whom shall be persons who receive or possess seed for sale in this state, and two of whom shall be members of the public. The members of the board who are labelers registered under the provisions of this chapter shall be representative of the functions of seed production, conditioning, marketing, or utilization.

52291.1. It is hereby declared, as a matter of legislative determination, that labelers appointed to the Seed Advisory Board pursuant to this article are intended to represent and further the interest of a particular agricultural industry concerned, and that such representation and furtherance is intended to serve the public interest. Accordingly, the Legislature finds that, with respect to persons who are appointed to such board, the particular agricultural industry concerned is tantamount to, and constitutes, the public generally within the meaning of Section 87103 of the Government Code.

52292. The term of office for each member of the board is three years. Vacancies shall be filled by the secretary for an unexpired term.

52295. Members of the board shall receive no salary but may be allowed per diem in accordance with Department of General Services rules for attendance at meetings and other board activities authorized by the board and approved by the director.

52296. The board shall be advisory to the secretary and may make recommendations on all matters pertaining to this chapter including, but not limited to, seed law and regulations, enforcement, seed laboratory diagnostics and annual budgets required to accomplish the purposes of this chapter. The board shall be advisory as to the scope of the program funded by industry and recommend the dollar volume assessments, which, when combined with the registration fee required by this chapter, shall provide adequate funds to support the program.

52297. The board shall annually elect a chairman from its membership, and from time to time such other officers as it may deem advisable.

52298. The board shall meet at the call of its chairman or the director, or at the request of any four members of the board. The board shall meet at least once a year to review budget proposals and fiscal matters related to such proposals.

ARTICLE 2.6. Genetically Engineered Plants

52300. For purposes of this article only, the following definitions apply:

(a) "Farmer" means the person responsible for planting a crop, managing the crop, and harvesting the crop from land on which a breach of contract or patent infringement is alleged to have occurred.

(b) "Genetically engineered plant" means a plant or any plant part or material, including, but not limited to, seeds and pollen, in which the genetic material has been changed through modern biotechnology in a way that does not occur naturally by multiplication or natural recombination.

(c) "Modern biotechnology" means the application of either of the following:

(1) In vitro nucleic acid techniques, including recombinant deoxyribonucleic acid (DNA) and direct injection of nucleic acid into cells or organelles.

(2) Fusion of cells beyond the taxonomic family that overcome natural physiological reproductive or recombinant barriers and that are not techniques used in traditional breeding and selection.

52301. (a) Before a person or his or her agent holding a patent on a genetically engineered plant, may enter upon any land farmed by another for the purpose of obtaining crop samples to determine whether breach of contract or patent infringement has occurred, the person holding the patent or his or her agent shall do all of the following:

(1) Notify the farmer in writing of the allegation that breach of contract or patent infringement has occurred and request permission to enter upon the farmer's land.

(2) Provide a copy of that notification to the secretary.

(3) Obtain the written permission of the farmer.

(4) Provide notice to the farmer of the following procedures which shall be applicable as provided:

(A) If the farmer withholds permission, the person holding a patent may petition the superior court in the county in which the alleged breach of contract or patent infringement has occurred for an order granting permission to enter upon the farmer's land.

(B) If the person holding a patent believes that the crop from which samples are to be taken may be subject to intentional damage or destruction, the person may seek a protective order from the superior court. The protective order shall be crafted to minimize interruption or interference with normal farming practices, including harvest and tillage.

(C) The procedures described in Section 52302.

(b) The farmer shall grant or deny access in writing within 10 days of receipt of a request to enter the land pursuant to subdivision (a).

52302. If requested by either party, the secretary or his or her designee shall be present for the sampling, provide for the collection of samples, or conduct any other aspect of the sampling or analysis process as requested. The secretary shall designate an employee or enter into an agreement with an employee or agent of the State of California or a third party unaffiliated with either

party to carry out the specified sampling activity as provided in regulations adopted pursuant to Article 2 (commencing with Section 52251) of Division 18. The patentholder shall pay the fee charged by the department under regulations adopted pursuant to that article. The farmer or the agent of the farmer and the person holding the patent may be present at any collection of samples conducted pursuant to this article, and each shall be notified of the time and location of the sample taking at least 24 hours in advance.

52303. Samples for analysis may be taken from a standing crop, from representative standing plants in the field, or from crop residue remaining in the field after harvest.

52304. The results of any testing conducted pursuant to this article shall be sent by registered letter by the testing party to all parties involved in the investigation within 30 days after the results are reported from the testing laboratory.

52305. A farmer shall not be liable based on the presence or possession of a patented genetically engineered plant on real property owned or occupied by the farmer when the farmer did not knowingly buy or otherwise knowingly acquire the genetically engineered plant, the farmer acted in good faith and without knowledge of the genetically engineered nature of the plant, and when the

genetically engineered plant is detected at a de minimis level. The authority of a court to determine the presence of de minimis levels of a genetically engineered plant is intended solely for the purpose of assisting in adjudicating claims relating to the possession or use of a patented genetically engineered plant in which the seed labeler, patentholder, or licensee, has rights. Nothing in this section is intended to do any of the following:

- (a) Establish, or be used as the basis for establishing, an acceptable level at which a patented genetically engineered plant may be present.
- (b) Be used to alter or limit liabilities or remedies for personal injury or wrongful death.
- (c) Be used outside or beyond the scope or context of a legal dispute regarding genetically engineered plants.

52306. The provisions of this part are severable. If any provision of this part or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

ARTICLE 3. Exceptions

52311. A person is not subject to the penalties which are prescribed by this chapter in any of the following cases:

- (a) For selling in this state any agricultural or vegetable seed which is incorrectly labeled or represented as to kind, variety, or type, which seed cannot be identified by examination of it, unless he has failed to obtain an invoice or grower's declaration which gives the commonly accepted name of the kind, kind and variety, or kind and type, and to take such other precautions as may be necessary to insure the identity to be that which is stated.

(b) As to any matter which is required by Article 8 (commencing with Section 52451) of this chapter, for selling such seed in original unopened sealed packages which are fully labeled by another dealer, unless he has failed to have such seed retested and relabeled as to the percentage of germination within the period which is prescribed by Section 52481, or unless he has failed to correct the label after notice that such label has been found to be incorrect.

(c) For shipping, delivering, transporting, or selling within this state any agricultural or vegetable seed which has a false labeling as to percentage of germination or hard seeds, unless he has first been given an opportunity by the director to be heard. This exemption does not, however, relieve any person from the obligation, upon order of an enforcement official, to stop further sale of any seed which is found to be incorrectly labeled as to germination, nor does it exempt such seed from seizure pursuant to this chapter.

ARTICLE 3.5. Funding

52321. All money that is received by the director pursuant to this chapter shall be deposited in the Department of Food and Agriculture Fund and shall be expended only for the purpose of this chapter.

52322. The secretary shall prepare an annual statement of the operating expenditures and income related to this chapter that shall be presented to the board for review as soon as possible following

the termination of any fiscal year. A copy of this statement shall be made available to any interested person upon request.

52323. (a) The department's cost of carrying out this chapter shall be funded from money that is received by the secretary pursuant to this chapter. The secretary shall also pay annually, in arrears, one hundred twenty thousand dollars (\$120,000), to counties as an annual subvention for costs incurred in the enforcement of this chapter. The department's costs of administering this chapter shall be paid before allocating funds to the counties under this section.

(b) This section shall become inoperative on July 1, 2019, and, as of January 1, 2020, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2020, deletes or extends the dates on which it becomes inoperative and is repealed.

52324. (a) The subvention program under Section 52323 is an optional program available to counties. The subvention to counties under Section 52323 shall be annually apportioned as follows:

(1) At the discretion of the secretary and upon recommendation of the Seed Advisory Board, counties with no registered seed labelers may annually receive one hundred dollars (\$100).

(2) Counties with registered seed labeler operations shall receive subventions based upon enforcement activity generated by the registered seed labeler operations within the county and upon the performance of enforcement activities necessary to carry out this chapter.

(b) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

- 52325.** (a) Commissioners of counties that choose to participate in the subvention program shall enter into a cooperative agreement with the secretary, whereby the commissioner agrees to maintain a statewide compliance level, determined by the secretary, on all seed within the county. The cooperative agreement shall be in effect for a five-year period. The amount of the subvention designated to each individual participating county shall be established in a memorandum of understanding between the commissioner and the secretary, in consultation with the board.
- (b) The secretary, upon recommendation of the board or upon the secretary's own initiative, may withhold a portion of the funds designated to a county if that county fails to meet the performance standards established by the secretary and set forth in the cooperative agreement with that county.
- (c) The secretary shall provide a written justification to the board for any action taken by the secretary that does not fully implement a recommendation made by the board pursuant to subdivision (b).
- (d) This section shall become inoperative on July 1, 2019, and, as of January 1, 2020, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2020, deletes or extends the dates on which it becomes inoperative and is repealed.

ARTICLE 4. Regulations

52331. The director, by regulations, shall do all of the following:

- (a) Adopt germination standards for vegetable seed.
- (b) Adopt tolerances to be applied in all enforcement procedure required by this chapter.
- (c) Prescribe methods of procedure in the examination of lots of any agricultural or vegetable seed, and in securing samples of such lots.
- (d) Establish a reasonable schedule of fees for tests, examinations, and services except those which are required for quarantine or other purposes, not directly related to the enforcement of this chapter. The schedule shall be based upon the approximate cost of the service rendered. The director may, however, provide for the examination of seeds for identification purposes without charge.
- (e) Adopt such other regulations as will assist in carrying out the purposes of this chapter. Every standard or tolerance which is adopted pursuant to this chapter shall be as nearly as practicable to that which is established under the Federal Seed Act (7 U.S.C., Sec. 1551, et seq.).

52332. The secretary, by regulation, may adopt all of the following:

- (a) A list of the plants and crops that the secretary finds are or may be grown in this state.
- (b) A list of the plants and crops that the secretary finds are detrimental to agriculture if they occur incidentally in other crops, and which, therefore, are classed as weed seed except if sold alone or as a specific constituent of a definite seed mixture.
- (c) A list of noxious weed seed that the secretary finds are prohibited noxious weed seed, as defined in this chapter.
- (d) A list of those noxious weed seed that are not classified as prohibited noxious weed seed and are classified by this chapter as restricted noxious weed seed.
- (e) A list of substances that are likely to be used for treating grain or other crop seed that the secretary finds and determines are toxic to human beings or animals if used, and an appropriate warning or caution statement for each substance.

(f) (1) (A) Methods and procedures, upon the recommendation of the board, for the conciliation, mediation, or arbitration of disputes between labelers and any persons concerning conformance with label statements, advertisements, financial terms or the lack of payment by a dealer to a grower, or other disputes regarding the quality or performance of seed. The methods and procedures shall be a mandatory prerequisite to pursuing other dispute resolution mechanisms, including, but not limited to, litigation. However, if conciliation, mediation, or arbitration proceedings are commenced under this section to resolve a controversy, the statute of limitations that applies to a civil action concerning that controversy is tolled upon commencement of the conciliation, mediation, or arbitration proceedings, and until 30 days after the completion of those proceedings. As used in this subdivision, "completion of those proceedings" means the filing of a statement of agreement or nonagreement by the conciliator or mediator, or the rendering of a decision by an arbitrator or arbitration committee.

(B) If a proceeding for the conciliation, mediation, or arbitration of a dispute between a dealer and a grower is commenced under this subdivision for conformance with the financial terms by a dealer to a grower, and the decision in the proceeding is in favor of the grower, the decision may include a provision requiring compensation to the grower for the estimated value of the seed production services a grower provides to a dealer, including, but not limited to, labor, care, and expense in growing and harvesting that product.

(C) If a dealer fails to comply with the financial obligations of a judgment rendered in a conciliation, mediation, or arbitration proceeding between a dealer and a grower commenced pursuant to this subdivision following the conclusion of all appeals in the proceeding, the secretary may revoke the dealer's registration and prevent the dealer from renewing his or her registration until the time the financial obligation is fulfilled.

(2) Conciliation, mediation, or arbitration shall not affect any enforcement action by the secretary pursuant to this chapter. Regulations adopted by the secretary for the mandatory conciliation, mediation, or arbitration of disputes shall require that adequate notice be provided on the seed label notifying any buyer of the requirement to submit a dispute to mandatory conciliation, mediation, or arbitration as a prerequisite to other dispute resolution mechanisms, including litigation.

(g) Additional labeling requirements for coated, pelleted, encapsulated, mat, tape, or any other germination medium or device used on seed in order that the purchaser or consumer will be informed as to the actual amount of seed purchased.

52333. The director may, by regulation, adopt standards, including noxious weed seed and other pest standards, for premises from which seed shipments are exempt from the provisions of Section 6501 and shall designate such premises as origin inspected warehouses.

52334. The declaration of a plant, seed, nursery stock, or crop as invasive is a power reserved for the secretary.

ARTICLE 4.5. Registration and Assessment

52351. Every labeler of agricultural or vegetable seed offered for sale in this state, or any person, as defined in Section 52256.5, who sells that seed in this state, shall annually register with the secretary

to obtain authorization to sell agricultural or vegetable seed before engaging in this activity, except any of the following:

- (a) An individual grower that conditions such seed exclusively for the grower's own planting use.
- (b) A person using agricultural or vegetable seed, or both agricultural and vegetable seed, only for purposes of planting seed increase.
- (c) Any person licensed to sell nursery stock pursuant to Chapter 1 (commencing with Section 6701) of Part 3 of Division 4, except when he or she also engages in activities as defined under Section 52257.5.

52351.5.(a) Notwithstanding Section 52351, the secretary may require any entity that conducts noncommercial seed sharing activity to provide notification of its activity on a form created by the secretary. The notification form shall only include the entity's name and address and the contact information of the responsible party. No fee shall be assessed for submitting the notification form.

(b) An entity shall not be subject to any penalties under this chapter for failing to provide notification to the secretary without first receiving a written request to do so.

52352. Each application for an annual registration shall be accompanied by the payment of a fee in the amount of forty dollars (\$40) for each fiscal year or portion of a fiscal year beginning July 1.

52353. If a registration is not renewed within one calendar month after the beginning of the fiscal year, a penalty of 20 percent of the annual registration fee due shall be added to the fee.

52354. Each person who is required to be registered pursuant to Section 52351 shall pay an assessment annually to the secretary in an amount not to exceed forty cents (\$0.40) per one hundred dollars (\$100) gross annual dollar volume sales of agricultural or vegetable seed, or both, in this state for the preceding fiscal year defined in Section 52352, except in the following cases:

(a) No assessment shall be paid by any labeler or any other person for any agricultural or vegetable seed for which the assessment has been previously paid by another labeler or person, unless the identity of the lot has been changed.

(b) No assessment shall be paid on that portion of a person's sales of agricultural or vegetable seed, or both, that is sold in containers of four ounces or less net weight of seed.

(c) No assessment shall be paid on agricultural or vegetable seed, or both, sold and shipped out of this state.

52354.5. The director shall fix the annual assessment established pursuant to Section 52354 in an amount that will provide sufficient funds to carry out this chapter, and the date and method of collecting the assessment. The board shall make a recommendation regarding the level of assessment to the director.

52354.8. If the assessment established pursuant to Section 52354 and fixed by the director pursuant to Section 52354.5 is not paid within one calendar month after the end of the fiscal year for which the assessment is made, a penalty of 10 percent of the amount of the assessment shall be imposed.

52355. Any registrant who packages or labels seed, or both, with the name and address of the person who only retails the seed within the state shall, at the time of sale to such person, collect from the person whose name and address appears on the label, the assessment due based upon the invoice price for the seed, and pay such assessment to the director, as provided by regulations. The person collecting the assessment as provided under this section may charge, collect, and retain an additional reasonable fee established by the director for handling this collection and payment.

52356. Total expenditures from funds derived from registration fees and dollar volume assessments under this chapter shall not exceed the department's cost of carrying out this chapter.

ARTICLE 5. Powers of Enforcing Officers

52361. The secretary, each commissioner, and any qualified representative of the commissioner, shall sample and inspect any agricultural or vegetable seed that is subject to this chapter at the time and place and to the extent as he or she may deem necessary to determine whether the agricultural or vegetable seed is in compliance with the provisions of this chapter, and notify promptly the person who is in possession or control of the seed of any violation.

52362. For the purpose of carrying out the provisions of this chapter, any officer who is required to enforce this chapter may enter upon any public or private premises during regular business hours in

order to have access to any seed which is subject to this chapter and the regulations which are adopted pursuant to it.

52363. (a) Any sample which is taken by an enforcement officer in accordance with the regulations which are adopted pursuant to this chapter for the taking of official samples is prima facie evidence of

the true condition of the entire lot from which the sample was taken. The presumption established by this subdivision is a presumption affecting the burden of proof.

(b) A written report which is issued by the State Seed Laboratory that shows the analysis of any such sample is prima facie evidence of the true analysis of the entire lot from which the sample was taken. The presumption established by this subdivision is a presumption affecting the burden of proof, but it does not apply in a criminal action.

ARTICLE 6. Stop-Sale Orders

52391. The secretary or the commissioner and any qualified representative of the commissioner may issue and enforce a written or printed “stop-sale” order to the owner or custodian of any lot of agricultural or vegetable seed that he or she finds is in violation of any provision of this chapter, that shall prohibit further sale of the seed until the officer has evidence that the law has been complied with. Upon compliance, the order shall be removed.

52392. It is unlawful for any person to move or otherwise dispose of any lot of seed which is held under a “stop-sale” order except under written permission of an enforcing officer or under his specific direction and for the purposes which are specified.

52393. The owner or custodian of seed which is held under a “stop sale” order shall, upon demand, have the right to a hearing before the director or the commissioner as to the justification of any such order, and may appeal to the director from any order of the commissioner made under the provisions of this article.

52394. This article does not limit the right of the enforcement officer to proceed as authorized by other sections of this chapter.

52395. Any decision of the director pursuant to this article is subject to review by any court of competent jurisdiction.

ARTICLE 6.5. Seed-certifying Agencies

52401. The secretary shall, by regulation, establish a list of seed-certifying agencies that the secretary finds qualified to certify as to the variety, purity, quality, type, strain, or other genetic character of agricultural or vegetable seed. The secretary shall consult with the director of the University of California Agricultural Experiment Station before approving the qualifications of any seed-certifying agency.

52402. A seed-certifying agency may conduct or fund research projects that the agency, in its sole discretion, deems beneficial to the seed industry.

52403. Each seed-certifying agency shall establish a schedule of fees, in its discretion with input from the seed industry, for certification services provided and research conducted pursuant to this article.

52404. Notwithstanding Section 52321, fees collected pursuant to this article shall be paid directly to the seed-certifying agency and shall be expended only for a purpose authorized by this chapter.

52405. A seed-certifying agency, pursuant to procedures adopted by the seed-certifying agency, may impose a late charge on any person who fails to pay any fee required by this article within the time required by the seed-certifying agency.

52406. In addition to any late charge, a seed-certifying agency, pursuant to procedures adopted by the seed-certifying agency, may suspend certification services to any person who fails to timely pay any fee or late charge required by this article.

ARTICLE 7. Services

52421. The director and the commissioner of each county acting under the supervision of the director may do all of the following:

- (a) Cooperate with seed-certifying agencies which are officially recognized under the provisions of this chapter.
- (b) Supervise the harvesting, cleaning, and packaging of any seed which is eligible for certification, and the affixing of labels and seals to it.
- (c) Examine, sample, and test such seeds.
- (d) Perform such other services as may be necessary to maintain the identity and quality of certified seed.

52422. The director, or any commissioner with the approval of the director, may annually enter into a cooperative agreement with a qualified seed certification agency for the services that they are authorized to perform, based upon the approximate cost of the services. The approximate cost of the services rendered shall be based on applications to grow certified seed, and certified seed conditioners' activities within the county, as determined by the cooperating seed certification agency. Upon the request of a recognized seed-certifying agency, the director, through the director's staff or through the commissioners, may perform the services authorized by this article. Compensation for services performed by a commissioner shall be transmitted to the commissioner for such disposition as may be directed by the board of supervisors. Compensation for services that are performed by the director shall be paid into the Department of Food and Agriculture Fund.

ARTICLE 8. Labeling of Seeds

52451. This article does not apply to any of the following:

- (a) Seed or grain that is not intended for sowing purposes.
- (b) Seed that is in storage in, or consigned to, a seed cleaning or conditioning establishment for cleaning or conditioning.
- (c) Seed or grain that is transported without transfer of title for sowing on land that is owned by the person by whom the seed or grain was produced.

(d) Seed that is weighed and packaged in the presence of the purchaser from a bulk container, if the container is properly and conspicuously labeled as provided by this chapter.

(e) Seed or grain that is transported from one warehouse to another without transfer of title or in storage in a warehouse, if each container is plainly marked or identified with a lot number or other lot

identification and the label information that is required by this article is available at the request of an enforcing officer.

(f) Seed distributed or received by noncommercial seed sharing activity.

52452. (a) Except as otherwise provided in Section 52454, each container of agricultural seed that is for sale or sold within this state for sowing purposes shall bear upon it or have attached to it in a conspicuous place a plainly written or printed label or tag in the English language that includes all of the following information:

(1) The commonly accepted name of the kind, kind and variety, or kind and type of each agricultural seed component in excess of 5 percent of the whole, and the percentage by weight of each. If the aggregate of agricultural seed components, each present in an amount not exceeding 5 percent of the whole, exceeds 10 percent of the whole, each component in excess of 1 percent of the whole shall be named together with the percentage by weight of each. If more than one component is required to be named, the names of all components shall be shown in letters of the same type and size.

(2) The lot number or other lot identification.

(3) The percentage by weight of all weed seeds.

(4) The name and approximate number of each kind of restricted noxious weed seed per pound.

(5) The percentage by weight of any agricultural seed except that which is required to be named on the label.

(6) The percentage by weight of inert matter. If a percentage by weight is required to be shown by any provision of this section, that percentage shall be exclusive of any substance that is added to the seed as a coating and shown on the label as such.

(7) For each agricultural seed in excess of 5 percent of the whole, stated in accordance with paragraph (1), the percentage of germination exclusive of hard seed, the percentage of hard seed, if present, and the calendar month and year the test was completed to determine the percentages. Following the statement of those percentages, the additional statement "total germination and hard seed" may be stated.

(8) The name and address of the person who labeled the seed or of the person who sells the seed within this state.

(b) Subdivision (a) does not apply in the following instances:

(1) The sale is an occasional sale of seed grain by the producer of the seed grain to his or her neighbor for use by the purchaser within the county of production.

(2) Any cannabis seed, as defined in subdivision (f) of Section 19300.5 of the Business and Professions Code, sold or offered for sale in the state.

(c) All determinations of noxious weed seeds are subject to tolerances and methods of determination prescribed in the regulations that are adopted pursuant to this chapter.

(d) For purposes of this section, "neighbor" means a person who lives in close proximity, not to exceed three miles, to another.

52453. Except as otherwise provided in Section 52454, each container of vegetable seed that is for sale or sold within this state for sowing purposes shall bear upon it, or have attached to it, in a

conspicuous place, a plainly written or printed label or tag in the English language, that gives all of the following information:

- (a) Name of kind and variety of seed.
- (b) For any seed that germinates less than the standard last established by the secretary under this chapter, the percentage of germination, exclusive of hard seed; the percentage of hard seed, if present; the calendar month and year the test was completed to determine those percentages; and the words "Below Standard" in not less than eight-point type.
- (c) Name and address of the person that labeled the seed, or of the person that sells the seed within this state.
- (d) In addition to the information required in subdivisions (a), (b), and (c), on each container of more than one-half pound (227 grams), the label shall include both the lot number or other lot identification and the calendar month and year the germination test was completed.

52454. Any lot of more than one container of seed which is transported to a dealer for resale, or any lot of more than five containers of seed which is sold to a consumer, is exempt from the requirements which are prescribed by Section 52452 or 52453 if both of the following requirements are complied with:

- (a) Each container is plainly marked or identified with a lot number or other lot identification.
- (b) The invoice and one or more of the containers bears the tag or label which is required by such sections.

52455. In addition to the labeling requirements of this article, all seed at the time of sale by a retail merchant for nonfarm usage, shall conspicuously bear upon the labeling of the seed a viability assurance statement.

- (a) The statement shall be "SELL BY (month) (year)," or "USE BEFORE (month) (year)". The month and year in the statement shall not exceed the 15-month retail time period allowed by subdivision (b) of Section 52481.
- (b) The statement shall be conspicuous and in capital letters of the same size of type as other printed material on the labeling and contiguous to the germination date.
- (c) The statement shall be affixed at the time of labeling for those containers destined for retail sales.
- (d) For vegetable seed sold in containers of one-half pound (227 grams) or less, the viability assurance statement may read "Packed for (year) season" as an alternative to the "SELL BY (month) (year)" statements referenced in subdivision (a).

52456. In addition to the labeling requirements of this article, all seed, except seed at the time of sale by a retail merchant for nonfarm use, shall conspicuously bear upon the label adequate notice of the requirement to follow the conciliation, mediation, or arbitration procedures governing disputes between labelers and any person, as authorized by this chapter, and the consequences of failing to follow those procedures.

ARTICLE 9. Violations

52481. Except as otherwise provided in this section or in Section 52486, it is unlawful for any person to ship, deliver, transport, or sell any agricultural or vegetable seed within this state, other than the seed that is described in Section 52451, unless the test to determine the percentage of germination that is required by Article 8 (commencing with Section 52451) has been completed within the following period, exclusive of the calendar month in which the test is completed, immediately prior to shipment, delivery, transportation, or sale:

(a) In the case of any agricultural or vegetable seed that is shipped, delivered, transported, or sold to a dealer for resale, eight months.

(b) In the case of any agricultural or vegetable seed that is sold at retail, 15 months.

(c) In the case of any agricultural or vegetable seed that is packaged under conditions that the secretary finds and determines will prolong the viability of the seed, the secretary may designate, in regulations that are adopted pursuant to this chapter, a longer period than otherwise specified in this section, and may require any additional labeling that may be necessary to maintain identification of seed that is packaged under these conditions.

(d) Seed labeled under Section 52455 is not subject to subdivision (b) upon expiration of the viability assurance statement. This exemption does not limit the right of the enforcing officer to enforce other applicable sections of this chapter.

52482. Except as otherwise provided in Section 52486, it is unlawful for any person to ship, deliver, transport, or sell any agricultural or vegetable seed within this state that is within any of the following classes:

(a) Is not labeled in accordance with the provisions of this chapter. This subdivision does not, however, apply to any seed that is described in Section 52451.

(b) Contains prohibited noxious weed seed, subject to tolerances and methods of determination prescribed in the regulations that are adopted pursuant to this chapter. This subdivision does not, however, apply to any of the seed that is described in subdivision (a) or (b) of Section 52451.

(c) Has false or misleading labeling or pertaining to which there has been a false or misleading advertisement.

(d) Is represented to be certified seed or registered seed, unless it has been produced and labeled in accordance with the procedures and in compliance with the rules and regulations of a seed-certifying agency that is officially recognized under the provisions of this chapter, if produced in this state, or under the provisions of the Federal Seed Act (7 U.S.C., Sec. 1551, et seq.), as enacted, and rules and regulations that are adopted pursuant to that act, if produced outside of this state.

(e) Contains more than 1¹/₂ percent by weight of all weed seeds. This subdivision does not, however, apply to any seed that is described in subdivision (a), (b), or (c) of Section 52451.

(f) To sell, by variety name, seed not certified by an official seed-certifying agency when it is a variety for which a certificate of plant variety protection under the United States Plant Variety Protection Act (84 Stats. 1542; 7 U.S.C. Sec. 2321, et seq.) specifies sale only as a class of certified seed, except that seed from a certified lot may be labeled as to variety name when used in a mixture by, or with the written approval of the owner of the variety.

52483. It is unlawful for any person to do any of the following:

- (a) Detach, alter, deface, or destroy any label, warning tag, or notice that is provided for in this chapter or in the regulations that are adopted pursuant to it, or alter or substitute seed, in a manner that may defeat the purposes of this chapter.
- (b) Disseminate any false or misleading advertisement concerning agricultural or vegetable seed in any manner or by any means.
- (c) Hinder or obstruct in any way any authorized person in the performance of his or her duties under this chapter.
- (d) Fail to comply with a "stop-sale" order.

52484. (a) Except as otherwise provided in Section 52486, it is unlawful for any person to ship, deliver, transport, or sell agricultural or vegetable seed that is treated after harvest with any substance that is likely to be poisonous or toxic to human beings or animals unless there is conspicuously shown on the analysis tag or label, on a separate tag or label attached to each container, or upon each container all of the following information:

- (1) "TREATED SEED" and the signal word for the category of treatment material all in capital letters.
 - (2) The chemical or generic name of the treatment material.
 - (3) An appropriately worded statement as to the hazards to humans and animals.
 - (4) An appropriately worded statement of practical treatment, if present.
- (b) This information shall be derived from the technical chemical label of the substance applied to the seed.
- (c) When more than one substance is applied, each substance shall be noted on the label, and the seed shall be labeled for the substance with the higher level of toxicity.

52485. It is unlawful for any person to sell or divert for use or for processing, either for human or animal consumption, any grain or other crop seed which is treated after harvest with any substance that is likely to be poisonous or toxic to human beings or animals, unless there is an established state or federal pesticide residue tolerance for such poisonous or toxic substance on the specific grain or crop seed, and such pesticide residue tolerance is not exceeded.

52486. Sections 52481, 52482, and 52484 of this article do not apply to any common carrier in respect to any seed which is transported or delivered for transportation in the ordinary course of its business as a carrier if such carrier is not engaged in conditioning or merchandising seed which is subject to the provisions of this chapter.

52487. A violation of this chapter for having shipped, delivered, transported, or sold agricultural or vegetable seed that has false or misleading labeling shall be construed to have been committed at the time of discovery of the violation, and a complaint charging the violation shall be filed within one year from the time of discovery. No complaint that charges such a violation shall, however, be filed after two years from the date of sale.

52488. It is unlawful to violate any provisions of this chapter or any regulation adopted pursuant to this chapter.

52489. It is unlawful for any person to violate the provisions of the United States Plant Variety Protection Act contained in Part J (commencing with Section 2531), Part K (commencing with Section 2541), or Part L (commencing with Section 2561) of Subchapter III of Chapter 57 of Title 7 of the United States Code, as enacted.

ARTICLE 10.

52511. Any lot of agricultural or vegetable seed that does not comply with this chapter is a public nuisance and is subject to seizure on complaint of the secretary or the commissioner or any enforcing officer of this chapter to a court of competent jurisdiction in the area in which the seed is located.

52512. The district attorney of the county in which any such nuisance is found, on the relation of the director or the commissioner or any enforcing officer of this chapter, shall maintain, in the name of the people of the State of California, a civil action to abate and prevent such nuisance. Upon judgment and by order of the court, such nuisance shall be condemned and destroyed in the manner directed by the court, or relabeled, denatured, or otherwise processed, or released upon such conditions as the court in its discretion may impose to insure that the nuisance will be abated.

52513. If the owner fails to comply with the order of the court within the time which is specified in the order, the court may order disposal of the seed and containers, or their sale, under those terms and conditions as the court may prescribe, by the director or the commissioner or any enforcing officer of this chapter, or by the sheriff or marshal. If the court orders the sale of any of the seed and containers which can be salvaged, the costs of disposal shall be deducted from the proceeds of sale and the balance paid into court for the owner.

52514. A proceeding pursuant to this article where the value of the property seized amounts to twenty-five thousand dollars (\$25,000) or less is a limited civil case.

52515. The director may, after hearing, refuse to issue or renew, or may suspend or revoke a registration for any violation of this chapter or any regulation adopted pursuant to this chapter. Proceedings under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1, Division 3, Title 2 of the Government Code.

California Code of Regulations

Title 3. Food and Agriculture

Division 4. Plant Industry

Chapter 5. Rodent and Weed Control and Seed Inspection

Subchapter 3. Seed Inspection

Article 1. Definitions and Construction

3850. Terms Defined.

(a) As used in the California Seed Law, Section 52251 et seq., Food and Agricultural Code, and in Group 3 of these regulations:

- (1) "Lot" means a definite quantity of seed normally identified by a number or other identification.
- (2) Change in Lot. As used in Section 52354(a) of the Food and Agricultural Code the identity of the lot has been changed whenever the information required by any of the following sections of the Food and Agricultural Code has been changed: 52452 (a)(2), (a)(8) and 52453(c), (d)
- (3) "Origin Inspected Warehouse" means a premise which has maintained standards included in Article 7 of these regulations and therefore is exempt from the provisions of Section 6501, Food and Agricultural Code.

Note: Authority cited: Sections 407 and 52331, Food and Agricultural Code. Reference: Sections 52254.5, 52257.5, 52331, 52333, 52354, 52363, 52391, 52392, 52451-52454, 52482, and 52511, Food and Agricultural Code.

3853. Weed Seeds.

The following species, when occurring incidentally in agricultural seed, are classed as weed seeds for the purpose of labeling as required by Section 52452, Food and Agricultural Code, unless labeled and sold as specific constituents of a definite seed mixture:

- (a) All species not listed in Section 3899, Schedule I (a).
- (b) All species listed in Section 3901, Schedule III.

Note: Authority cited: Sections 407 and 52331, Food and Agricultural Code. Reference: Section 52332, Food and Agricultural Code.

3854. Prohibited Noxious Weed Seed.

In accordance with Section 52332 of the Food and Agricultural Code, the Director hereby designates the seed or propagule of the following species of plants to be prohibited noxious weed seed within the meaning of Section 52257 of the Food and Agricultural Code:

Acaena anserinifolia (bronze piri-piri-bur)
Acaena novae-zelandiae (biddy biddy)
Acaena pallida (pale biddy biddy)
Achnatherum brachychaetum (punagrass)
Aegilops cylindrica (jointed goatgrass)
Aegilops geniculata (ovate goatgrass)
Aeschynomene spp. (jointvetch)
Alhagi maurorum (camelthorn)
Alternanthera sessilis (sessile joyweed)
Arctotheca calendula (capeweed)
Atriplex amnicola (river saltbush)
Carduus acanthoides (plumeless thistle)
Carduus crispus (welted thistle)
Carduus nutans (musk thistle)
Carthamus leucocaulos (whitestem distaff thistle)
Cenchrus echinatus (southern sandbur)
Cenchrus incertus (coast sandbur)
Cenchrus longispinus (mat sandbur)
Centaurea diffusa (diffuse knapweed)
Centaurea iberica (Iberian starthistle)
Centaurea jacea incl *C. pratensis* (meadow knapweed)
Centaurea stoebe (spotted knapweed)
Centaurea sulphurea (Sicilian thistle)
Centaurea virgata (squarrose knapweed)
Cirsium arvense (Canada thistle)
Cirsium undulatum (wavyleaf thistle)
Crupina vulgaris (bearded creeper)
Cucumis melo var. *dudaim* (dudaim melon)
Euphorbia terracina (carnation spurge)
Euphorbia virgata (leafy spurge)
Galega officinalis (goat's rue)
Halimodendron halodendron (Russian salt tree)
Halogeton glomeratus (halogeton)
Helianthus ciliaris (blueweed)
Isatis tinctoria (dyer's woad)
Lepidium appelianum (lens-podded hoary cress)
Lepidium chalepense (heart-podded hoary cress)
Lepidium draba (globe-podded hoary cress)
Lepidium latifolium (perennial pepperweed)

Ludwigia decurrens (winged water-primrose)
Ludwigia grandiflora ssp. *hexapetala* (Uruguayan water-primrose)
Ononis alopecuroides (fox tail restharrow)
Onopordum spp. (onopordum thistles)
Orobanche ramosa (branched broomrape)
Parthenium hysterophorus (Santa Maria feverfew)

Rhagadiolus stellatus (star endive)
Rhaponticum (Acroptilon) repens (Russian knapweed)
Rorippa austriaca (Austrian fieldcress)
Salsola damascena (Damascus saltwort)
Sesbania punicea (red rattlebox)
Solanum carolinense (Carolina horsenettle)
Solanum elaeagnifolium (white horsenettle)
Sonchus arvensis (perennial sowthistle)
Tribolium obliterum (Cape grass)

Note: Authority cited: Sections 407 and 52332, Food and Agricultural Code. Reference: Sections 5004, 52256-52258, 52287 and 52332, Food and Agricultural Code.

3855. Restricted Noxious Weed Seed.

Unless listed in CCR Section 3854 as a prohibited weed seed, all seeds from plant species listed in CCR Section 4500 are considered to be restricted weed seeds for purposes of labeling seed containers offered for sale, planting, or distribution in California.

Note: Authority cited: Sections 407 and 52332, Food and Agricultural Code. Reference: Sections 5004, 52256, 52257, 52258, 52287 and 52332, Food and Agricultural Code.

3856. "Cleaning or Conditioning."

As used in Section 52451, Food and Agricultural Code, means cleaning, scarifying, or blending to obtain uniform quality, and other operations which would change the purity or germination of the seed and therefore require retesting to determine the quality of the seed; but not to include operations such as packaging, labeling, blending together of uniform lots of the same kind or variety without cleaning, or the preparation of a mixture without cleaning, any of which would not require retesting to determine the quality of the seed.

Note: Authority cited: Sections 407 and 52331, Food and Agricultural Code. Reference: Section 52451, Food and Agricultural Code.

Article 2. Labeling

3862. Blank Spaces or the Words “Free” or “None.”

In the place of a number or percentage on the label are construed as equivalent to “0” or “0.00 percent,” as the case may be, for the purpose of applying the tolerances prescribed in these regulations.

Note: Authority cited: Sections 407 and 52331, Food and Agricultural Code. Reference: Sections 52452 and 52453, Food and Agricultural Code.

3863. Designation of Kind, Type or Variety.

(a) Agricultural Seeds. The common names listed in Section 3899, Schedule I (a), are recognized as “commonly accepted” names for the purpose of labeling agricultural seeds as required by Section 52452, Food and Agricultural Code.

(b) Vegetable Seeds. The common names listed in Section 3899, Schedule I (b), are recognized as names of “kind” for the purpose of labeling vegetable seeds as required by Section 52453, Food and Agricultural Code. In addition to the “kind,” the “variety” is required to be stated on the label of vegetable seeds. If the variety is not known, the label is construed to be in compliance with this provision if it contains the words “unknown variety.”

(c) Other Names. Any name of kind, type, variety or strain, whether listed in Schedule I or not, is construed to comply with the requirements of Sections 52452 and 52453, Food and Agricultural Code, if its application to the seed so labeled is in fact in common usage in California, unless such usage is misleading or confusing. Names or terms that tend to create a false impression as to history or quality of the seed are construed to be misleading.

(d) Hybrid. The term “hybrid” applied to kinds or varieties of seed means the first generation seed of a cross produced by controlling the pollination and by combining (1) two or more inbred lines; (2) one inbred or a single cross with an open-pollinated variety; or (3) two selected clones, see lines, varieties, or species. “Controlling the pollination” means to use a method of hybridization which will produce pure seed which is at least 75 percent hybrid seed. Hybrid designations shall be treated as variety names.

Any kind or variety that is less than 95 percent but more than 75 percent hybrid seed as a result of incompletely controlled pollination in a cross shall be labeled to show (a) the percentage that is hybrid seed or (b) a statement such as “contains from 75 percent to 95 percent hybrid seed.”

Note: Authority cited: Sections 407 and 52331, Food and Agricultural Code. Reference: Section 52452, Food and Agricultural Code.

3864. Seed in Hermetically Sealed Containers.

The period of validity of germination tests is extended, as provided in Section 52481(c), Food and Agricultural Code, to the following period for seed packaged in hermetically sealed containers under conditions and label requirements set forth in this section:

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(a) Germination Tests. The germination test for agricultural and vegetable seed shall have been completed within the following period, exclusive of the calendar month in which the test was completed, immediately prior to shipment, delivery, transportation, or sale:

(1) In the case of agricultural or vegetable seeds shipped, delivered, transported, or sold to a dealer for resale, 18 months;

(2) In the case of agricultural or vegetable seeds for sale or sold at retail, 36 months.

(b) Conditions of Packaging. The following conditions are considered as a minimum under the provisions of Section 52481(c), Food and Agricultural Code:

(1) A container, to be acceptable under the provisions of this section, shall not allow water vapor penetration through any wall, including the wall seals, greater than 0.05 gram of water per 24 hours per 100 square inches of surface at 100U F. with a relative humidity on one side

of 90 percent and on the other of 0 percent. Water vapor penetration or WVP is measured by the standards of the U.S. Bureau of Standards as: gm H₂O/24 hr./100 sq. in./100U F./90% RH V. 0% RH

(2) The percentage of moisture, on a wet weight basis, of agricultural or vegetable seeds subject to the provisions of this section shall not exceed the following:

Family	Kind	Maximum percent seed moisture
Graminae	Sweet corn	8.0
	Kentucky bluegrass	6.0
	Red fesue	8.0
	Perennial ryegrass	8.0
Liliaceae	Onion, leek, chive, welsh onion	6.5
Chenopodiaceae	Beet, chard	7.5
	Spinach	8.0
Cruciferae	Cabbage, broccoli, cauliflower, collards, Chinese	
	cabbage, kale, turnip, rutabaga, kohlrabi,	
	Brussels sprouts, mustard, radish	5.0
Leguminosae	Snap bean, lima bean, pea	7.0
	Crimson clover	8.0
Umbelliferae	Carrot, celery, celeriac	7.0
	Parsnip	6.0
	Parsley	6.5
Solanaceae	Tomato	5.5
	Pepper	4.5
	Eggplant	6.0
Cucurbitaceae	Cucumber, muskmelon, squash, pumpkin	6.0
	Watermelon	6.5

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Compositae	Lettuce	5.5
	All other agricultural or vegetable seed not listed above	6.0

A tolerance of one (1.0) percent moisture is applicable to the maximum percentage of moisture listed above and the percentage of moisture found by an official test. The percentage of moisture shall be determined by the air oven method.

(c) Labeling Required. In addition to the labeling required by Sections 52452, 52453 or 52484, Food and Agricultural Code, seed packaged under the provisions of this section shall be conspicuously labeled with the following information:

(1) Seed has been preconditioned as to moisture content.

(2) Container is hermetically sealed. "Germination test valid until (month, year)" may be used on the label. (Not to exceed 36 months from date of test.)

Note: Authority cited: Sections 407 and 52331, Food and Agricultural Code. Reference: Section 52481, Food and Agricultural Code.

3865. Germination Standards.

The standards of germination indicated in Section 3900, Schedule II, are the germination standards for vegetable seeds for the purpose of the label statements required by Section 52453, Food and Agricultural Code. The standards include hard seeds, if present, provided that in packages of more than one-half pound the percentage of hard seeds and the percentage of germination exclusive of hard seeds are separately stated on the label.

Note: Authority cited: Sections 407 and 52331, Food and Agricultural Code. Reference: Section 52453, Food and Agricultural Code.

3867. Labeling of Seed Containers.

In addition to the information required under Sections 52451 through 52455 of the Food and Agricultural Code each label of agricultural and/or vegetable seed shall include the Arbitration/Conciliation/Mediation Notice required in Section 3915.1, except seed covered by Sections 52454 and 52455; seed covered by Section 52454 shall bear the notice in accordance with Section 52454(b).

The procedure for making the formal complaint referred to in the arbitration/conciliation/mediation notice is set forth in Sections 3915 through 3918.

Note: Authority cited: Sections 407, 52331 and 52332, Food and Agricultural Code. Reference: Sections 52332, 52451, 52452, 52453, 52454, 52455 and 52456, Food and Agricultural Code.

Article 3. Inspection and Sampling

3871. Classification of Samples.

(a) An official sample is a sample drawn by an enforcement officer in the manner prescribed by Sections 3872 and 3873 for the purpose of determining whether the seed is in compliance with the provisions of the California Seed Law, Section 52251 et seq., Food and Agricultural Code.

(b) A certification sample is a sample drawn by an agent of a recognized seed certifying agency, or by an enforcement officer acting upon the request of such agency, in accordance with the rules and regulations of such agency.

(c) A quarantine sample is a sample submitted for noxious-weed seed examination by a commissioner or a plant quarantine officer.

(d) A service sample is a sample submitted for testing for an individual or firm.

(e) A miscellaneous sample is any sample not otherwise classified.

Note: Authority cited: Sections 407 and 52331, Food and Agricultural Code. Reference: Section 52331, Food and Agricultural Code.

3872. Sampling.

(a) Procedure. The following procedure shall be followed for securing official samples and is recommended for all other samples:

(1) General.

(A) Approximately equal portions shall be taken from fairly evenly distributed parts of the quantity of seed to be sampled. Access shall be had to all parts of that quantity. When more than one trierful of seed is drawn from a container, each successive trierful shall be from evenly separated parts of the container. When more than one handful is taken from a container the handfuls shall be taken from well-separated parts.

(B) For free-flowing seed in bags or bulk, a probe or trier long enough to sample any portion of the bag shall be used.

(C) Non-free-flowing seed, such as certain grass seed, or uncleaned seed, difficult to sample with a probe or trier, shall be sampled by thrusting the hand into the bulk and withdrawing representative portions. Protective gloves shall be worn when sampling treated seed.

(D) As the seed is sampled, each portion shall be examined and if there appears to be a lack of uniformity, the portions shall not be combined but shall be retained as separate samples to determine such lack of uniformity as may exist.

(E) When the portions appear to be uniform, they shall be combined to form a composite sample.

(F) If a sealed container is opened or probed for inspection, the inspector shall reseal the container with a suitable seal indicating the purpose for which the container was opened.

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(G) If a label is removed, the inspector shall affix to the container a tag on which the label statements have been copied.

(2) Bulk. Bulk seeds shall be sampled by inserting a long probe or thrusting the hand into the bulk, as circumstances require, in at least seven fairly uniformly distributed parts of the quantity being sampled.

(3) Bags.

(A) In quantities of six bags or less each bag shall be sampled.

(B) In quantities of more than six bags, five bags plus at least 10 percent of the number of bags in the lot shall be sampled. Regardless of the lot size it is not necessary that more than 30 bags be sampled.

(C) Samples shall be drawn from unopened bags except under circumstances where the identity of the seed has been preserved.

(4) Other Containers.

(A) In sampling seed in sealed containers, such as vegetable seed in packets, or lawn seed in boxes, when it is not practical to sample by other means, one or more entire unopened containers shall be taken.

(B) If requested by the custodian, sealed containers of single component seeds, containing more weight than needed for the official sample, shall be opened on the premises and the sample taken in the presence of the custodian. The remainder of the contents of the opened container shall be left with the custodian.

(C) Seed in containers, other than bags, when it is practical to sample by a probe without breaking the seal, shall be sampled in the same manner as seed in bags.

(D) Regardless of the type of container, the sample in the aggregate shall not be less than the quantity specified in subsection (b) of this section.

(b) Size of Sample. The following are minimum weights of official samples of seed to be submitted for analysis, test, or examination:

(1) Agricultural Seed.

(A) Four ounces (114 grams) of bentgrasses, red fescues, bluegrasses, white or alsike clover, or seeds not larger than these.

(B) Eight ounces (227 grams) red clover, alfalfa, ryegrasses, bromegrasses, meadow or tall fescues, wheatgrasses or seeds of similar size.

(C) One pound (454 grams) of sudangrass, subclover, sugar beet, or seeds of similar size.

(D) Two pounds (908 grams) of cereals, vetch, safflower, sorghum, or seeds of similar or larger size.

(2) Vegetable Seed.

(A) One-eighth ounce (3.54 grams) of celery, lettuce, onion, cabbage or seeds not larger than these.

(B) One-half ounce (14.18 grams) of pepper, eggplant or seeds of similar size.

(C) One ounce (28.35 grams) of spinach, radish, table beet, muskmelon, or seeds of similar size.

(D) Four ounces (114 grams) of asparagus, New Zealand spinach, watermelon or seeds of similar size.

(E) One pound (454 grams) of pea, garden bean, pumpkin, corn or seeds of similar size.

(F) Two and one-half pounds (1.14 Kilograms) of lima bean, runner bean, horsebean, or seeds of similar or larger size.

When a purity analysis is requested to determine the percentage by weight of any sample of vegetable seed, the minimum weight of the sample shall be not less than the minimum weight required for an official sample of agricultural seed of similar size.

(c) Preparation of Official Sample.

(1) A "description of sample" form, provided by the department, shall be completed for each sample, and a label or facsimile label shall be attached to the original copy.

(2) For seed sampled in bags or bulk the sample shall be enclosed in an official sample bag, properly identified by the appropriate portion of the "description of sample" form and sealed with an official seal. If requested by the custodian, or other financially interested party, the sample shall be divided and a portion left on the premises.

(3) For seed sampled in packets or other sealed containers, where the entire container is taken as the sample, the sample may be submitted without being enclosed in an official sample bag; provided the appropriate portion of the "description of sample" form is firmly attached to the container or containers submitted as a sample.

(4) All samples shall be plainly marked outside with an appropriate identification.

(5) Samples of treated seed shall be double bagged with an inner bag of plastic. The outer container shall be clearly marked to indicate the treatment material and under the remarks section of the "description of sample" form reference to treatment labeling shall be made, such as "properly labeled as to (generic or common name/s) treatment." Any documents accompanying the official sample shall not be placed inside the plastic bag.

(d) Return of Official Sample. Any portion of the sample not used in making the tests shall be returned to the owner at his expense, if requested within 60 days of sampling.

Note: Authority cited: Sections 407 and 52331, Food and Agricultural Code. Reference: Section 52331, Food and Agricultural Code.

3873. Forwarding Sample.

(a) An official sample and the "description of sample" form, accompanied by a label, shall be sent to California Department of Food and Agriculture, Nursery and Seed Services, 1220 N Street, Sacramento, California 95814.

(b) All other samples may be placed in any suitable nonsealed container, and forwarded to the State Seed Laboratory, Laboratory Services, California Department of Food and Agriculture, 1220 N Street, Sacramento, California 95814, except as provided in subsection (c).

(c) Certification samples should be forwarded to the seed-certifying agency for which they were drawn.

Note: Authority cited: Sections 407 and 52331, Food and Agricultural Code. Reference: Section 52331, Food and Agricultural Code.

Article 4. Certification

3875. Seed-Certifying Agencies

(a) Recognized Agency. The Secretary, after consultation with the Director of the University of California Agricultural Experiment Station, as provided in Food and Agricultural Code Section 52401, finds that the following is qualified to certify as to variety, type, strain, and other genetic characters of agricultural and vegetable seeds, and is hereby officially approved and recognized as a seed-certifying agency within the meaning of the California Seed Law:

California Crop Improvement Association, a nonprofit corporation incorporated under the laws of the State of California.

(b) Official Agencies authorized by law to certify as to matters of fact respecting agricultural or vegetable seeds are not construed to be “seed-certifying agencies” within the meaning of Section

52482, Food and Agricultural Code, and such certification does not authorize representation of seed so certified as “certified seed” unless expressly provided by law.

Note: Authority cited: Sections 407, 52331 and 52401, Food and Agricultural Code. Reference: Section 52331, Food and Agricultural Code

3876. Cooperation with Seed-Certifying Agencies.

All services performed at the request of and in cooperation with an officially recognized seed-certifying agency shall be performed in accordance with the rules and regulations of that agency, insofar as consistent with the provisions of law.

Note: Authority cited: Sections 407 and 52331, Food and Agricultural Code. Reference: Section 52421, Food and Agricultural Code.

3877. Fees for Certification Services.

(a) Schedules. The fees for certification services performed by the director are shown in Section 4603. The fees for certification services performed by commissioners may be established as provided in Section 52422, Food and Agricultural Code, and in this regulation.

(b) Approval of Schedules. Each commissioner, before establishing a schedule of fees for certification services performed under the provisions of Section 52422, Food and Agricultural Code, is required to submit the proposed schedule to the director for approval. Schedules of fees submitted for approval should be based on the approximate cost of these services.

(c) Transmittal. Claims for fees according to the approved schedule may be submitted directly to the seed-certifying agency, and payment of fees for services performed by a commissioner may be transmitted directly to the commissioner for such disposition as may be directed by the board of supervisors.

Note: Authority cited: Sections 407, 5851, 5852 and 52331, Food and Agricultural Code. Reference: Sections 5851, 5852, 52331 and 52422, Food and Agricultural Code.

Article 5. Analysis and Testing

3878. Indistinguishable Seed.

Determinations shall be made in the same manner as currently required by Sections 201.58a-201.58c, Federal Seed Act Regulations (Title 7, Chapter 1, Part 201 of the Code of Federal Regulations).

Note: Authority cited: Sections 407 and 52331, Food and Agricultural Code. Reference: Section 52331, Food and Agricultural Code.

3879. Noxious-Weed Seed Examination.

Examination of a sample for noxious-weed seeds shall be made in accordance with the current procedure prescribed in Section 201.52, Federal Seed Act Regulations (Title 7, Chapter 1, Part 201 of the Code of Federal Regulations).

Note: Authority cited: Sections 407 and 52331, Food and Agricultural Code. Reference: Section 52331, Food and Agricultural Code.

3880. Purity Analysis.

A purity analysis includes examination for noxious-weed seeds, as defined in Section 3879, and shall be made in the same manner as currently required by Sections 201.45-201.51(a), Federal Seed Act Regulations (Title 7, Chapter 1, Part 201 of the Code of Federal Regulations).

Note: Authority cited: Sections 407 and 52331, Food and Agricultural Code. Reference: Section 52331, Food and Agricultural Code.

3881. Germination Tests.

Germination tests shall be made in the same manner as currently required by Sections 201.53-201.58, Federal Seed Act Regulations (Title 7, Chapter 1, Part 201 of the Code of Federal Regulations).

Note: Authority cited: Sections 407 and 52331, Food and Agricultural Code. Reference: Section 52331, Food and Agricultural Code.

3882. Tolerances.

The tolerances to be applied in all enforcement procedure required by the California Seed Law shall be the same as currently provided in Sections 201.59-201.65, Federal Seed Act Regulations (Title 7, Chapter 1, Part 201 of the Code of Federal Regulations).

Note: Authority cited: Sections 407 and 52331, Food and Agricultural Code. Reference: Section 52331, Food and Agricultural Code.

3883. Fees for Testing and Other Services.

The fees for laboratory tests and scientific consultations other than those made free of charge are shown in Section 4603.

Note: Authority cited: Sections 407, 5851, 5852 and 52331, Food and Agricultural Code. Reference: Sections 5851, 5852 and 52331, Food and Agricultural Code.

Article 6. Enforcement and Procedure

3887. Hearings.

Hearings held before the director pursuant to Sections 52311(c) and 52393 of the Food and Agricultural Code shall, as far as practicable, be governed by the procedure prescribed by the Government Code, Title 2, Division 3, Part 1, Chapter 5, Section 11500 et seq., except that the director, or a hearing officer designated by the director shall preside.

Note: Authority cited: Sections 407 and 52331, Food and Agricultural Code. Reference: Sections 52311 and 52393, Food and Agricultural Code.

3888. Procedure Under “Stop-Sale” Order.

(a) Form. The “stop-sale” order shall be in the form provided for the purpose by the Department. A warning tag or notice may be attached by the enforcement officer to any lot of seed held under a “stop-sale” order. Such tag or notice shall be in the form provided by the Department and shall not be

removed except by or under the direction of an enforcement officer, until the "stop-sale" order has been removed.

(b) Proof of Service. Within five days after service of any "stop-sale" order, the person making the service shall forward to the Director a copy of the order together with an acknowledgment of service signed by the person served, or an affidavit stating the time and place of service upon the person named in the order.

(c) Release. Upon notification that the law has been complied with, the Commissioner or the Director shall examine the evidence of compliance, and if satisfied that the law has been complied with, shall immediately cause the "stop-sale" order to be removed. When a new test is required, evidence of compliance shall include a copy of the record of the new test, indicating that the seed held under the "stop-sale" order has been sampled and tested.

(d) Disposal Permits. Permission to move or otherwise dispose of a lot of seed held under "stop-sale" order shall be in the form provided by the Department, and shall specify the purpose for which the permit is given. No permit shall be issued for movement to another county except with the approval of the Commissioner of the county of destination.

(e) Demand for Hearing. Demand for hearing as to justification of a "stop-sale" order shall be in writing and shall be filed with the Director or Commissioner who issued the order. Such demand may be filed at any time before the "stop-sale" order is removed.

(f) Notice of Hearing. Within fifteen days after receipt of a demand for a hearing as to the justification of a "stop-sale" order, the Director or the Commissioner upon whom demand has been made shall fix a time and place for such hearing, and shall so notify the person making the demand.

(g) Hearing. Hearings as to justification of "stop-sale" orders shall be private and shall be conducted in the manner prescribed by Section 3887.

(h) Record. The original record of the proceedings shall be filed in the office of the Director; one copy shall be filed in the office of the Commissioner, if the hearing was called by a Commissioner; and one copy shall be mailed to the person on whose demand the hearing was called.

(i) Findings. If the hearing officer, upon the facts shown at the hearing, finds that the "stop-sale" order is justified, the hearing officer shall make an order dismissing the proceedings. If the hearing officer finds that the "stop-sale" order is not justified, the hearing officer shall cause the "stop-sale" order to be removed forthwith.

(j) Appeal. Appeals shall be made in writing and filed in the office of the Director. Hearings on appeal shall be conducted in like manner and with like effect as hearings on the original cause.

Note: Authority cited: Sections 407 and 52331, Food and Agricultural Code. Reference: Sections 52391, 52392 and 52393, Food and Agricultural Code.

Article 7. Origin Inspection of Seed

3890. Designation of Origin Inspected Warehouse.

An origin inspected warehouse shall:

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(a) Maintain complete records of all lots of seed subject to Article 8 of the California Seed Law, Sections 52451-52454, Food and Agricultural Code, and have such records available to an enforcing officer.

A premise shipping seed complying with these standards may apply to the director for designation as an "Origin Inspected Warehouse" and if approved in accordance with Section 3892, shall be assigned a designation which may be used on all labeling.

Note: Authority cited: Sections 407 and 52333, Food and Agricultural Code. Reference: Section 52333, Food and Agricultural Code

3892. Designation and Reinstatement As an "Origin Inspected Warehouse."

Before issuing an official designation to an establishment, the responsible party shall show the Director technical competence, responsibility and good faith in seeking to hold said designation. The Director may refuse to issue an official designation to a responsible party who fails to make such a showing and may refuse to reissue a designation to a party whose designation has been revoked until such a showing is made.

Note: Authority cited: Sections 407 and 52331, Food and Agricultural Code. Reference: Section 52333, Food and Agricultural Code.

Article 8. Schedules

3899. Schedule I

(a) Agricultural Seeds*

Common name*

Botanical name

Alfalfa	Medicago sativa L. subsp. sativa
Alfilaria	Erodium cicutarium (L.) L'Hér.
Alyceclover	Alysicarpus vaginalis (L.) DC.
Amaranth	Amaranthus L. spp.
Bahiagrass	Paspalum notatum Flüggé
Barley	Hordeum vulgare L.
Bean* as follows:	
Adzuki bean	Vigna angularis (Willd.) Ohwi & H. Ohashi
Bell bean: Horsebean, small seeded	
Blackeye or blackeyed bean: Cowpea	
Fava bean: Horsebean	
Field bean	Phaseolus vulgaris L. var. vulgaris
Garbanzo bean: Chickpea	
Lima bean	P. lunatus L.
Mat bean	Vigna aconitifolia (Jacq.) Maréchal
Moth bean: Mat bean	

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Mung bean	<i>V. radiata</i> (L.) R. Wilczek var. <i>radiata</i>
Rice bean	<i>V. umbellata</i> (Thunb.) Ohwi & H. Ohashi
Tepary bean	<i>Phaseolus acutifolius</i> A. Gray var. <i>acutifolius</i>
Windsor bean: Horsebean	
Beet* as follows:	
Field beet	<i>Beta vulgaris</i> L. subsp. <i>vulgaris</i>
Sugar beet	<i>B. vulgaris</i> L. subsp. <i>vulgaris</i>
Bentgrass as follows:	
Colonial bentgrass, including all cultivars	<i>Agrostis capillaris</i> L.
Creeping bentgrass	<i>A. stolonifera</i> L.
Seaside bentgrass: Creeping bentgrass	
Velvet bentgrass	<i>A. canina</i> L.
Bermudagrass as follows:	
Bermudagrass	<i>Cynodon dactylon</i> (L.) Pers. var. <i>dactylon</i>
Giant bermudagrass	<i>C. dactylon</i> (L.) Pers. var. <i>aridus</i> J.R. Harlan & de
Wet	
Bluegrass as follows:	
Annual bluegrass	<i>Poa annua</i> L.
Big bluegrass	<i>P. secunda</i> J.Presl
Bulbous bluegrass	<i>P. bulbosa</i> L.
Canada bluegrass	<i>P. compressa</i> L.
Kentucky bluegrass	<i>P. pratensis</i> L.
Nevada bluegrass	<i>P. secunda</i> J.Presl
Rough bluegrass	<i>P. trivialis</i> L.
Texas bluegrass	<i>P. arachnifera</i> Torr.
Winter bluegrass: Bulbous bluegrass	
Wood bluegrass	<i>P. nemoralis</i> L.
Bluestem as follows:	
Big bluestem	<i>Andropogon gerardii</i> Vitman
Little bluestem	<i>Schizachyrium scoparium</i> (Michx.) Nash
Sand bluestem	<i>Andropogon hallii</i> Hack.
Yellow bluestem	<i>Bothriochloa ischaemum</i> (L.) Keng var. <i>ischaemum</i>
Broadbean: Horsebean	
Brome as follows:	
Blando brome: Soft chess	
California brome	<i>Bromus carinatus</i> Hook. & Arn. var. <i>carinatus</i>
Harlan brome	<i>B. catharticus</i> Vahl var. <i>elatus</i> (É. Desv.) Planchuelo
Mountain brome	<i>B. carinatus</i> Hook. & Arn. Var. <i>marginatus</i> (Steud.) Barkworth & Anderton
Prairie brome: Rescuegrass	
Smooth brome	<i>B. inermis</i> Leyss
Broomcorn: Sorghum	
Broom millet: Proso millet	
Buckwheat as follows:	
Common buckwheat	<i>Fagopyrum esculentum</i> Moench
Tartary buckwheat	<i>F. tataricum</i> (L.) Gaertn.
Buffalograss	<i>Bouteloua dactyloides</i> (Nutt.) Columbus
Burclover as follows:	
California burclover	<i>Medicago polymorpha</i> L.

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Spotted burclover	<i>M. arabica</i> (L.) Huds.
Burnet, little	<i>Sanguisorba minor</i> Scop.
Canarygrass	<i>Phalaris canariensis</i> L.
Cane: Sorghum	
Carpetgrass	<i>Axonopus fissifolius</i> (Raddi) Kuhlms.
Castorbean	<i>Ricinus communis</i> L.
Charlock: Field mustard	
Chess, soft	<i>Bromus hordeaceus</i> L.
Chickpea	<i>Cicer arietinum</i> L.
Clover as follows:	
Alsike clover	<i>Trifolium hybridum</i> L.
Berseem clover	<i>T. alexandrinum</i> L.
Cluster clover	<i>T. glomeratum</i> L.
Crimson clover	<i>T. incarnatum</i> L.
Egyptian clover: Berseem clover	
Hop clover: suckling clover	
Large hop clover	<i>T. campestre</i> Schreb.
Low hop clover: Large hop clover	
Small hop clover: Suckling clover	
Ladino clover: white clover	
Lappa clover	<i>T. lappaceum</i> L.
Persian clover	<i>T. resupinatum</i> L.
Red clover	<i>T. pratense</i> L.
Rose clover	<i>T. hirtum</i> All.
Strawberry clover	<i>T. fragiferum</i> L.
Subclover	<i>T. subterraneum</i> L.
Subterranean clover: Subclover	
Suckling clover	<i>T. dubium</i> Sibth.
White clover	<i>T. repens</i> L.
Corn* as follows:	
Corn	<i>Zea mays</i> L. subsp. <i>mays</i>
Popcorn	<i>Z. mays</i> L. subsp. <i>mays</i>
Egyptian corn: Sorghum	
Cotton	<i>Gossypium</i> L. spp.
Cowpea*	<i>Vigna unguiculata</i> (L.) Walp. subsp. <i>unguiculata</i>
Dallisgrass	<i>Paspalum dilatatum</i> Poir.
Dichondra	<i>Dichondra repens</i> J.R. Forst. & G. Forst.f
Dogtail, crested	<i>Cynosurus cristatus</i> L.
Dropseed, sand	<i>Sporobolus cryptandrus</i> (Torr.) A. Gray
Durra: Sorghum	
Fenugreek	<i>Trigonella foenum-graecum</i> L.
Fescue as follows:	
Chewings fescue	<i>Festuca rubra</i> L. subsp. <i>commutata</i> Gaud.
Creeping or creeping red fescue: Red fescue	
Hard fescue	<i>F. brevipila</i> Tracey
Meadow fescue	<i>F. pratensis</i> Huds.
Red fescue	<i>F. rubra</i> L. subsp. <i>rubra</i>
Sheep fescue	<i>F. ovina</i> L. var. <i>ovina</i>
Tall fescue	<i>F. arundinacea</i> Schreb.

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Feterita: Sorghum	
Filaree as follows:	
Broadleaf filaree	Erodium botrys (Cav.) Bertol.
Redstem filaree: Alfilaria	
Whitestem filaree	E. moschatum (L.) L'Hér.
Flax	Linum usitatissimum L.
Foxtail, meadow	Alopecurus pratensis L.
Garbanzo: Chickpea	
Goatnut: Jojoba	
Gramma as follows:	
Blue grama	Bouteloua gracilis (Kunth) Lag. ex Griffiths
Side-oats grama	B. curtipendula (Michx.) Torr.
Grasspea Lathyrus sativus L.	
Guar	Cyamopsis tetragonoloba (L.) Taubert
Guayule	Parthenium argentatum A. Gray
Guineagrass	Megathyrus maximus (Jacq.) B. K. Simon & S. W. L.
Jacobs	
Hardinggrass	Phalaris aquatica (L.)
Hemp**: Industrial Hemp	
Heron's bill: Alfilaria	
Horsebean* as follows:	
Horsebean*	Vicia faba L.
Horsebean, small seeded	V. faba L.
Indiangrass, yellow	Sorghastrum nutans (L.) Nash
Industrial Hemp**	Cannabis sativa (L.)
Jojoba	Simmondsia chinensis (Link) C. Schneider
Lentil	Lens culinaris Medik.
Lespedeza as follows:	
Chinese lespedeza: Sericea lespedeza	
Common lespedeza: Striate lespedeza	
Korean lespedeza	Kummerowia stipulacea (Maxim.) Makino
Sericea lespedeza	Lespedeza cuneata (Dum.Cours.) G. Don
Siberia lespedeza	L. juncea (L. f.) Pers.
Striate lespedeza	Kummerowia striata (Thunb.) Schindler
Lotus: Trefoil	
Lovegrass as follows:	
Boer lovegrass	Eragrostis curvula (Schrader) Nees
Lehmann lovegrass	E. lehmanniana Nees
Sand lovegrass	E. trichodes (Nutt.) Alph. Wood
Weeping lovegrass	E. curvula (Schrader) Nees
Lupine* as follows:	
Blue lupine	Lupinus angustifolius L.
White lupine	L. albus L.
Yellow lupine	L. luteus L.
Maize: Corn	
Mangel: Field beet	
Medick as follows:	
Black medick	
Spotted medick: Spotted burclover	Medicago lupulina L.

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Millet as follows:

African millet	<i>Eleusine coracana</i> (L.) Gaertn.
Broomcorn millet: Proso millet	
Foxtail millet	<i>Setaria italica</i> (L.) P. Beauv.
Hog millet: Proso millet	
Japanese millet	<i>Echinochloa frumentacea</i> Link
Pearl millet	<i>Cenchrus americanus</i> (L.) Morrone
Proso millet	<i>Panicum miliaceum</i> L. R. Br.
Ragi millet: African millet	
Milo: Sorghum	
Molassesgrass	<i>Melinis minutiflora</i> P. Beauv.
Mustard* as follows:	
Black mustard	<i>Brassica nigra</i> (L.) Koch
Field mustard	<i>Sinapis arvensis</i> L.
India mustard	<i>Brassica juncea</i> (L.) Czern j. & Coss.
White mustard	<i>Sinapis alba</i> L.
Napiersgrass	<i>Cenchrus purpureus</i> (Schumach.) Morrone
Natalgrass	<i>Melinis repens</i> (Willd.) Zizka
Needlegrass: Stipa	
Oat	<i>Avena sativa</i> L., <i>A. byzantina</i> K. Koch & <i>A. nuda</i> L.
Oatgrass, tall	<i>Arrhenatherum elatius</i> (L.) P. Beauv. ex J.S. Presl & C. Presl.
Orchardgrass	<i>Dactylis glomerata</i> L.
Panicgrass as follows:	
Blue panicgrass	<i>Panicum antidotale</i> Retz.
Green panicgrass: Guineagrass	
Pea as follows:	
Field pea	<i>Pisum sativum</i> L.
Blackeye or blackeyed pea: Cowpea	
Peanut	<i>Arachis hypogaea</i> L.
Pigeonpea	<i>Cajanus cajan</i> (L.) Huth
Pigweed: Amaranth	
Plantain, buckhorn	<i>Plantago lanceolata</i> L.
Popcorn: see Corn	
Poa trivialis: Rough bluegrass	
Rape as follows	
Annual rape	<i>Brassica napus</i> L. subsp. <i>napus</i> f. <i>annua</i> (Schübl. & G. Martens) Thell.
Annual turnip rape: Bird rape	
Bird rape	<i>B. rapa</i> L. subsp. <i>rapa</i>
Biennial turnip rape	<i>B. rapa</i> L. subsp. <i>rapa</i>
Turnip rape	<i>B. rapa</i> L. subsp. <i>oleifera</i> (DC.) Metzg.
Winter rape	<i>B. napus</i> L. subsp. <i>napus</i> f. <i>napus</i>
Redtop	<i>Agrostis gigantea</i> Roth
Rescuegrass	<i>Bromus catharticus</i> M. Vahl
Rhodesgrass	<i>Chloris gayana</i> Kunth
Rice	<i>Oryza sativa</i> L.
Ricegrass, Indian	<i>Achnatherum hymenoides</i> (Roem. & Schultes) Barkworth

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Roughpea	<i>Lathyrus hirsutus</i> L.
Rye	<i>Secale cereale</i> L.
Ryegrass as follows:	
Annual ryegrass	<i>Lolium multiflorum</i> Lam.
Italian ryegrass: Annual ryegrass	
Intermediate ryegrass	<i>Lolium x hybridum</i> Hausskn.
Perennial ryegrass	<i>L. perenne</i> L.
Wimmera ryegrass	<i>L. rigidum</i> Gaud.
Safflower	<i>Carthamus tinctorius</i> L.
Sainfoin	<i>Onobrychis viciifolia</i> Scop.
Sesame	<i>Sesamum indicum</i> L.
Sesbania	<i>Sesbania exaltata</i> (Raf.) Rydb.
Smilgrass	<i>Oloptum miliaceum</i> (L.) Röser & Hamasha
Sorghum	<i>Sorghum bicolor</i> (L.) Moench
Sourclover	<i>Melilotus indicus</i> (L.) All.
Southernpea: Cowpea	
Soybean*	<i>Glycine max</i> (L.) Merr.
Stipa as follows:	
Nodding stipa	<i>Nassella cernua</i> (Stebbins & Å. Loöve) Barkworth
Purple stipa	<i>N. pulchra</i> (A. Hitchc.) Barkworth
Sudangrass	<i>Sorghum x drummondii</i> (Nees ex Steud.) Millsp. & Chase
Sulla	<i>Hedysarum coronarium</i> L.
Sunflower*	<i>Helianthus annuus</i> L.
Sweetclover as follows:	
White sweetclover	<i>Melilotus albus</i> Medik.
Yellow sweetclover	<i>M. officinalis</i> (L.) Lam.
Switchgrass	<i>Panicum virgatum</i> L.
Tangier-pea	<i>Lathyrus tingitanus</i> L.
Timothy	<i>Phleum pratense</i> L.
Tobacco	<i>Nicotiana tabacum</i> L.
Trefoil as follows:	
Big trefoil	<i>Lotus uliginosus</i> Schkuhr
Birdsfoot trefoil	<i>L. corniculatus</i> L.
Triticale	<i>x Triticosecale</i> Wittm. spp. (<i>Secale x Triticum</i>)
Vaseygrass	<i>Paspalum urvillei</i> Steud.
Veldtgrass	<i>Ehrharta calycina</i> J.E. Smith
Velvetbean	<i>Mucuna pruriens</i> (L.) DC. var. <i>utilis</i> (Wallich ex Wight) Baker ex Burck
Velvetgrass	<i>Holcus lanatus</i> L.
Vernalgrass as follows:	
Annual vernalgrass	<i>Anthoxanthum aristatum</i> Boiss.
Sweet vernalgrass	<i>A. odoratum</i> L.
Vetch as follows:	
Bard vetch	
Blackpod vetch: Narrowleaf vetch	
Calcarata vetch: Bard vetch	
Common vetch	<i>V. sativa</i> L. subsp. <i>sativa</i>
Hairy vetch	<i>V. villosa</i> Roth subsp. <i>villosa</i>

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Hungarian vetch	V. pannonica Crantz
Monantha vetch	V. articulata Hornem.
Narrowleaf vetch	V. sativa L. subsp. nigra (L.) Ehrh.
Oneflower vetch: Monantha vetch	
Purple vetch	V. benghalensis L.
Single flower vetch: Monantha vetch	
Winter vetch	V. villosa Roth subsp. varia (Host) Corb.
Woollypod vetch: Winter vetch	
Wheat as follows:	
Common wheat	Triticum aestivum L.
Club wheat	T. compactum Host
Durum wheat	T. durum Desf.
Polish wheat	T. polonicum L.
Poulard wheat	T. turgidum L.
Wheat x Agrotriticum	Triticum x Agrotriticum
Wheatgrass as follows:	
Beardless wheatgrass	Pseudoroegneria spicata (Pursh) Á. Löve
Crested or fairway crested wheatgrass	Agropyron cristatum (L.) Gaertn.
Crested or standard crested wheatgrass	A. desertorum (Fischer ex Link) Schultes
Intermediate wheatgrass	Thinopyrum intermedium (Host) Barkw. & D.R. Dewey subsp. intermedium
Pubescent wheatgrass	T. intermedium (Host) Barkw. & D.R. Dewey subsp. barbulatum (Schur) Barkw. & D.R. Dewey (Willd.) Meld.
Siberian wheatgrass	Agropyron fragile (Roth) Candargy subsp. sibiricum
Slender wheatgrass	Elymus trachycaulus (Link) Gould ex Shinn. subsp. trachycaulus
Streambank wheatgrass	E. lanceolatus (Scribn. & J.G. Smith) Gould subsp. lanceolatus
Tall wheatgrass	Thinopyrum ponticum (Podp.) Barkworth & D. R. Dewey
Western wheatgrass	Pascopyrum smithii (Rydb.) Barkworth & D. R. Dewey
Wildrice, annual	Zizania palustris L.
Wildrye as follows:	
Canada wildrye	Elymus canadensis L.
Russian wildrye	Psathyrostachys juncea (Fischer) Nevski

** Industrial hemp” means a crop that is limited to types of the plant Cannabis sativa L. as defined in Section 81000 (d) of the Food and Agricultural Code and subject to the provisions of Division 24 of the Food and Agricultural Code and Title 3, subdivision 4, chapter 8 of the California Code of Regulations.

(b) Vegetable Seeds*

Anise as follows:

Anise

Pimpinella anisum L.

Sweet anise: Florence fennel

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Artichoke	<i>Cynara cardunculus</i> L. subsp. <i>cardunculus</i>
Arugula	<i>Eruca sativa</i> Mill.
Asparagus	<i>Asparagus officinalis</i> Baker
Balm, lemon	<i>Melissa officinalis</i> L.
Basil, sweet	<i>Ocimum basilicum</i> L.
Bean* as follows:	
Adzuki bean	<i>Vigna angularis</i> (Willd.) Ohwi & H. Ohashi
Asparagus bean: Yard-long bean	
Bell bean: Horsebean, small seeded	
Blackeye or blackeyed bean: Cowpea	
Fava bean: Horsebean	
Garden bean	<i>Phaseolus vulgaris</i> L.
Lima bean	<i>P. lunatus</i> L.
Runner or Scarlet runner bean	<i>P. coccineus</i> L.
Snap bean: Garden bean	
String bean: Garden bean	
Yard-long bean	<i>Vigna unguiculata</i> (L.) Walp. subsp. <i>sesquipedalis</i> (L.) Verdc.
Beet*	<i>Beta vulgaris</i> L.
Borage	<i>Borago officinalis</i> L.
Borecole: Kale	
Broadbean: Horsebean	
Broccoli	<i>Brassica oleracea</i> L. var. <i>botrytis</i> L.
Brussels sprouts	<i>B. oleracea</i> L. var. <i>gemmifera</i> DC.
Burdock, great	<i>Arctium lappa</i> L.
Cabbage as follows:	
Cabbage	<i>Brassica oleracea</i> L. var. <i>capitata</i> L.
Celery cabbage: Pak choi	
Cabbage, Chinese	<i>B. rapa</i> L. subsp. <i>pekinensis</i> (Lour.) Hanelt
Cabbage, Tronchuda	<i>B. oleracea</i> L. var. <i>costata</i> DC.
Cantaloupe: Melon	
Caraway	<i>Carum carvi</i> L.
Cardoon	<i>Cynara cardunculus</i> L. subsp. <i>flavescens</i> Wiklund
Carrot	<i>Daucus carota</i> L. subsp. <i>sativus</i> (Hoffm.) Arcang.
Catnip	<i>Nepeta cataria</i> L.
Cauliflower	<i>Brassica oleracea</i> L. var. <i>botrytis</i> L.
Celeriac	<i>Apium graveolens</i> L. var. <i>rapaceum</i> (Mill.) Gaud.
Celery	<i>A. graveolens</i> L. var. <i>dulce</i> (Mill.) Pers.
Chard, Swiss	<i>Beta vulgaris</i> L. subsp. <i>cicla</i> (L.) Koch
Chervil as follows:	
Chervil	<i>Anthriscus cerefolium</i> (L.) Hoffm.
Turnip-rooted chervil	<i>Chaerophyllum bulbosum</i> L.
Chicory	<i>Cichorium intybus</i> L.
Chives	<i>Allium schoenoprasum</i> L.
Citron	<i>Citrullus lanatus</i> (Thunb.) Matsum. & Nakai var. <i>citroides</i> (L.H. Bailey) Mansf.
Collards	<i>Brassica oleracea</i> L. var. <i>viridis</i> L.
Coriander	<i>Coriandrum sativum</i> L.
Corn	<i>Zea mays</i> L.

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Cornsalad as follows: European cornsalad	<i>Valerianella locusta</i> (L.) Laterrade
Italian cornsalad	<i>V. eriocarpa</i> Desv.
Cowpea	<i>Vigna unguiculata</i> (L.) Walp. subsp. <i>unguiculata</i>
Cress as follows: Cress, garden Cress, upland	<i>Lepidium sativum</i> L. <i>Barbarea verna</i> (Mill.) Asch.
Cucumber	<i>Cucumis sativus</i> L.
Cumin	<i>Cuminum cyminum</i> L.
Dandelion	<i>Taraxacum officinale</i> Wigg.
Dill	<i>Anethum graveolens</i> L.
Eggplant	<i>Solanum melongena</i> L.
Endive	<i>Cichorium endivia</i> L.
Escarole: Endive	
Fennel as follows: Fennel Fennel, Florence	<i>Foeniculum vulgare</i> Mill. var. <i>dulce</i> Batt. & Trab. <i>F. vulgare</i> Mill. var. <i>azoricum</i> (Mill.) Thell.
Fetticus: European cornsalad	
Finnocchio: Florence fennel	
Gherkin	<i>Cucumis anguria</i> L.
Horsebean* as follows: Horsebean Horsebean, small seeded	<i>Vicia faba</i> L. <i>V. faba</i> L.
Kale as follows: Kale Chinese kale Sea kale Siberian kale	<i>Brassica oleracea</i> L. var. <i>viridis</i> L. <i>B. oleracea</i> L. var. <i>alboglabra</i> (L. Bailey) Musil <i>Crambe maritima</i> L. <i>Brassica napus</i> L. var. <i>pabularia</i> (DC.) Reichb. <i>B. oleracea</i> L. var. <i>gongylodes</i> L.
Kohlrabi	<i>Allium porrum</i> L.
Leek	<i>Lactuca sativa</i> L.
Lettuce	
Marjoram as follows: Marjoram, sweet Marjoram, wild: Oregano	<i>Origanum majorana</i> L.
Melon	<i>Cucumis melo</i> L.
Muskmelon: Melon	
Mustard as follows: India mustard Spinach mustard	<i>Brassica juncea</i> (L.) Czernj. & Coss. <i>B. rapa</i> L. var. <i>perviridis</i> L.H. Bailey
Napa: Chinese cabbage	
Okra	<i>Abelmoschus esculentus</i> (L.) Moench
Onion as follows: Onion Onion, Welsh	<i>Allium cepa</i> L. <i>A. fistulosum</i> L.
Oregano	<i>Origanum vulgare</i> L.
Oysterplant: Salsify	
Pak-choi	<i>Brassica rapa</i> L. subsp. <i>chinensis</i> (L.) Hanelt
Parsley	<i>Petroselinum crispum</i> (Mill.) Nyman ex A.W. Hill

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Parsnip	<i>Pastinaca sativa</i> L.
Pea as follows:	
Pea	<i>Pisum sativum</i> L.
Blackeye or blackeyed pea: Cowpea	
Pepper	<i>Capsicum</i> L. spp.
Pe-tsai: Chinese cabbage	
Pumpkin	<i>Cucurbita pepo</i> L., <i>C. moschata</i> (Duchesne) Poiret, & <i>C. maxima</i> Duchesne
Radish	<i>Raphanus sativus</i> L.
Rhubarb	<i>Rheum rhabarbarum</i> L. spp.
Rocket salad: Arugula	
Roquette: Arugula	
Rosemary	<i>Rosmarinus officinalis</i> L.
Rugula: arugula	
Rutabaga	<i>Brassica napus</i> L. var. <i>napobrassica</i> (L.) Reichb.
Sage	<i>Salvia officinalis</i> L.
Salad rocket: Arugula	
Salsify	<i>Tragopogon porrifolius</i> L.
Savory as follows:	
Summer savory	<i>Satureja hortensis</i> L.
Winter savory	<i>S. montana</i> L.
Sorrel	<i>Rumex acetosa</i> L.
Soybean*	<i>Glycine max</i> (L.) Merrill
Spinach as follows:	
Spinach	<i>Spinacia oleracea</i> L.
Spinach, New Zealand	<i>Tetragonia tetragonioides</i> (Pall.) Kuntze
Squash	<i>Cucurbita pepo</i> L., <i>C. moschata</i> (Duchesne) Poiret, & <i>C. maxima</i> Duchesne
Thyme	<i>Thymus vulgaris</i> L.
Tomato as follows:	
Tomato	<i>Solanum lycopersicum</i> L.
Tomato, husk	<i>Physalis pubescens</i> L.
Turnip	<i>Brassica rapa</i> L. subsp. <i>rapa</i>
Wall-rocket as follows:	
Annual wall-rocket	<i>Diplotaxis muralis</i> (L.) DC.
Perennial wall-rocket	<i>D. tenuifolia</i> (L.) DC.
Watercress	<i>Nasturtium officinale</i> W.T. Aiton
Watermelon	<i>Citrullus lanatus</i> (Thunb.)

*Species marked with asterisk are included as vegetable seeds in Schedule I(b) only as to varieties generally known and sold under the names of vegetable seeds.

Note Authority cited: Sections 407 and 52332, Food and Agricultural. Reference: Section 52332, Food and Agricultural Code.

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3900. Schedule II. Vegetable Seed Germination Standards.

	Percent		Percent
Artichoke	60	Kale	75
Asparagus	70	Kale, Chinese	75
Asparagus bean	75	Kohlrabi	75
Bean, Lima	70	Leek	60
Bean, runner	75	Lettuce	80
Beans, garden	70	Muskmelon	75
Beet	65	Mustard	75
Broadbean	75	Mustard, Spinach	75
Broccoli	75	Okra	50
Brussels sprouts	70	Onion	70
Cabbage	75	Onion, Welsh	70
Cantaloupe (see Muskmelon)		Pak-choi	75
Cardoon	60	Parsley	60
Carrot	55	Parsnip	60
Cauliflower	75	Pea	80

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Celeriac	55	Pepper	55
Celery	55	Pumpkin	75
Chard, Swiss	65	Radish	75
Chicory	65	Rhubarb	60
Chinese Cabbage	75	Rutabaga	75
Citron	65	Salsify	75
Collards	80	Sorrel	60
Corn, sweet	75	Soybean	75
Cornsalad	70	Spinach	60
Cowpea	75	Spinach, New Zealand	40
Cress, garden	60	Squash	75
Cress, water	40	Tomato	75
Cucumber	80	Tomato, husk	50
Dandelion	45	Turnip	80
Eggplant	60	Watermelon	70
Endive	70		
All other vegetable seed not listed above			50

Note: Authority cited: Sections 407 and 52331, Food and Agricultural Code. Reference: Section 52331, Food and Agricultural Code.

3901. Schedule III. Agricultural and Vegetable Seeds Classed As Weed Seeds When Occurring Incidentally in Agricultural Seeds.*

<i>Common Name</i>	<i>Botanical Name</i>
Amaranth	<i>Amaranthus</i> spp
Buckwheat, tartary	<i>Fagopyrum tataricum</i> Gaertn.
Carrot	<i>Daucus carota</i> L.
Chess, soft	<i>Bromus mollis</i> L
Chicory	<i>Cichorium intybus</i> L.
Dandelion	<i>Taraxacum officinale</i> Weber
Filaree	<i>Erodium</i> spp.
Grass	
Annual bluegrass	<i>Poa annua</i> L.
Bermuda grass	<i>Cynodon</i> spp.
Blue panicgrass	<i>Panicum antidotal</i> Retz
Sand dropseed	<i>Sporobolus cryptandrus</i> (Torr.) A. Gray
Velvetgrass	<i>Holcus lanatus</i> L.
Mallow, little	<i>Malva parviflora</i> L.
Mustard	
Black mustard	<i>Brassica nigra</i> (L.) Koch
Common yellow mustard	<i>B. Rapa</i> L.
Field mustard	<i>B. Kaber</i> (DC.) L. C. Wheeler
India mustard	<i>B. juncea</i> (L.) Coss.
Plantain, buckhorn	<i>Plantago lanceolata</i> L.
Radish	<i>Raphanus sativus</i> L.
Sesbania	<i>Sesbania exaltata</i> (Raf.) Rydb.
Sunflower	<i>Helianthus annuus</i> L.

* See Section 3853.

Note: Authority cited: Sections 407 and 52332, Food and Agricultural Code. Reference: Section 52332, Food and Agricultural Code.

Article 9. Registration and Assessment

3906. Assessment Fees.

The Secretary pursuant to sections 52331, 52354, and 52354.5 of the Food and Agricultural Code, hereby establishes an annual assessment of \$0.30 per one-hundred dollars (\$100) gross annual

dollar volume sales of agricultural and/or vegetable seed in this State for the preceding fiscal year as defined in section 52352 of the Food and Agricultural Code. Such assessment shall be paid to the Secretary within one calendar month of July 1

for the preceding fiscal year. If not paid within the time allotted, a penalty of 10% of the assessment fee due shall be added.

Note: Authority cited: Sections 407, 52331 and 52354.5, Food and Agricultural Code. Reference: Sections 52331, 52352 and 52354, Food and Agricultural Code.

Article 10. Seed Complaint Mediation

3915. Mediation of Complaints Required.

Use and completion of the complaint meditation procedures set forth in this article is a prerequisite to pursuing other dispute resolution mechanisms against a seed labeler when seed planted in California fails to conform to the label statements required by Sections 52452 and 52453 of the Food and Agricultural Code. Only those completing the complaint process are eligible to pursue other dispute resolution mechanisms except as otherwise provided.

(a) The complaint process requires the filing of a complaint followed by an investigation by the Secretary. At the conclusion of the investigation, mediation may be requested.

(b) Mediation as used in this article shall mean an alternative dispute resolution process which utilizes a neutral third party who facilitates the resolution of a dispute between parties. The mediator does not make a decision or an award. Resolution of a dispute that is mediated occurs when an agreement is reached between the complainant and the respondent.

(c) The Secretary may terminate the complaint mediation procedure and issue an Order of the Secretary stating that the requirement of Section 52332(f) of the Food and Agricultural Code has not been met if the person alleging damage to a crop (designated herein as complainant):

- (1) fails to maintain the crop until notification of release;
- (2) withdraws the complaint at any time;
- (3) refuses to cooperate in the investigation;
- (4) fails to request mediation after receipt of the report of investigation; or
- (5) fails to appear at the mediation hearing without reasonable cause.

(d) The Secretary may release the complainant to pursue other dispute resolution mechanisms by issuing an Order of the Secretary stating that the requirement of Section 52332(f) has been met if the seller or labeler of the seed (designated herein as respondent):

- (1) fails to file an answer;
- (2) refuses to cooperate in the investigation procedure;
- (3) fails to agree to mediation; or
- (4) fails to appear at the mediation hearing without reasonable cause.

Note: Authority cited: Sections 407 and 52332, Food and Agricultural Code. Reference: Section 52332, Food and Agricultural Code.

3915.1. Mediation Notice.

The following notice shall appear upon every label of agricultural or vegetable seed except as provided in Section 3867:

Notice arbitration/conciliation/mediation required by several states under the seed laws of several states, arbitration, mediation or conciliation is required as a prerequisite to maintaining a legal action based upon the failure of seed to which this notice is attached to produce as represented. The consumer shall file a complaint (sworn for AR, FL, IN, MS, SC, TX, WA; signed only CA, ID, ND, SD) along with the required filing fee (where applicable) with the Commissioner/Director/Secretary of Agriculture, Seed Commissioner, or Chief Agricultural Officer within such time as to permit inspection of the crops, plants or trees by the designated agency and the seedman from whom the seed was purchased. A copy of the complaint shall be sent to the seller by certified or registered mail or as otherwise provided by state statute.

Note: Authority cited: Sections 407 and 52332, Food and Agricultural Code. Reference: Section 52332, Food and Agricultural Code.

3916. Complaint Procedures.

In order to make a formal complaint and seek mediation of a dispute as required by Section 3915, the complainant shall file a complaint within such time as to permit inspection of the crop by the Secretary and the respondent.

(a) To file a complaint, the complainant shall:

(1) File a written complaint with the Secretary giving the following information:

(A) the complainant's name, address and telephone number;

(B) the nature of the complaint and the alleged causes thereof;

(C) evidence of purchase and the label of the seed used to plant the affected crop (copies are acceptable, but originals must be presented upon demand by the Secretary during the investigation or mediation); and

(D) accurate and complete directions to locate the affected crop;

(2) forward a copy of the written complaint to the respondent by certified or registered mail, at the time of filing;

(3) pay to the Department of Food and Agriculture a nonrefundable filing fee of two hundred and fifty dollars (\$250), at the time of filing in accordance with Section 52321 of the Food and Agricultural Code; and

(4) maintain the crop alleged to be damaged in the field until notified of release by the Secretary. The Secretary may require the complainant to maintain a representative portion of the crop. Designation of a representative portion by the Secretary shall be made within seven (7) days after receipt of the complaint.

(b) Within seven (7) calendar days after receipt of the copy of the written, filed complaint, the respondent shall file with the Secretary a written answer to the complaint and send a copy of the answer to the complainant by certified mail.

(c) The Secretary shall review the complaint to determine if the complaint is within the scope of Section 52332(f) of the Food and Agricultural Code and has been filed in accordance with this

section. Within ten (10) calendar days of receipt of the respondent's written answer, the Secretary shall notify both parties in writing of the acceptance or the reason for rejection of the complaint.

Note: Authority cited: Sections 407 and 52332, Food and Agricultural Code. Reference: Section 52332, Food and Agricultural Code.

3917. Investigation Procedures.

Upon review and acceptance of a complaint, the Secretary shall initiate an investigation of the complaint.

(a) Within seven (7) calendar days, the Secretary shall appoint an investigational committee whose

purpose is to assist the Secretary in conducting the investigation, make recommendations, offer opinions, and file an investigational report with the Secretary. Each investigational committee shall be composed of four disinterested members as follows: one member shall be the Secretary's designee, who shall serve as chairperson of all investigational committees and who shall make and maintain the file of each committee's investigations and opinions; one member, plus an alternate, shall be a County Agricultural Commissioner in whose county there is production of the kind of crop under consideration; one member, plus an alternate, shall be engaged primarily in the production and/or sale of the kind of seed cited in the complaint; and one member, plus an alternate, shall be a user of such seed.

(1) Members of each investigational committee shall serve until dismissed by the Secretary or until the report of investigation is filed with the Secretary, whichever occurs first. Alternates shall serve only in the absence of their respective members.

(2) Committee members shall receive no compensation for the performance of their duties but may receive per diem and mileage as authorized by law.

(3) Each committee may be called into session by the chairperson to consider matters referred to it. The chairperson shall conduct all meetings and deliberations held by the committee.

(b) The Secretary shall make a full and complete investigation of the matters complained of, including, but not limited to, an inspection of the crop in the field. The investigation shall be completed within sixty (60) days of the receipt of the complaint unless the investigation requires a growout or other procedure which cannot be completed within that time; in such case, the Secretary shall notify the complainant and respondent in writing stating the reasons for the extension.

(c) In conducting the investigation, the Secretary may:

(1) require the parties to provide pertinent records;

(2) require testimony under oath or statements under penalty of perjury;

(3) cause to be tested or grown to production a representative sample of seed under the supervision of the Secretary;

(4) obtain assistance from qualified experts; and

(5) investigate any other matters relative to the complaint.

(d) The chairperson shall file with the Secretary the committee's written report of investigation along with the investigation file within thirty (30) days after the conclusion of the investigation of the complaint. The Secretary shall transmit the report by certified mail to the complainant and to the respondent. The file, including the report of investigation, shall be maintained by the Secretary for a period of five (5) years.

Note: Authority cited: Sections 407 and 52332, Food and Agricultural Code. Reference: Section 52332, Food and Agricultural Code.

3918. Mediation Procedures.

If, during the course of the investigation, the complainant and respondent have not resolved the disputed complaint, the complainant may request mediation.

(a) To request mediation of the disputed complaint the complainant shall:

(1) file a written request for mediation with the Secretary within ten (10) days after the receipt of the investigation report; and

(2) forward a copy of the request for mediation to the respondent by certified mail.

(b) Within seven (7) days after receipt of the request for mediation, the Secretary shall:

(1) appoint a mediator from within the Department or by contract with outside mediation services; and

(2) set a time and place for the mediation hearing. The mediation hearing shall begin within thirty (30) days after the request for mediation and shall take place in the county in which the crop alleged to be damaged was grown unless other arrangements are agreed to by the complainant and the respondent.

(c) The Secretary may declare an impasse if the mediator determines that either party fails to be responsive to the mediation process during the mediation hearing.

(d) The mediator shall file a report with the Secretary within seven (7) days after completion of the mediation hearing and transmit same by certified mail to the complainant and respondent.

(e) Within seven (7) days after receipt of the mediator's report, the complainant and respondent shall file with the Secretary written notice of acceptance or rejection of the mediation. Upon completion of mediation or declared impasse, the prerequisite requirement as specified in Section 52332(f) of the Food and Agricultural Code shall be satisfied.

Note: Authority cited: Sections 407 and 52332, Food and Agricultural Code. Reference: Section 52332, Food and Agricultural Code.

Chapter 7. Miscellaneous Rulings
Subchapter 1. Service Charges

4600. General Provisions.

(a) The department may provide analytical, diagnostic, inspection, testing and other non-regulatory services related to nursery stock, plants, seed, or other plant pests and diseases on a charge-for-service basis.

(b) Service charges may include the approximate hourly labor costs of the involved departmental staff, including prorated staff benefits and departmental overhead costs, the cost of any shipping, handling, supplies, equipment and materials; and mileage, travel and per diem pursuant to the State's per diem travel rules, and required to provide the service.

(c) This subchapter establishes the department's schedule of charges as provided in Sections 5851 and 5852, Food and Agricultural Code.

(g) The client may establish an account with the department from which fees for services rendered by the department may be debited or the service charges established by this subchapter shall be payable after the service has been provided and billed by the department.

(h) Payments not received within 30 calendar days of the date of billing shall be considered late. Payments post-marked on the 30th calendar day shall be considered to be on time. Once late, a late charge of 10% of the total amount billed or amount unpaid shall be assessed and added to the bill.

(i) The department may refuse services for any client who has not paid a previously submitted bill or when there is a lack of qualified staff to provide requested service.

Note: Authority: Sections 407, 5851 and 5852, Food and Agricultural Code. Reference: Sections 407, 5851 and 5852, Food and Agricultural Code.

4602. Payment for Services Provided.

(a) The department shall establish a schedule of charges for the services described in this subchapter based upon the approximate cost of the service rendered.

(b) The department may charge additional fees, upon approval by the client, when due to conditions, or number of samples and/or determinations made, the fees established will not cover the cost of the service as described.

(c) A client may request a refund of any funds that the client deposited in an account with the department.

Note: Authority: Sections 407, 5851 and 5852, Food and Agricultural Code. Reference: Sections 407, 5851 and 5852, Food and Agricultural Code.

4603. Schedule of Charges.

The Secretary of Food and Agriculture, pursuant to Section 5852 of the Food and Agricultural Code, establishes the following schedule of charges for analytical, certification, diagnostic, inspection, quality assurance, testing and other non-regulatory services related to nursery stock, plants, seed, or other plant pests and diseases.

(a) The hourly charge for requested diagnostics or scientific consultations which require travel is \$70 per hour portal to portal with a one hour minimum charge, plus any car mileage, air fare, meals and lodging pursuant to the State's per diem travel rules.

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(b) The hourly charge for requested onsite laboratory diagnostics or scientific consultations is \$70 per hour and a minimum of 1/4 hour administrative time for data entry, generating and tracking invoices, and creating laboratory analysis reports.

(d) Prior to charging for a specific requested service, the fee schedule for that service shall be posted to the following departmental website: www.cdfa.ca.gov/plant/ppd/feeschedule.html. In order to provide notice to those requesting services, proposed changes to the fee schedule will be posted to the departmental website 15 days before they take effect. A short explanation of why the fees are changing will accompany the proposed fee changes during the 15 day notice period.