



## **NOTICE OF PUBLIC RULEMAKING HEARING**

### **FOR AMENDMENTS TO**

### **Rules Pertaining to “Administration and Enforcement of the Colorado Seed Act”**

### **8 CCR 1203-6, Parts 2 and 20.9**

Notice is hereby given pursuant to § 24-4-103 C.R.S. that the Department of Agriculture will hold a public rulemaking hearing:

DATE: August 17, 2020  
TIME: 10:00 am  
LOCATION: This hearing will be held by telephone.  
CALL INFORMATION: 1-617-675-4444 PIN: 267 738 524 1274#

In order to maintain a proper hearing record you are encouraged to pre-register by completing this [Google form](#). If you do not have access to Google you may send your name and telephone number to [Jenifer.Gurr@state.co.us](mailto:Jenifer.Gurr@state.co.us). Pre-registration is not required to participate in the hearing.

The purpose of this rulemaking is to align the rules with fees now set in statute.

The statutory authority for these rules is § 35-27-114(1)(b) C.R.S.

Any interested party may file written comment with the Commissioner's office prior to the hearing, or present at the aforementioned hearing written data, views or arguments. Emailed comments should be sent to the hearing officer at [Jenifer.Gurr@state.co.us](mailto:Jenifer.Gurr@state.co.us). A copy of the proposed rule is available on the Department of Agriculture's website at [www.colorado.gov/ag](http://www.colorado.gov/ag) or may be obtained by calling 303-869-9004. The proposed rule shall be available for public inspection at the Colorado Department of Agriculture at 305 Interlocken Parkway, Broomfield, Colorado during regular business hours.



*Editing comments: Changes to this rule are indicated in ~~strike~~through for removal and underline for additions. If you are able to view this document in color the changes are also indicated in red. Changes as a result of the rulemaking hearing are indicated in blue.*

## DEPARTMENT OF AGRICULTURE

### Plant Industry Division

#### ADMINISTRATION AND ENFORCEMENT OF THE COLORADO SEED ACT

##### 8 CCR 1203-6

###### Part 1. DEFINITION AND CONSTRUCTION OF TERMS.

###### Part 2. THE REGISTRATION SYSTEM.

- 2.1. Each applicant for a registration shall submit a signed, complete, accurate, and legible application, on a form provided by the Commissioner, which shall include, at a minimum: the name and address of the business, the name under which the business will operate (the doing business as name), the name of the person who is the primary contact, the address and telephone number of the location where the records are to be kept, and any other information required on the form.
- 2.2. In addition to the form approved by the Commissioner, each applicant for a registration or applicant for renewal of a registration, shall submit the registration fee set by the Commissioner. If the registration fee does not accompany the application, the application for registration or renewal of a registration may be denied.
- 2.3. Repealed.
- 2.4. Each applicant shall submit to the Commissioner the name under which the business will operate. If the registrant operates under more than one name, each such name shall be listed with the Commissioner.
- 2.5. The annual registration fee for seed labelers shall be ~~\$519.00~~\$519.00.
- 2.6. The annual registration fee for custom seed conditioners shall be ~~\$519.00~~\$519.00.
- 2.7. The annual registration fee for farmer seed labelers shall be ~~\$130.00~~\$130.00.
- 2.8. The annual registration fee for retail seed dealers shall be ~~\$130.00~~\$130.00.
- 2.9. The annual registration fee for a second business location for seed labelers and custom seed conditioners shall be \$75.00.
  - 2.9.1. ~~The annual registration fee for a second business location for farmer seed labelers and retail dealers shall be \$43.00~~\$43.00.
  - 2.9.2. The annual registration fee for a second business location for retail seed dealers shall be \$43.00.
- 2.10. Each applicant for renewal of a registration shall annually submit a signed, complete, accurate, and legible application on a form provided by the Commissioner, which shall include, at a minimum: the name and address of the business, the name of the person who is the primary contact, the address and telephone number of the location where the records are to be kept, and any other information required on the form.

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2.11. A registrant who conducts business at two or more business locations shall obtain a registration for each location at which it employs one or more permanent employees engaged in the business for which the registrant is registered. For purposes of this paragraph, “business locations” means any physical location at or through which the functional operations of business regularly occur, including, but not limited to, financial transactions, arrangement of contracts, or assignment of work, and excluding buildings or locations used solely for storage of equipment or supplies or telephone answering services.

**Part 3. LABEL REQUIREMENTS FOR AGRICULTURAL, VEGETABLE, AND FLOWER SEEDS.**

**Part 4. LABELING KIND AND VARIETY OR TYPE AND PERFORMANCE CHARACTERISTICS OF FLOWER SEED.**

**Part 5. KINDS OF FLOWER SEEDS SUBJECT TO GERMINATION LABELING REQUIREMENTS AND GERMINATION STANDARDS FOR FLOWER SEEDS.**

**Part 6. LABEL REQUIREMENTS FOR TREE AND SHRUB SEEDS.**

**Part 8. GERMINATION STANDARDS.**

**Part 9. STACKING AND LABELING OF SEED LOTS BY DEALERS.**

**Part 10. THE SAMPLING OF SEED LOTS.**

**Part 11. ANALYSIS AND TESTING OF SEEDS.**

**Part 12. TOLERANCES.**

**Part 13. SALES OF DISEASE FREE SEED BEANS.**

**Part 14. INCORPORATION BY REFERENCE.**

**Part 15. RECORDS REQUIRED TO BE KEPT.**

**Part 16. PESTICIDE TREATED ALFALFA SEED AND CLOVER SEED.**

**Part 17. RESERVED**

**Part 18. RESERVED**

**Part 19. RESERVED**

**Part 20. STATEMENTS OF BASIS AND PURPOSE.**

**20.9 Adopted September 9, 2020 – Effective October 30, 2020**

Statutory authority

The amendments to these rules are proposed for adoption by the Commissioner of the Colorado Department of Agriculture (“CDA”) pursuant to the authority under the Colorado Seed Act (the “Act”), § 35-27-114(1)(b), C.R.S.

Purpose

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The purpose of the proposed rule amendments is to:

1. Align the rules with fees now set in statue, which fees became effective June 25, 2020.
2. Part 2.5. of these Rules has been revised to reflect the statutory annual registration fee for seed labelers is \$519.00 per year.
3. Part 2.6. of these Rules has been revised to reflect the statutory annual registration fee for custom seed conditioners is \$519.00 per year.
4. Part 2.7. of these Rules has been revised to reflect the statutory annual registration fee for farmer seed labelers is \$130.00 per year.
5. Part 2.8. of these rules has been revised to reflect the statutory annual registration fee for retail seed dealers is \$130.00 per year.
7. Part 2.9.1. of these Rules has been revised to reflect an increase in the annual registration fee for a second business location for farmer seed labelers from \$25.00 per year to \$43.00 per year, as well as to correct non-substantive typographical errors.
8. Part 2.9.2 of these Rules has been added to reflect an increase in the annual registration fee for a second business location for a retail seed dealer from \$25.00 per year to \$43.00 per year.

Factual and Policy Basis Issues

The factual and policy issues encountered when developing these rule amendments include:

1. Section 35-27-125, et seq., C.R.S., was set for repeal on July 1, 2020. Prior to repeal, the Act was scheduled to undergo a sunset review through the Department of Regulatory Agencies (“DORA”), consistent with section 24-34-104, C.R.S. Subsequent to the sunset review, DORA recommended continuation of the Act. The General Assembly reviewed DORA’s recommendations and passed House Bill 20-1184. House Bill 20-1184 continued the Act, and codified into the statute minimum yearly registration fees for each registration category and for certain categories of second business locations.
2. Because the fee provisions in the Act became effective June 25, 2020, the fees described in the Rules were no longer accurate. As such, the Department is revising the Rules to harmonize the Rules to the Act. This will avoid stakeholder confusion with respect to operative fees moving forward.