

**Department of Agriculture, Division of Plant Protection and Weed Control
Notice of Hearing on Proposed
Administrative Regulations, Statewide**

A public hearing will be conducted at 10:00 a.m., Thursday, August 31, 2017, in Room 124 of the Kansas Department of Agriculture, 1320 Research Park Dr., Manhattan, Kansas, to consider the adoption of proposed regulations.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed rules and regulations. All interested parties may submit written comments prior to the hearing to the Secretary of Agriculture, 1320 Research Park Dr., Manhattan, Kansas, 66502, or by e-mail at ronda.hutton@ks.gov. All interested parties will be given a reasonable opportunity to present their views orally on the adoption of the proposed regulations during the hearing. In order to give all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation to five minutes. These regulations are proposed for adoption on a permanent basis. A summary of the proposed regulations and their economic impact follows:

K.A.R. 4-2-3 proposed amendments seek to remove outdated language and clarify the general procedure for sampling seed.

K.A.R. 4-2-8 proposed amendments revise language concerning the methods for analyzing seed samples.

K.A.R. 4-2-21 is proposed new regulation setting registration fees for seed retailers and wholesalers.

K.A.R. 4-2-17a is proposed revocation to eliminate the fees charged by the state seed laboratory.

Economic Impact Statement:

The fees charged for the registration of retail and wholesale seed dealers have not been revised since 1991. Increased fees are necessary due to increased costs and the need to create a self-sustaining program. There are currently no protections against inexpensive, low quality seed with low germination rates being dumped on the market exposing consumers to seed that does not germinate as expected and retailers and wholesalers to seed offered for sale at uncompetitive prices. Minimum germination standards will provide protection against these situations from occurring. The remaining changes remove outdated language and clarify existing language to include terms defined within the regulation. These regulations are not mandated by Federal Law.

The proposed changes do not create any additional costs to the Kansas Department of Agriculture. Changing the retail seed license fee from \$10 to \$30 and the wholesale seed license from \$175 to \$250 will result in an additional \$67,000 in revenue for the department. This additional revenue will be used to pay for the cost of seed inspections at the current inspection level without having to subsidize them from other funds.

The increase in fees, from \$10 to \$30 for retailers and from \$175 to \$250 for wholesalers, will create a financial impact upon those individuals or companies in the business of selling

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agricultural seed. Stakeholders have indicated that the fee increase will not significantly impact their business. KDA will work directly with seed retailers and wholesalers to educate them on the proposed regulations and work with them to implement the changes in a way that will help mitigate any possible financial burden on their operations.

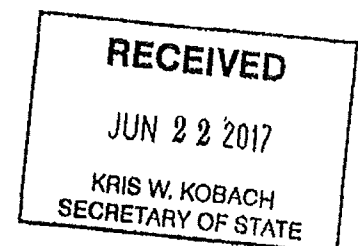
A rejected alternative is not raising licensing fees. Not raising fees will require a decrease in inspection time to match current revenues. That would result in approximately .25 FTE spent on seed inspections across Kansas. This would be an unacceptably low level and would result in negative impact to the consumer and economy.

There are no environmental impacts expected from the proposed changes.

Any individual with a disability may request accommodations in order to participate in the public hearing and may request the proposed regulations and impact statement in an accessible format. Requests for accommodations should be made at least five working days in advance of the hearing by contacting Ronda Hutton at (785) 564-6715 or fax (785) 564-6777. Handicapped parking is located on the west side of the building at 1320 Research Park Drive, Manhattan. The entrance to the building is also on the west side and is accessible to individuals with disabilities.

Copies of the regulations and their economic impact statement may be obtained by contacting the Department of Agriculture, Ronda M. Hutton, 1320 Research Park Drive, Manhattan, KS 66502 or (785) 564-6715 or by accessing the department's Web site at agriculture.ks.gov. Comments may also be made through our website under the proposed regulation.

Jackie McClaskey
Secretary
Kansas Department of Agriculture



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K.A.R. 4-2-3. General Sampling procedure. (a) ~~In order~~ Each of the following terms, as used
in this regulation, shall have the meaning specified in this subsection:

(1) "Free-flowing seed" means any agricultural seed that readily sheds the husks, hulls,
awns, bran, and other plant parts while being conditioned, allowing the seeds to move freely and
independently of each other.

(2) "Non-free-flowing seed" means any agricultural seed that, because of attached husks,
hulls, awns, bran, and other plant parts that do not readily separate from the seed while being
conditioned, tends to bind together, preventing the seeds from moving independently of each
other.

(3) "Seed" means agricultural seed as defined in K.S.A. 2-1415, and amendments thereto.

(b) To secure obtain a representative sample, equal portions shall be taken from evenly
distributed parts of the quantity lot of seed to be sampled based on the type of seed and number
of containers, unless so the seed is stored or piled as to make this in a manner that makes taking a
representative sample impossible or impractical.

(b) (c) For free-flowing seed in bags or bulk, a probe or trier long enough to sample all
portions of the bag should shall be used.

(e) (d) All non-free-flowing seed, such as certain grass seed, uncleaned seed, or
screenings, including uncleaned agricultural seed and chaffy range grasses that are difficult to
sample with a probe or trier, shall be sampled by thrusting the hand into the bulk and
withdrawing representative portions.

(d) (e) The portions collected from a single lot shall be combined into a one or more
composite sample or samples.

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K.A.R. 4-2-3

Page 2 of 2

(e) (f) As the seed is sampled, each portion shall be examined, ~~and, whenever there~~
~~appears to be~~ If a lack of uniformity appears to exist, additional samples shall be taken ~~to show~~
~~such lack of uniformity as may exist~~ to determine whether a lack of uniformity exists.

(Authorized by K.S.A. 2016 Supp. 2-1427; implementing K.S.A. 2-1416 and K.S.A. 2016 Supp.
2-1423; effective Jan. 1, 1966; amended P-_____.)

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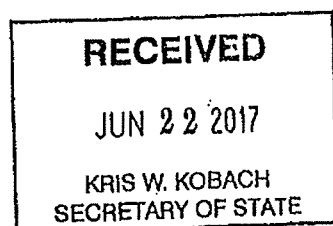
K.A.R. 4-2-8. Methods of analyses. (a) Subject to the provisions of ~~subsection (e)~~ subsections (f), (g), and (h) of this regulation, the methods of analysis shall be those published by the association of official seed analysts in the following sections of volume 1 of the "AOSA rules for testing seeds," ~~excluding the appendices, titled "principles and procedures," including all tables and charts,~~ dated October 1, 2006 2016 and hereby adopted by reference:

- (1) Section 2, analysis of the seed preparation of working samples, except page 2-60;
- (2) section 3, examinations the purity analysis, except page 3-30;
- (3) section 4, germination tests uniform classification of weed and crop seeds; and
- (4) section 5, tolerances examinations;
- (5) section 6, germination tests;
- (6) section 8, tetrazolium testing;
- (7) section 12, mechanical seed counts; and
- (8) section 14, tolerances, except subsection 14.10.

~~Copies of the material adopted by reference may be obtained from the office of the agricultural commodity assurance program, inspections division, of the Kansas department of agriculture.~~

(b) Volume 2 of the association of official seed analysts' "AOSA rules for testing seeds," titled "uniform blowing procedure," revised 2015, is hereby adopted by reference, except page ii, section 1, and section 8.

(c) Volume 3 of the association of official seed analysts' "AOSA rules for testing seeds," titled "uniform classification of weed and crop seeds," revised 2016, is hereby adopted by reference, except pages i-iii and viii-xiv.



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(d) Volume 4 of the association of official seed analysts' "AOSA rules for testing seeds," titled "seedling evaluation," including illustrations, dated 2016, is hereby adopted by reference, except pages i-vi; page 18; the "references" sections on pages 22, 41, 46, 58, 62, 67, 98, 109, and 115; and pages 135-139.

(e) The "AOSA/SCST tetrazolium testing handbook," prepared by the tetrazolium subcommittee of the association of official seed analysts and the society of commercial seed technologists, including tables and illustrations, 2010 edition, is hereby adopted by reference, except pages i-viii; in part 1, subsections 1, 3, 7, and 15.2; part 4; and part 5.

(f) For the purpose of this regulation, the term "noxious-weed seed" used in the material adopted by reference in subsection (a) of this regulation in this regulation shall mean "restricted weed seed" as defined in K.S.A. 2-1415(k) and amendments thereto.

(g) For the purpose of this regulation, the term "purity tolerances" used in the material adopted by reference in this regulation shall mean "the greatest non-significant difference between two values, which may be two estimates or a specification and an estimate."

All other terms used in the material adopted by reference in this regulation shall have the meanings specified in the adopted portions of the "AOSA rules for testing seeds," unless a term is defined by K.S.A. 2-1415 and amendments thereto, in which case the term shall have the meaning specified in that statute.

(e)(h) The following restrictions shall apply in addition to tolerances for the testing of seed found in section 5 14 of the material adopted by reference in subsection (a) paragraph (a)(8) of this regulation:

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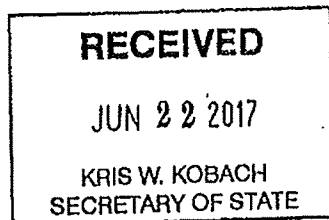
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K.A.R. 4-2-8
Page 3 of 3

(1) Restricted weed seed tolerances shall not exceed the limitations ~~set forth~~ specified in K.S.A. 2-1415~~(4)~~ and amendments thereto.

(2) No tolerance shall be applied to any seed component that is guaranteed as "none" on the label. (Authorized by K.S.A. 2006 2016 Supp. 2-1427; implementing K.S.A. 2016 Supp. 2-1423; effective Jan. 1, 1966; amended May 1, 1983; amended Jan. 1, 1989; amended Dec. 12, 1994; amended Jan. 18, 2008; amended P-_____.)



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K.A.R. 4-2-21. Registration fees for wholesalers and retailers. (a) Each wholesaler shall pay a registration fee of \$250 for each location at which the wholesaler is doing business.

(b) Each retailer shall pay a registration fee of \$30 for each location at which the retailer is doing business.

(c) Each person registering as both a wholesaler and a retailer at the same location shall pay a registration fee of \$280 for each location at which the person is doing business.

(Authorized by K.S.A. 2016 Supp. 2-1421a and 2-1427; implementing K.S.A. 2016 Supp. 2-1421a; effective P-_____.)

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K.A.R. 4-2-17a. (Authorized by K.S.A. 2-1427; implementing K.S.A. 2-1425 as amended by
1989 HB 2133; effective, T-4-7-5-89, July 5, 1989; effective Aug. 14, 1989; revoked P-

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KANSAS DEPARTMENT OF AGRICULTURE
IMPACT STATEMENT
Division of Plant Protection and Weed Control
Proposed Regulations
K.A.R. 4-2-3 and K.A.R. 4-2-8 (Amended)
K.A.R. 4-2-21 (New) and K.A.R. 4-2-17a (Revocation)
Agricultural Seed

I. Summary of Proposed Regulations, Including Its Purpose.

The proposed regulations seek to remove outdated language, clarify the general procedure for sampling seed, revise language concerning the methods for analyzing seed samples, adding a regulation setting registration fees for seed retailers and wholesalers and eliminating a regulation regarding fees charged by the state seed laboratory.

II. Reason(s) The Proposed Regulation Is Required, Including Whether or Not the Regulation Is Mandated By Federal Law.

The fees charged for the registration of retail and wholesale seed dealers have not been revised since 1991. Increased fees are necessary due to increased costs and the need to create a self-sustaining program. There are currently no protections against inexpensive, low quality seed with low germination rates being dumped on the market exposing consumers to seed that does not germinate as expected and retailers and wholesalers to seed offered for sale at uncompetitive prices. Minimum germination standards will provide protection against these situations from occurring. The remaining changes remove outdated language and clarify existing language to include terms defined within the regulation.

These regulations are not mandated by federal law.

III. Anticipated Economic Impact Upon the Kansas Department Of Agriculture.

The proposed changes do not create any additional costs to the Kansas Department of Agriculture. Changing the retail seed license fee from \$10 to \$30 and the wholesale seed license from \$175 to \$250 will result in an additional \$67,000 in revenue for the department. This additional revenue will be used to pay for the cost of seed inspections at the current inspection level without having to subsidize them from other funds.

IV. Anticipated Financial Impact Upon Other Governmental Agencies and Upon Private Business or Individuals.

The increase in fees, from \$10 to \$30 for retailers and from \$175 to \$250 for wholesalers, will create a financial impact upon those individuals or companies in the business of selling agricultural seed. Stakeholders have indicated that the fee increase will not significantly impact their business. KDA will work directly with seed retailers and wholesalers to educate them on the proposed regulations and work with them to implement the changes in a way that will help mitigate any possible financial burden on their operations.

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1 | Page

V. Less Costly or Intrusive Methods That Were Considered, but Rejected, and the Reason For Rejection.

A rejected alternative is not raising licensing fees. Not raising fees will require a decrease in inspection time to match current revenues. That would result in approximately .25 FTE spent on seed inspections across Kansas. This would be an unacceptably low level and would result in negative impact to the consumer and economy.

VI. Environmental Impact

There are no environmental impacts expected from the proposed changes.

