Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 201 and 202

[Doc. No. AMS–ST–19–0039]

Revisions to the Federal Seed Act Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) invites comments on proposed revisions to regulations that implement the Federal Seed Act (FSA). The proposals include revisions to seed labeling, testing, and certification requirements. The proposed revisions would add certain seed species to the lists of covered kinds of seed and update the lists to reflect current scientific nomenclature; update regulations related to seed quality, germination and purity standards, and acceptable seed testing methods; and update seed certification and recertification requirements, including new eligibility standards and the recognition of current breeding techniques. AMS intends to align FSA regulations with current industry practices, harmonize FSA testing methods with industry standards, and clarify confusing or contradictory language in the existing regulations. AMS expects the proposed revisions to reduce trade burden associated with interstate seed commerce and encourage compliance with State and Federal laws.

DATES: Comments must be received by March 27, 2020.

ADDRESSES: Interested persons are invited to submit comments on this proposed rulemaking. All comments must be submitted electronically through the e-rulemaking portal at *http://www.regulations.gov,* and should reference the document number, date, and page number of this issue of the **Federal Register**. All comments submitted in response to this proposed rule will be included in the rulemaking record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting comments will be made public on the internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Ernest Allen, Director, Seed Regulatory and Testing Division, Science and Technology Program, AMS, USDA; 801 Summit Crossing Place, Suite C, Gastonia, NC 28054, USA; telephone: 704–810–8884; email *Ernest.Allen@usda.gov.*

SUPPLEMENTARY INFORMATION: The FSA (7 U.S.C. 1551–1611) regulates interstate and foreign commerce of planting seeds for agricultural and gardening purposes. The FSA requires seeds to meet certain germination rate, purity, and certification standards. Under the FSA, seeds must be truthfully labeled with specific quality information. As well, the FSA requires all persons shipping agricultural seed in interstate commerce to maintain records of seed variety, origin, treatment, germination, and purity. Regulations established under the FSA (7 CFR part 201) (regulations) implement the requirements of the FSA and are administered by AMS.

From time to time, AMS finds it necessary to update the regulations to reflect current industry standards and practices and to remove obsolete references. AMS last updated the regulations in 2011 (76 FR 31790). AMS met with representatives of major seed industry stakeholder organizations in February 2019 to discuss possible revisions to make the regulations more reflective of current industry practices and updated testing methods. Based on stakeholder input, the Seed Regulatory and Testing Division of AMS's Science and Technology Program initiated this proposed action to update the regulations.

AMS proposes to update the lists of which seed kinds are covered by the regulations and revise the names of several agricultural and vegetable seeds to provide updated scientific nomenclature. AMS proposes further to revise the definitions of other terms used in the regulations to provide greater clarity for regulated entities. Other revisions in this proposed rule would update the seed labeling, testing, and certification requirements to reflect revised terminology, as well as the evolution of industry practices. Finally, AMS is proposing several revisions of an administrative nature to correct misspellings and other errors in the regulations. Specific proposals are addressed below.

Proposals

Nomenclature

The regulations specify the kinds of agricultural and vegetable seed that are subject to regulation. AMS proposes to revise the list of agricultural seed covered by the regulation in § 201.2(h) by adding *camelina, radish,* and *teff* to the list. The proposed revisions would add *radish* to the list of seed kinds for which the variety is required on the label in § 201.10(a); add *camelina, radish,* and *teff* to the list of seed kinds for which sample weights are specified in Table 1 to § 201.46(d)(2)(iii); add *camelina, radish,* and *teff* to the list of seed kinds for which germination requirements are specified in Table 2 to § 201.58(c)(3); add *teff* to the list of seed kinds for which purity percentage tolerances are increased in § 201.60(a)(1); and add *camelina, chickpea, hemp, radish,* and *sunn hemp* to the list of seed kinds for which standards related to certification are specified in Table 5 to § 201.76.

To assure clear market communication about seeds, the regulations use the Latin scientific names assigned to plants in the *International Code of Nomenclature for Cultivated Plants* [1] and recognized throughout the world. Occasionally, the International Union of Biological Science's International Commission for the Nomenclature of Cultivated Plants revises those scientific names. This proposed rule would further revise § 201.2(h) by updating the scientific names for 15 agricultural seed kinds already on the list (*big bluestem, mountain brome, buffalograss, crambe, galletagrass, guineagrass, forage kochia, browntop millet, pearl millet, napiergrass, green needlegrass, green panicgrass, bird rape, turnip rape,* and *smilo*), and by adding another common name for *sunn crotalaria,* one of the kinds already on the list. The proposed rule would also update the scientific

[1] The International Code of Nomenclature for Cultivated Plants (ICNCP or Cultivated Plant Code), published by the International Society for Horticultural Science. The ICNCP was most recently updated in 2016.

name for *tomato,* which is on the list of vegetable seed kinds in § 201.2(i). Such changes would align regulatory language with current terminology and nomenclature recognized in the industry.

Other sections of the regulations reference scientific names, as well. AMS proposes to update those references by revising the scientific names for *quackgrass* in § 201.17(a); *buffalograss, sunflower, small-seeded legumes, carrot,* and *mint* in § 201.47a; *legumes* and *crucifers* in 201.48(a); *sunflower, carrot,* and *mint* in 201.48(f); *buffalograss* in 201.48(g)(1); *legumes* in 201.51(a)(1); *quackgrass* in 201.51(b)(2)(iv) and (v); *sunflower* in 201.51(b)(4), and *carrot* in 201.56(d).

Other Terminology

Section 201.2 defines other terms used in the regulations. The proposed rule would update some terms to reflect changes in industry and AMS needs and processes. AMS proposes to revise the term for ''person'' in § 201.2(b) to include *individuals* and *agents* to clarify that such entities are also subject to the regulations. A revision to § 201.2(l)(1) would clarify that each person must keep required records regarding seed treatment, including, but not limited to, records about seed coating, film coating, encrusting, or pelleting. The proposal would make corresponding revisions to references to ''treatment'' in § 201.4(b). Proposed revisions to § 201.2(p) would clarify that seed mixtures consist of more than one kind or variety of seed, each present in excess of 5 percent by weight of the whole, and that combinations of more than one variety of a single kind of seed may be referred to as ''blends.'' A proposed revision to the definition of ''coated seed'' in § 201.2(q) would exclude seeds coated with polymers or biologicals. Proposed revisions to the term ''purity'' in § 201.2(w) would remove the reference to ''crop seed,'' and would clarify that percentages of inert matter would include coating material, if any is present. A proposed revision to § 201.2(x) would revise the definition of ''inoculant'' to mean a product consisting of microorganisms applied to the seed for the purpose of enhancing the availability or uptake of plant nutrients through the root system. Such a change would align FSA regulations with current Environmental Protection Agency definition of a plant inoculant,[2] which is recognized and used by the industry. A proposed revision would add a new term ''acceptable test'' as § 201.2(nn) and would define the term to mean any testing method described in §§ 201.45 through 201.66 of the regulations or any testing method approved by the Association of Official Seed Analysts rules for testing seed.[3] This would clarify for regulated entities what records they are required to maintain. Finally, the proposal would add a new paragraph (oo) to § 201.2 to define the term ''brand,'' which would mean the words, name, symbol, number, mark, design, unique design, or any combination of those that would distinguish the seed of one entity from the seed of another. The term's definition would clarify its use in § 201.36b(e).

Records

The FSA regulations require seed shippers to maintain records and samples for each lot of agricultural and vegetable seed shipped in interstate commerce. Sections 201.4 through 201.7a specify the recordkeeping requirements related to seed origin, germination testing, purity testing, and treatment. AMS proposes to revise §§ 201.6 and 201.7 to clarify that complete records about germination and purity, respectively, would include all the records of laboratory tests considered acceptable under proposed new § 201.2 (nn) described above.

Labeling

The FSA requires each container of agricultural and vegetable seed shipped in interstate commerce to be labeled with specific information. For agricultural seed, the label must include, among other things, the name of each kind of seed comprising more than 5 percent of the contents, and for certain kinds of seed, the labels must show the variety(ies). Currently, § 201.12a of the regulations requires mixtures of lawn and turf seed to be labeled as mixtures and requires the name and percentage of each seed component to be listed on the label in the order of predominance. AMS proposes to revise § 201.12a by removing the reference to turf and lawn seed mixtures, requiring all mixtures of agricultural seed for seeding or planting purposes to be designated mixtures on the label, and requiring the label to list each seed component on the label in order of predominance. AMS proposes to add a similar requirement for labeling vegetable seed mixtures by adding a new § 201.26a—Vegetable Seed Mixtures, which would require labels for mixtures of vegetable seeds to list each seed component in order of predominance. This change would reflect the current market practice of packaging vegetable seed mixtures, which has not previously been addressed in the regulations.

The regulations prohibit the interstate shipment of agricultural or vegetable seeds containing seeds or bulblets of certain noxious weeds identified in § 201.16(b). AMS proposes to revise the list of prohibited noxious weed seed in § 201.16(b) by updating the scientific names of several species to reflect the current names recognized in the market. Where the shipment of noxious-weed seed is not prohibited under § 201.16(b), the rate of occurrence in agricultural seed cannot exceed the rate permitted by each State into which the seed is shipped or reshipped, and the label must include the rate of occurrence according to each State's requirements. (*See* 7 CFR 201.16(a)) AMS proposes to add a new § 201.30c that would provide similar restrictions for shipments of noxious-weed seed in vegetable seed in containers weighing more than one pound. This addition would support State laws regarding noxious-weed seed in vegetable seed.

Currently, § 201.18 specifies that when agricultural seeds other than the predominant kind, variety, or type named on the label are included, they may be collectively identified as ''crop seeds'' or ''other crop seeds'' by percentage. A proposed change to § 201.18 would remove the reference to ''crop seeds'' to reduce confusion about what is in the seed. Another proposed labeling change would clarify in § 201.19 that the percentage by weight of inert matter in the seed includes coating material, if any is present. This would allow seed shippers to identify coating material separately from other inert material, if desired.

Under §§ 201.21 and 201.30, seed labels are required to show the percentage of hard seed—seed with an impermeable seed coat that doesn't absorb water and germinate—apart from the agricultural or vegetable seed germination percentage. A proposed change to §§ 201.21 and 201.30 would require labels to also show the percentage of dormant seed—seed other than hard seed that fails to germinate under specified conditions—apart from the germination percentage. The proposed rule would make similar changes to the labeling requirements for percentages of hard seed and dormant

[2] See 40 CFR 152.6(g)(2)—EPA's definition of plant inoculant.

[3] The Association of Official Seed Analysts (AOSA) is an organization of state, federal, and university laboratories in the United States and Canada. AOSA publishes a series of handbooks related to seed testing. AOSA testing methods are comparable to AMS seed testing methods and are considered equally acceptable for meeting testing requirements under the regulations in 7 CFR part 201.

seed in §§ 201.29, 201.29a, and 201.31, which specify the labeling of vegetable seed. These changes are necessary to reflect the emerging industry practice of labeling dormant seed as such and providing the percentage of dormant seed on the label. Further changes to the heading and introductory paragraph of § 201.31 would clarify that the germination standards for vegetable seeds in interstate commerce are minimum standards.

Currently, the regulations require seed labels to include the full name and address of the shipper or consignee, or to show a code that identifies the shipper. Proposed revisions to §§ 201.23, 201.24, 201.27, and 201.28 would require the labels of both agricultural and vegetable seed to show the full name and address of the interstate shipper or show both a code identifying the interstate shipper and the full name and address of the consignee. AMS intends these proposed changes to reduce industry confusion about the labeling requirements.

Currently, § 201.31a requires seed labels to include the name or description of any treatment applied to the seed. Paragraph (b) of that section specifies the names that can be used to identify substances used in seed treatments. AMS proposes to revise § 201.31a(b) to clarify that active ingredient substances used in seed treatments must be included in the label, and that biological active ingredients should be identified by their brand names or genus and species names.

Seed Testing

The regulations specify testing requirements for seed shipped in interstate commerce. Seed testing methodology continues to evolve as new equipment and processes are developed. In addition to the revisions described earlier in this document, AMS proposes the following revisions to the testing regulations in 7 CFR part 201 to ensure the requirements reflect methods and procedures that have been adopted in the industry and by AMS.

The proposal would revise the introductory text of § 201.48 to clarify that pure seed includes all seeds of each kind that are present in excess of 5 percent by weight of the whole. Revisions to § 201.48(g)(3) would remove references to *chewings fescue, red fescue,* and *orchardgrass* from the list of species for which special purity testing procedures are provided in § 201.51a(b). Corresponding revisions to the Table of Factors to Apply to Multiple Units in § 201.51a(b)(2)(ii) would reflect the revisions to § 201.48(g)(3). A proposed revision to § 201.51a(a) would add more precise instructions relating to the Uniform Blowing Procedure used to separate pure seed and inert matter for seed testing, and the revision would better align the regulation with AOSA standards. A proposed revision to § 201.58(a) would clarify that if the date for a final count for germination testing falls on a weekend or public holiday, the count could be taken on the following work day. A proposed revision to § 201.60(b)(2) would correct a reference to tolerance determinations for ''crop seeds'' to refer to tolerance determinations for ''other crop seeds.'' A proposed revision to § 201.61 would revise the title of the table in that section to be ''Fluorescence Tolerance, Based on Test Fluorescence (TFL)'' to clarify that the ryegrass fluorescence tolerances shown for 400-seed fluorescence tests are based on the test fluorescence level (TFL) calculated under § 201.58a.

Currently, for seed label claims related to germination rates to be truthful, they must incorporate the percentage of hard seed present. AMS proposes to revise the introductory text of § 201.63 to clarify that when 400 or more seeds are tested, the amount of dormant seed in the mix must also be considered when calculating total germination. AMS proposes a similar revision for the introductory text and formula in § 201.64, which provide the tolerance calculation for pure live seed.

Certification

The regulations require seed certifying agencies to meet specified qualification standards and comply with procedures outlined in the regulations. One such procedure provided in § 201.68 requires certifying agencies to obtain specific information from certification applicants. AMS proposes to revise the introductory text of § 201.68 to clarify that point, as the regulations as currently written have been confusing, making it unclear that certifying agencies must request the specified information. A further revision to § 201.68(b) would require entities applying for certification to supply information about the breeding technique(s) or reproductive stabilization procedures used to develop the variety. This change is necessary to recognize that different techniques are used to develop new plant varieties.

A proposed revision to § 201.70(a) would permit recertification of seed beyond the standard two generations past the Foundation seed generation only when neither Foundation nor Registered class seed is being maintained. Currently, the regulations allow recertification of Certified class seed when no Foundation seed is being maintained, even if Registered seed is being maintained. This revision would prohibit recertification of Certified class seeds when Registered class seed is being maintained. Adding this restriction would preclude recertification of Certified class seed when seed of a higher certification class is available. AMS intends such a restriction to prevent recertification of the class of seed most likely to have changed over time when more stable alternatives are available. Proposed revisions to §§ 201.74 and 201.75 would remove the caveat that certified seed labeling would require the variety name only if the seed has been certified as to variety. This change would remove contradictory or confusing language from the regulations, since all certification is varietal.

Section 201.76 of the regulations establishes production standards for Foundation, Registered, and Certified classes of various crop seeds. As well as adding the five new crop kinds mentioned earlier in the *Terminology* section, AMS proposes to add four explanatory footnotes to the chart of production standards in § 201.76. Proposed footnote 60 would explain that land on which certain seed is grown for certification must not have been planted in cruciferous crops during the previous five years, or for the previous three years if the previous crop was of the same variety and of the same or higher certification class. Proposed footnote 61 would explain that fields producing any class of certified seed must be at least 50 feet from any other variety or from fields of the same variety that do not meet the varietal purity requirements for certification. Proposed footnote 62 would pertain to the production of sunn hemp and would explain that no other varieties of *Crotolaria* species would be allowed in Foundation, Registered, and/or Certified seed production fields. Proposed footnote 63 would explain that producers of certified seed of any class for that crop should refer to the requirements established by certifying agencies in the production States for applicable production standards. AMS proposes adding these footnotes to explain specific standards for the new crops proposed to be added to the Table in § 201.76 (*camelina, chickpea, hemp, radish,* and *sunn hemp*), but most would be generic in nature and could apply to other crops in the future, as well.

Section 201.78 provides additional certification requirements related to

pollen control for hybrids of certain crops. Paragraph (e) in section 201.78 specifies the determination of the pollen production index (PPI) for hybrid alfalfa. Currently, paragraph (e) in section 201.78 provides maximum PPI for various hybrids of Foundation and Certified class seed. AMS proposes to revise § 201.78(e) to provide greater specificity about maximum PPI allowances for hybrid alfalfa that would depend on the production method, parentage, and generation of hybrid seed being analyzed. The industry requested this revision in response to a change in production practices for hybrid alfalfa seed. AMS expects the proposed revision to recognize the breadth of hybridization methods currently used by different plant breeders.

Administrative Changes

AMS is proposing to make several revisions of an administrative nature to the regulations to correct typographical errors and update addresses and other references to reflect current business practices or provide clarity. A proposed revision to § 201.2(a) would replace the reference to ''the FSA'' with the words ''the Federal Seed Act'' to clarify the meaning of the term ''Act'' used throughout the regulations. References to the ''Act'' would replace references to the ''act'' throughout the regulations and minor misspellings would be corrected in several sections. A proposed revision to § 201.51a(a)(3) would update the address for obtaining calibration samples and instructions from the Seed Regulatory and Testing Division to its current address in Gastonia, North Carolina. A proposed revision to the entries for ''*Oat*'' and ''*Brussels Sprouts*'' in Table 2 to paragraph (c)(3) in § 201.58 would move the additional germination directions for fresh and dormant seed into the correct table column. Finally, AMS proposes to revise the headings for Parts 201 and 202 and to remove an undesignated center heading in Part 201 that is no longer needed. These changes replace references to the terms ''Rules'' or ''Regulations'' with terms that comply with Code of Federal Regulations nomenclature conventions.

Rulemaking Analyses

Executive Orders 12866, 13563, and 13771

AMS is issuing this proposed rule in conformance with Executive Orders 12866 and 13563, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulations are necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

In the development of this proposed rule, AMS considered alternatives, including updating only the list of regulated seed varieties or making no changes at all. Ultimately, AMS rejected those alternatives because many references and processes in the current regulations are obsolete and do not reflect modern business and industry practices. AMS believes making the proposed revisions would best serve the industry by aligning seed species references with internationally recognized scientific names, clarifying processes to simplify regulatory compliance, and improving AMS's customer service. AMS does not expect the proposed rule to provide any environmental, public health, or safety benefits.

This rule does not meet the criteria of a significant regulatory action under Executive Order 12866 as supplemented by Executive Order 13563. Therefore, the Office of Management and Budget (OMB) has not reviewed this rule under those Orders. Because this rule does not meet the criteria of a significant regulatory action, it does not trigger the requirements in Executive Order 13771. See OMB's Memorandum titled ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, titled 'Reducing Regulation and Controlling Regulatory Costs''' (February 2, 2017).

AMS does not expect the proposed revisions to impact compliance costs for the private sector because the industry has already adopted the practices reflected by the proposed regulatory changes in order to comply with State laws. AMS expects seed industry stakeholders to benefit from the references to updated scientific nomenclature, which provides a common language for marketing seed. Likewise, AMS expects updating the labeling, testing, and certification requirements to simplify compliance and facilitate the interstate marketing of seed. AMS also expects stakeholders to benefit from streamlined AMS business practices.

Regulatory Flexibility Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), AMS has considered the economic impact of this action on small business entities. The affected industry falls under the North American Industry Classification System (NAICS) as code 54171—Research and development in the physical, engineering, and life sciences. This classification includes firms that are not plant breeders/plant research, however no detailed industry data was available for the analysis.

Table 1 shows the most recent descriptive data for the industry, obtained from the County Business Pattern 2016 survey. This data set provides information on the number of establishments, number of employees and total annual payroll.

TABLE 1—NUMBER OF ESTABLISHMENTS, REVENUE AND PAYROLL BY EMPLOYEE COUNT, NAICS CODE 54171, 2016 COUNTY BUSINESS PATTERNS [4]

	Number of establishments	Number of paid employees	Annual payroll ($1,000)
All establishments	17,292	695,810	$82,865,611

The Small Business Administration (SBA) determines firm size for this industry by number of employees, but on a per firm basis, with small firms defined as having fewer than 1,000 employees and 1,000 or more employees per firm classified as large. Because firms may own more than one establishment, and the County Business Patterns data are compiled on an establishment rather than a firm basis, we must use the Economic Census data to determine the number of small and large firms for the industry.

Table 2 shows the most recent data available on the breakdown between

[4] Geography Area Series: County Business Patterns by Employment Size Class, 2016 Business Patterns, *https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=BP_2016_00A3&prodType=table.*

small (<1,000 employees) and large (1,000 or more employees) firms in this industry, according to SBA's guidance.[5] The data are from the 2002 Economic Census, with monetary values converted to 2016 dollars. More recent Economic Census data is not available at this level of detail for this industry.

TABLE 2—NUMBER OF FIRMS AND ESTABLISHMENTS, REVENUE AND PAYROLL BY EMPLOYEE COUNT, NAICS CODE 54171, 2002 ECONOMIC CENSUS[6]

Size of firm by number of employees	Number of firms	Number of establishments	Number of paid employees	Revenue * ($1,000)	Annual payroll * ($1,000)
Small—					
Firms with fewer than 1,000 employees	10,200	11,753	273,601	$49,702,793	$24,780,487
Large—					
Firms with 1,000 employees or more	79	1,380	283,816	30,095,258	27,776,903
All firms	10,279	13,133	557,417	79,798,051	52,557,389

* Adjusted to 2016 values.

The 2002 Economic Census reported that fewer than one percent of firms were considered large (79 of 10,279 firms, or 0.54 percent). The 10,279 firms at that time owned a total of 13,133 establishments, with 1,380 (nearly 11 percent) of these facilities owned by the 79 large firms.

The tables show the extent of growth in the industry over time. The number of establishments has grown from 13,133 in 2002 to 17,292 in 2016 (32 percent, or 2.3 percent per year). Total employment increased from 557,417 workers to 695,810 (25 percent, or 1.8 percent per year), and total annual payroll from $52,557,389 to $82,865,611 (58 percent or 4 percent per year). These figures indicate that the industry has seen small to moderate growth, with a more highly paid work force over time. There do not appear to be significant changes in the structure of the industry between 2002 and 2016. AMS expects that the size distribution of the firms affected by these revisions is consistent with data reported in the 2002 Economic Census. Therefore, affected firms would mostly be considered small business entities under the criteria established by SBA (13 CFR 121.201).

As a result of meeting with representatives of major seed industry stakeholder organizations in February 2019, AMS is updating regulations to reflect current industry standards and practices and to remove obsolete references. With these revisions to the existing FSA regulation, AMS proposes the following:

1. Update the lists of which seed kinds are covered by the regulations and revise the names of several agricultural and vegetable seeds to provide updated scientific nomenclature;

2. Revise the definitions of other terms used in the regulations to provide greater clarity for regulated entities;

3. Update the seed labeling, testing, and certification requirements to reflect revised terminology and industry practices; and

4. Correct misspellings and other errors in the regulations.

Most of the proposed revisions listed above (1, 2, and 4) are changes in the regulations that would not impact costs to the private sector. The third proposal listed above is expected to lower the costs of seed testing for three grass species. The proposed revisions would eliminate the requirement to segregate certain components of seed in purity testing for those three species. This would reduce the number of component separations for those species from five to four. Cost savings are difficult to estimate. Information on the exact costs of the tests was difficult to obtain because of the variability in seed testing fees by third-party labs. Costs for these tests are generally based on hourly laboratory charges and can range between $10 and $50 per test. Without data on the breakdown of cost for each of the separations performed in the test, it is assumed testing costs for the three affected crops could fall by 20 percent as a result of the proposed revisions.

The proposed revisions would ease the existing requirement to follow test procedures according to the Federal Seed Act before engaging in interstate commerce by allowing the use of seed testing methods from Association of Official Seed Analysts Rules used by most seed testing laboratories in the U.S. These revisions also expand the time requirement of the current regulation by allowing testing to be completed only on laboratory work days, which effectively acknowledges the existence of weekends and holidays, eliminating the need for staff to work or reschedule completion dates.

The burden of labeling radishes is also expected to fall, as currently it is not considered agricultural seed under the Federal Seed Act. Radishes are now considered only as a vegetable crop and must be labeled by variety. Inclusion of radishes as agricultural seed under the Act will allow the industry to exclude varieties in labeling agricultural radish seed.

The proposed rule reduces the trade burden associated with interstate seed commerce and encourages compliance with State and Federal laws. AMS has determined that this action would not have a significant negative economic impact on a substantial number of these small business entities.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information requirements under the regulations have been approved previously by OMB and assigned OMB No. 0581–0026. No changes are necessary in those requirements as a result of this proposed action. Reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. Should any changes become necessary, they would be submitted to OMB for approval.

Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs

[5] ''Table of Small Business Size Standards Matched to North American Industry Classification System Codes'', Small Business Administration, effective January 1, 2017, *https://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf.*

[6] Professional, Scientific, and Technical Services: Subject Series—Establishment and Firm Size: Employment Size of Firms for the United States: 2002 Economic Census of the United States, *https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2002_US_54SSSZ5&prodType=table.*

designated this rule as not a major rule as defined by 5 U.S.C. 804(2).

E-Government Act

USDA is committed to complying with the E-Government Act (44 U.S.C. 3601, *et seq.*) by promoting the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Executive Order 13175

This proposed action has been reviewed in accordance with the requirements of Executive Order 13175—Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation would not have substantial and direct impacts on Tribal governments or significant Tribal implications.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. There are no administrative procedures that must be exhausted prior to judicial challenge to the provisions of this proposed rule.

List of Subjects

7 CFR Part 201

Certified seed, Definitions, Inspections, Labeling, Purity analysis, Sampling.

7 CFR Part 202

Administrative practice and procedure, Agricultural commodities, Imports, Labeling, Seeds, Vegetables.

For the reasons set forth in the preamble, it is proposed that 7 CFR parts 201 and 202 be amended as follows:

PART 201—FEDERAL SEED ACT REQUIREMENTS

■ 1. The authority citation for part 201 continues to read as follows:

Authority: 7 U.S.C. 1592.

■ 2. In part 201, revise the heading to read as set forth above.

■ 3. Remove the undesignated center heading ''RULES AND REGULATIONS OF THE SECRETARY OF AGRICULTURE''.

§ 201.2 [Amended]

■ 4. Amend § 201.2 by:

■ a. Removing in paragraph (a) the word ''FSA'' and adding in its place the words ''Federal Seed Act'';

■ b. Removing in paragraph (b) the word ''a partnership'' and adding in their place the words ''an individual partnership'' and removing the words ''or trustee'' and adding in their place the words ''trustee, or agent'';

■ c. Removing in paragraph (h) the terms ''Bluestem, big—*Andropogon gerardii* Vitman'', ''Brome, mountain—*Bromus marginatus* Steud.'', ''Buffalograss—*Buchloe dactyloides* (Nutt.) Engelm.'', '' Crambe—*Crambe abyssinica* R.E. Fr.'', ''Crotalaria, sunn—*Crotalaria juncea* L.'', ''Galletagrass—*Hilaria jamesii* (Torr.) Benth.'', ''Guineagrass—*Panicum maximum* Jacq. var. *maximum*'', ''Kochia, forage—*Kochia prostrata* (L.) Schrad.'', ''Millet, browntop—*Brachiaria ramosa* (L.) Stapf'', ''Millet, pearl—*Pennisetum glaucum* (L.) R. Br.'', ''Napiergrass—*Pennisetum purpureum* Schumach.'', ''Needlegrass, green—*Stipa viridula* Trin.'', ''Panicgrass, green—*Panicum maximum* Jacq.'', ''Rape, bird—*Brassica rapa* L. subsp. *campestris* (L.) A.R. Clapham'', ''Rape, turnip—*Brassica rapa* L. subsp. campestris (L.)'', and ''Smilo—*Piptatherum miliaceum* (L.) Coss'';

■ d. Adding in paragraph (h) in alphabetical order the terms ''Bluestem, big—*Andropogon gerardi* Vitman'', ''Brome, mountain—*Bromus carinatus* var. *marginatus* (Steud.) Barworth & Anderton'', ''Buffalograss—*Bouteloua dactyloides* (Nutt.) Columbus'', ''Camelina—*Camelina sativa* (L.) Crantz subsp. sativa'', ''Crambe—*Crambe hispanica* L. subsp. *abyssinica*'', ''Crotalaria, sunn or sunn hemp—*Crotalaria juncea* L.'', ''Galletagrass—*Pleuraphis jamesii* Torr.'', ''Guineagrass—*Megathyrsus maximus* (Jacq.) B. K. Simon & S. W. L. Jacobs'', ''Kochia, forage—*Bassia prostrata* (L.) A. J. Scott'', ''Millet, browntop—*Urochloa ramose* (L.) T. Q. Nguyen'', ''Millet, pearl—*Cenchrus americanus* (L.) Morrone'', ''Napiergrass—*Cenchrus purpureus* (Schumach,) Morrone'', ''Needlegrass, green—Nassella viridula (Trin.) Barkworth'', ''Panicgrass, green—*Megathyrsus maximus* (Jacq.) B. K. Simon & S. W. L. Jacobs'', ''Radish—*Raphanus sativus* L.'', ''Rape, bird—*Brassica rapa* L. subsp. *oleifera*'', ''Rape, turnip—*Brassica rapa* L. Subsp. *oleifera*'', ''Smilo—Oloptum miliaceum (L.) Röser & Hamasha'', and ''Teff—*Eragrostis tef* (Zuccangi) Trotter'';

■ e. Removing in paragraph (i) the term ''Tomato—*Lycopersicon esculentum* Mill.'' and adding in its place the term ''Tomato—*Solanum lycopersicum* L.'';

■ f. Removing in paragraph (j) the word ''act'' and replacing it with the word ''Act'';

■ g. Adding in the first sentence of paragraph (l)(1) wherever it appears the word ''treatment'' the words ''(including but not limited to coating, film coating, encrusting, or pelleting)'';

■ h. Removing in the second sentence of paragraph (l)(1) the word ''treatment'' and adding in its place the words ''chemical or biological treatment'' and removing the words ''analyses, tests, and examinations'' and adding in their place the words ''and acceptable tests'';

■ i. Adding in paragraph (p) after the word ''percent'' the words ''by weight'' and adding a second sentence to read ''A mixture of varieties of a single kind may be labeled as a blend.'';

■ j. Adding in the second sentence of paragraph (q) after the word ''dyes'' the words ''polymers, biologicals,'';

■ k. Removing in paragraph (w), the words ''or crop seed'', and removing the words ''inert matter'' and adding in their place the words ''inert matter, including coating material if any is present'';

■ l. Removing in paragraph (x), the words ''commercial preparation containing nitrogen fixing bacteria applied to seed'' and adding in their place the words ''product consisting of microorganisms applied to the seed for the purpose of enhancing the availability or uptake of plant nutrients through the root system'';

■ m. Removing in paragraph (z), the word ''act'' and adding in its place the word ''Act'';

■ n. Removing in paragraph (mm), the word ''detasselling'' and adding in its place the word ''detasseling'';

■ o. Adding a new paragraphs (nn) and (oo).

The additions read as follows:

* * * * *

(nn) *Acceptable test.* The term ''acceptable test'' means any testing method described in § 201.45 through § 201.66 of this part, or to testing methods in accordance with Association of Official Seed Analyst (AOSA) rules.

(oo) *Brand.* The term ''brand'' means word(s), name, symbol, number, mark, design, unique design, or any combination of those which distinguishes seed of one entity from seed of another.

■ 5. Revise § 201.3 to read as follows:

§ 201.3 Administrator.

The Administrator of the Agricultural Marketing Service may perform such duties as the Secretary requires in enforcing the provisions of the Act and of the regulations in this part.

§ 201.4 [Amended]

■ 6. Amend § 201.4 by:

■ a. Removing in paragraph (a) the word ''act'' and adding in its place the word ''Act''; and

■ b. Removing in paragraph (b) wherever it appears the word

''treatment'' and adding it its place the words ''(including but not limited to coating, film coating, encrusting, or pelleting)'' and removing the word ''act'' and adding in its place the word ''Act''.

§ 201.6 [Amended]

■ 7. Amend § 201.6 in the first sentence by adding the word ''acceptable'' after the word ''all''.

§ 201.7 [Amended]

■ 8. Amend § 201.7 by removing in the first sentence the words ''(a) records of analyses, tests, and examinations'' and adding in their place the words ''(a) records of acceptable tests''.

§ 201.8 [Amended]

■ 9. Amend § 201.8 by removing in the last sentence the word ''act'' and adding in its place the word ''Act''.

§ 201.10 [Amended]

■ 10. Amend § 201.10 paragraph (a) by adding the word ''Radish;'' after the word ''Peanut;''.

■ 11. Revise § 201.12a to read as follows:

§ 201.12a Seed mixtures.

Seed mixtures intended for seeding/planting purposes shall be designated as a mixture on the label and each seed component shall be listed on the label in the order of predominance.

§ 201.16 [Amended]

■ 12. Amend § 201.16 by:

■ a. Removing in paragraph (a) in the first sentence the word ''state'' and adding in its place the word ''State'';

■ b. Removing in paragraph (b), the terms ''*Emex australis* Steinh.'', ''*Emex spinosa* (L.) Campd.'', ''*Leptochola chinensis* (L.) Nees'', ''*Pennisetum clandestinum* Chiov.'', ''*Pennisetum macrourum* Trin.'', ''*Pennisetum pedicellatum* Trin.'', ''*Pennisetum polystachion* (L.) Schult.'', and ''*Rubus fruticosus* L. (complex)''; and

■ c. Adding in paragraph (b) in alphabetical order the terms ''*Cenchrus caudatus* (Schrad.) Kuntze'', ''*Cenchrus clandestinus* Morrone'', ''*Cenchrus pedicellatus* (Trin.) Morrone'', ''*Cenchrus polystachios* (L.) Morrone'', ''*Dinebra chinensis (L.)* P. M. Peterson & N. Snow'', ''*Rubus plicatus* Weihe & Nees'', ''*Rumex hypogaeus* T.M. Schust & Reveal'', and ''*Rumex spinosus* L.''.

§ 201.17 [Amended]

■ 13. Amend § 201.17 by removing the words ''Quackgrass (*Elytrigia repens*)'' and adding in their place the words ''Quackgrass (*Elymus repens*)''.

■ 14. Revise § 201.18 to read as follows:

§ 201.18 Other agricultural seeds.

Agricultural seeds other than those included in the percentage or percentages of kind, variety, or type may be expressed as ''other crop seeds,'' but the percentage shall include collectively all kinds, varieties, or types not named upon the label.

■ 15. Revise § 201.19 to read as follows:

§ 201.19 Inert matter.

The label shall show the percentage by weight of inert matter, including coating material as defined in § 201.2(q), if any is present.

■ 16. Revise § 201.20 to read as follows:

§ 201.20 Germination

The label shall show the percentage of germination for each kind, kind and variety, kind and type, or kind and hybrid of agricultural seed comprising more than 5 percent of the whole. The label shall show the percentage of germination for each kind, kind and variety, kind and type, or kind and hybrid of agricultural seed comprising 5 percent of the whole or less if the seed is identified individually on the label.

■ 17. Revise § 201.21 to read as follows:

§ 201.21 Hard seed or dormant seed.

The label shall show the percentage of hard seed or dormant seed, as defined in § 201.57 or § 201.57a, if any is present. The percentages of hard seed and dormant seed shall not be included as part of the germination percentage.

■ 18. Revise § 201.23 to read as follows:

§ 201.23 Name of interstate shipper or name of consignee.

The full name and address of the interstate shipper shall appear upon the label. If the name and address of the shipper are not shown upon the label, a code designation identifying the interstate shipper shall be shown, along with the full name and address of the consignee.

■ 19. Amend § 201.24 by revising the second sentence to read as follows:

§ 201.24 Code designation.

* * * When used, the AMS code designation shall appear on the label in a clear and legible manner, along with the full name and address of the consignee.

§ 201.25 [Amended]

■ 20. Amend § 201.25 by removing in the third sentence the word ''act'' and adding in its place the word ''Act''.

■ 21. Add § 201.26a to read as follows:

§ 201.26a Vegetable seed mixtures.

Vegetable seed mixtures for seeding/planting purposes shall be designated as a mixture on the label, and each seed component shall be listed on the label in the order of predominance.

■ 22. Revise § 201.27 to read as follows:

§ 201.27 Name of interstate shipper or name of consignee.

The full name and address of the interstate shipper shall appear upon the label. If the name and address of the interstate shipper are not shown upon the label, a code designation identifying the interstate shipper shall be shown, along with the full name and address of the consignee.

■ 23. Amend § 201.28 by revising the second sentence to read as follows:

§ 201.28 Code designation.

* * * When used, the AMS code designation shall appear on the label in a clear and legible manner, along with the full name and address of the consignee.

■ 24. Revise § 201.29 to read as follows:

§ 201.29 Germination of vegetable seed in containers of 1 pound or less.

Vegetable seeds in containers of 1 pound or less which have a germination percentage equal to or better than the standard set forth in § 201.31 need not be labeled to show the percentage of germination and date of test. Each variety of vegetable seed which has a germination percentage less than the standard set forth in § 201.31 shall have the words ''Below Standard'' clearly shown in a conspicuous place on the label or on the face of the container in type no smaller than 8 points. Each variety which germinates less than the standard shall also be labeled to show the percentage of germination and the percentage of hard seed or dormant seed (if any).

■ 25. Revise § 201.29a to read as follows:

§ 201.29a Germination of vegetable seed in containers of more than 1 pound.

Each variety of vegetable seeds in containers of more than 1 pound shall be labeled to show the percentage of germination and the percentages of hard seed or dormant seed (if any).

■ 26. Revise § 201.30 to read as follows:

§ 201.30 Hard seed or dormant seed.

If hard seed or dormant seed as defined in §§ 201.57 or 201.57a, respectively, is present in the seed kinds indicated in those sections, the label shall show the percentage of hard seed or dormant seed present. The percentages of hard seed and dormant seed shall not be included as part of the germination percentage.

■ 27. Add § 201.30c to read as follows:

§ 201.30c Noxious-weed seeds of vegetable seed in containers of more than 1 pound.

Except for those kinds of noxious-weed seeds shown in § 201.16(b), the names of kinds of noxious-weed seeds and the rate of occurrence of each shall be expressed in the label in accordance with, and the rate shall not exceed the rate permitted by, the law and regulations of the State into which the seed is offered for transportation or is transported. If in the course of such transportation, or thereafter, the seed is diverted to another State of destination, the person or persons responsible for such diversion shall cause the seed to be relabeled with respect to noxious-weed seed content, if necessary, to conform to the laws and regulations of the State into which the seed is diverted.

■ 28. Amend § 201.31 by revising the heading and the introductory paragraph to read as follows:

§ 201.31 Minimum germination standards for vegetable seeds in interstate commerce.

The following minimum germination standards for vegetable seeds in interstate commerce, which shall be construed to include hard seed and dormant seed, are determined and established under section 403(c) of the Act:

* * * * *

■ 29. Amend § 201.31a by revising paragraph (b) to read as follows:

§ 201.31a Labeling treated seed.

* * * * *

(b) *Name of substance or active ingredient.* The name of any active ingredient substance as required by paragraph (a) of this section shall be the commonly accepted coined, chemical (generic), or abbreviated chemical name. The label shall include either the name of the genus and species or the brand name as identified on biological product labels. Commonly accepted coined names are free for general use by the public, are not private trademarks, and are commonly recognized as names of particular substances, such as thiram, captan, lindane, and dichlone. Examples of commonly accepted chemical (generic) names are blue-stone, calcium carbonate, cuprous oxide, zinc hydroxide, hexachlorobenzene, and ethyl mercury acetate. The terms ''mercury'' or ''mercurial'' may be used in labeling all types of mercurials. Examples of the genus and species names for brand named biologicals are *Bacillus subtilis* (Kodiak) for a single species, and *Bradyrhizobium japonicum, Penicillium bilaiae* (TagTeam Soybean Granular Inoculant) for a mixture. Examples of commonly accepted abbreviated chemical names are BHC (1, 2, 3, 4, 5, 6-Hexachlorocyclohexane) and DDT (dichloro diphenyl trichloroethane).

* * * * *

§ 201.33 [Amended]

■ 30. Amend § 201.33 paragraph (a) and (b) by removing wherever it appears the word ''act'' and adding in its places the word ''Act''.

§ 201.36b [Amended]

■ 31. Amend § 201.36b, in paragraph (a) by removing wherever it appears the word ''act'' and adding in its places the word ''Act''.

§ 201.37 [Amended]

■ 32. Amend § 201.37 by removing wherever it appears the word ''act'' and adding in its places the word ''Act''.

§ 201.38 [Removed and Reserved]

■ 33. Remove and reserve § 201.38.

§ 201.39 [Amended]

■ 34. Amend § 201.39, in paragraph (c), by removing the word ''proble'' in and adding in its place the word ''probe''.

■ 35. Amend § 201.46 by:

■ a. Revising paragraph (b); and

■ b. Adding in Table 1 to paragraph (d)(2)(iii), entries for ''Camelina'', ''Radish'', and ''Teff'' in the ''Agricultural Seed'' section in alphabetical order.

The revisions and additions read as follows:

§ 201.46 Weight of working sample.

* * * * *

(b) Mixtures consisting of one predominant kind of seed or groups of kinds of similar size. The weights of the purity and noxious-weed seed working samples in this category shall be determined by the kind or group of kinds which comprise more than 50 percent of the sample.

* * * * *

(d) * * *

(2) * * *

(iii) * * *

TABLE 1 TO PARAGRAPH (d)(2)(iii)

Name of seed	Minimum weight for purity analysis (grams)	Minimum weight for noxious-weed seed examination (grams)	Approximate number of seed per gram
Agricultural Seed:			
Camelina	4	40	880
Radish	30	300	75
Teff	1	10	3,288
* * * * *	*	*	

§ 201.47a [Amended]

■ 36. Amend § 201.47a by:

■ a. Removing in paragraph (b)(6) the words ''*Buchloe dactyloides*'' and adding in their place the words ''*Bouteloua dactyloides*'';

■ b. Removing in paragraph (c) the word ''Compositae'' and adding in its place the word ''Asteraceae'';

■ c. Removing in paragraph (d) the word ''Legumionsae'' and adding in its place the word ''Fabaceae'';

■ d. Removing in paragraph (e) the word ''Umbelliferae'' and adding in its place the word ''Apiaceae''; and

■ e. Removing in paragraph (f) the word ''Labiatae'' and adding in its place the word ''Lamiaceae''.

■ 37. Amend § 201.48 by revising the first sentence of the introductory text and paragraphs (a), (f), (g)(1) and (3) to read as follows:

§ 201.48 Kind or variety considered pure seed.

The pure seed shall include all seeds of each kind or each kind and variety under consideration present in excess of 5 percent by weight of the whole. * * *

(a) Immature or shriveled seeds and seeds that are cracked or injured. For seeds of legumes (Fabaceae) and crucifers (Brassicaceae) with the seed coats entirely removed refer to § 201.51(a)(1);

* * * * *

(f) Intact fruits, whether or not they contain seed, of species belonging to the following families: Sunflower (Asteraceae), buckwheat (Polygonaceae), carrot (Apiaceae), valerian (Valerianaceae), mint (Laminaceae) and other families in which the seed unit may be a dry, indehiscent one-seeded fruit. For visibly empty fruits, refer to inert matter, § 201.51(a)(6);

(g) * * *

(1) Intact burs of buffalograss (*Bouteloua dactyloides*) shall be considered pure seed whether or not a caryopsis is present. Refer to § 201.51(a)(6) for burs which are visibly empty.

* * * * *

(3) Special purity procedures for smooth brome, fairway crested wheatgrass, standard crested wheatgrass, intermediate wheatgrass, pubescent wheatgrass, tall wheatgrass, and western wheatgrass are listed in § 201.51a(b).

* * * * *

§ 201.51 [Amended]

■ 38. Amend § 201.51 by:

■ a. Removing in paragraph (a)(1) the words ''Leguminosae'', ''crucifers'', and ''Cruciferae'', and adding in their places the words ''Fabaceae'', ''brassica'', and Brassicaceae'', respectively;

■ b. Removing in paragraph (b)(2)(iv) the word ''Agropyron'' and adding in its place the word ''*Elymus*'';

■ c. Removing in paragraph (b)(2)(v) the words ''A. repens'' and adding in their place the words ''E. repens''; and

■ d. Removing in paragraph (b)(4) the word ''Compositae'' and adding in its place the word ''Asteraceae''.

■ 39. Amend § 201.51a by revising paragraph (a) and the table in paragraph (b)(2)(ii) to read as follows:

§ 201.51a Special procedures for purity analysis.

(a) The laboratory analyst shall use the Uniform Blowing Procedure described in this paragraph to separate pure seed and inert matter in the following: Kentucky bluegrass, Canada bluegrass, rough bluegrass, Pensacola variety of bahiagrass, orchardgrass, blue grama, and side-oats grama.

(1) *Separation of mixtures.* Separate seed kinds listed in this section from other kinds in mixtures before using the Uniform Blowing Procedure.

(2) *Calibration samples.* Obtain calibration samples and instructions, which are available on loan through the Seed Regulatory and Testing Division, S&T, AMS, 801 Summit Crossing Place, Suite C, Gastonia, North Carolina, 28054.

(3) *Blowing point.* Use the calibration samples to establish a blowing point prior to proceeding with the separation of pure seed and inert matter for these kinds.

(i) Refer to the specifications on the calibration samples for Kentucky bluegrass, orchardgrass, and Pensacola variety of bahiagrass to determine their appropriate blowing points for the Uniform Blowing Procedure.

(ii) Use the calibration sample for Kentucky bluegrass to determine the blowing points for Canada bluegrass, rough bluegrass, blue grama, and side-oats grama.

(A) The blowing point for Canada bluegrass shall be the same as the blowing point determined for Kentucky bluegrass.

(B) The blowing point for rough bluegrass shall be a factor of 0.82 (82 percent) of the blowing point determined for Kentucky bluegrass. The 0.82 factor is restricted to the General-type seed blower.

(C) The blowing point for blue grama shall be a factor of 1.157 of the blowing point determined for Kentucky bluegrass. Before blowing, extraneous material that will interfere with the blowing process shall be removed. The sample to be blown shall be divided into four approximately equal parts and each blown separately. The 1.157 factor is restricted to the General-type seed blower.

(D) The blowing point for side-oats grama shall be a factor of 1.480 of the blowing point determined for Kentucky bluegrass. Before blowing, extraneous material that will interfere with the blowing process shall be removed. The sample to be blown shall be divided into four approximately equal parts and each part blown separately. The 1.480 factor is restricted to the General-type seed blower.

(4) *Blower calibration.* Calibrate and test the blower according to the instructions that accompany the calibration samples before using the blower to analyze the seed sample. Use the anemometer to set the blower gate opening according to the calibration sample specifications.

(i) Determine the blowing point using a calibrated anemometer.

(ii) Position the anemometer fan precisely over the blower opening, set it at *meters per second* (m/s), run the blower at the calibrated gate setting, and wait 30 seconds before reading the anemometer.

(iii) Use this anemometer reading to determine the blower gate setting whenever the Uniform Blowing Procedure is required.

(5) *Pure seed and inert matter.* Use the calibrated blower to separate the seed sample into light and heavy portions. After completing the initial separation, remove and separate all weed and other crop seeds from the light portion. The remainder of the light portion shall be considered inert matter. Remove all weed and other crop seeds and other inert matter (stems, leaves, dirt) from the heavy portion and add them to the weed seed, other crop seed, or inert matter separations, as appropriate. The remainder of the heavy portion shall be considered pure seed.

(b) * * *

(2) * * *

(ii) * * *

TABLE OF FACTORS TO APPLY TO MULTIPLE UNITS [a]

Percent of single units of each kind	Crested wheat-grass [b]	Pubescent wheat-grass	Intermediate wheat-grass	Tall wheat-grass [c]	Western wheat-grass [c]	Smooth brome
50 or below	70	66	72	—	—	72
50.01–55.00	72	67	74	—	—	74
55.01–60.00	73	67	75	—	—	75
60.01–65.00	74	67	76	—	—	76
65.01–70.00	75	68	77	—	60	78
70.01–75.00	76	68	78	—	66	79
75.01–80.00	77	69	79	50	67	81
80.01–85.00	78	69	80	55	68	82
85.01–90.00	79	69	81	65	70	83

TABLE OF FACTORS TO APPLY TO MULTIPLE UNITS [a]—Continued

Percent of single units of each kind	Crested wheat-grass [b]	Pubescent wheat-grass	Intermediate wheat-grass	Tall wheat-grass [c]	Western wheat-grass [c]	Smooth brome
90.01–100.00	79	70	82	70	74	85

[a] The factors represent the percentages of the multiple unit weights which are considered pure seed. The remaining percentage is regarded as inert matter.
[b] Includes both standard crested wheatgrass and fairway crested wheatgrass.
[c] Dashes in table indicate that no factors are available at the levels shown.

§ 201.56 [Amended]

■ 40. Amend § 201.56, in paragraph (d), by removing the word ''Umbelliferae'' and adding in its place the word ''Apiaceae.''

■ 41. Amend § 201.58 by:

■ a. Revising paragraphs (a)(1) and (b)(13);

■ b. Adding in Table 2 to paragraph (c)(3) entries for ''Camelina'', ''Radish'', and ''Teff'' in the ''Agricultural Seed'' section in alphabetical order;

■ c. Revising in Table 2 to paragraph (c)(3) the entry for ''Oat'' in the ''Agricultural Seed'' section; and

■ d. Revising in Table 2 to paragraph (c)(3) the entry for ''Brussels Sprouts'' in the ''Vegetable Seed'' section.

The revisions and additions read as follows:

§ 201.58 Substrata, temperature, duration of test, and certain other specific directions for testing for germination and hard seed.

* * * * *

(a) *Definitions and explanations applicable to table 2*—(1) *Duration of tests.* The following deviations are permitted from the specified duration of tests: Any test may be terminated prior to the number of days listed under ''Final count'' if the maximum germination of the sample has then been determined. The number of days stated for the first count is approximate and a deviation of 1 to 3 days is permitted. If at the time of the prescribed test period the seedlings are not sufficiently developed for positive evaluation, it is possible to extend the time of the test period two additional days. If the prescribed test period or the allowed extension falls on a weekend or public holiday, the test may be extended to the next working day. (Also, see paragraph (a)(5) of this section and § 201.57.)

* * * * *

(b) * * *

(13) *Fourwing Saltbush (Atriplex canscens); preparation of seed for test.* De-wing seeds and soak for 2 hours in 3 liters of water, after which rinse with approximately 3 liters of distilled water. Remove excess water, air dry for 7 days at room temperature, then test for germination as indicated in Table 2.

(c) * * *

(3) * * *

TABLE 2 TO PARAGRAPH (c)(13)

Name of seed	Substrata	Temperature (°C)	First count days	Final count days	Additional directions	
					Specific requirements	Fresh and dormant seed
Agricultural Seed						
Camelina	TB	20	4	7		
Oat	B, T, S	20; 15	5	10	Prechill at 5 or 10 °C for 5 days and test for 7 days or predry and test for 10 days.	
Radish	B, T	20	4	6		
Teff	TB	20–30	4	7	KNO_3	
*	*	*	*	*	*	*
Vegetable Seed						
Brussels Sprouts	B, P, T	20–30	3	10	Prechill 5 days at 5 or 10 °C for 3 days; KNO_3 and Light.	
*	*	*	*	*	*	*

* * * * *

§ 201.59 [Amended]

■ 42. Amend § 209.59 by removing wherever it appears the word ''act'' and adding in its place the word ''Act''.

§ 201.60 [Amended]

■ 43. Amend § 201.60 by:

■ a. Adding in the second sentence of paragraph (a)(1) the word ''teff,'' after the words ''sweet vernalgrass,'';

■ b. Removing in the first sentence of paragraph (a)(2) the word ''act'' and adding in its place the word ''Act''; and

■ c. Adding in the first sentence of paragraph (b)(2) the word ''other'' before the words ''crop seeds''.

■ 44. Amend § 201.61 by revising the table heading to read as follows:

§ 201.61 Fluorescence percentages in ryegrasses.

* * *

FLUORESCENCE TOLERANCE, BASED ON TEST FLUORESCENCE (TFL)

* * * * *

■ 45. Amend § 201.63 by revising the introductory paragraph to read as follows:

§ 201.63 Germination.

The following tolerances are applicable to the percentage of germination and also to the sum of the germination plus the hard seed and dormant seed when 400 or more seeds are tested.

* * * * *

■ 46. Revise § 201.64 to read as follows:

§ 201.64 Pure live seed.

The tolerance for pure live seed shall be determined by applying the respective tolerances to the germination plus the hard seed and dormant seed, and the pure seed.

$$PLS = \frac{[\text{Germination \%} + \text{Hard Seed \%} + \text{Dormant Seed \%}] \text{x Pure Seed \%}}{100}$$

■ 47. Amend § 201.68 by revising the introductory text and paragraph (b) to read as follows:

§ 201.68 Eligibility requirements for certification of varieties.

When a seed originator, developer, owner of the variety, or agent thereof requests eligibility for certification, the certification agency shall require the person to provide the following information upon request:

* * * * *

(b) A statement concerning the variety's origin and the breeding technique(s) or the reproductive stabilization procedures used in its development.

* * * * *

■ 48. Amend § 201.70 by revising paragraph (a) to read as follows:

§ 201.70 Limitations of generations for certified seed.

* * * * *

(a) Recertification of the Certified class may be permitted when no Foundation or Registered seed is being maintained; or

* * * * *

§ 201.74 [Amended]

■ 49. Amend § 201.74 by removing in paragraphs (a), (b), and (c), the words ''(if certified as to variety)''.

§ 201.75 [Amended]

■ 50. Amend § 201.75 by removing in paragraphs (b)(1) and (c), wherever it appears the words ''(if certified as to variety)''.

■ 51. Amend § 201.76 Table 5 by adding in alphabetical order entries for ''Camelina'', ''Chickpea'', ''Hemp'', ''Radish'', ''Sunn hemp'' and footnotes ''60'' through ''63'' to read as follows:

§ 201.76 Minimum Land, Isolation, Field, and Seed Standards.

* * * * *

TABLE 5 TO § 201.76

Crop	Foundation				Registered				Certified			
	Land	Isolation	Field	Seed	Land	Isolation	Field	Seed	Land	Isolation	Field	Seed
Camelina	[8] 1	[61] 50 ([59] 15.24m).	5,000	0.1	[8] 1	[61] 50 ([59] 15.24m)	2,000	0.2	[8] 1	[61] 50 ([59] 15.24m)	1,000	0.3
Chickpea	[7] 1	[23] 0	10,000	0.1	[7] 1	[23] 0	2,000	0.2	[7] 1	[23] 0	1,000	0.2
Hemp	([63])	([63])	([63])	([63])	([63])	([63])	([63])	([63])	([63])	([63])	([63])	([63])
Radish	[60] 5	1,320 ([59] 402.34m).	0	0.05	[60] 5	1,320 ([59] 402.34m)	1,000	0.1	[60] 5	660 ([59] 201.17m)	500	0.25
Sunn hemp	[7] 1	1,320 ([59] 402.34m).	[62] 5000	0.1	[7] 1	660 ([59] 201.17m)	[62] 1,000	0.25	[7] 1	330 ([59] 100.58m)	[62] 500	0.5

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[60] Land must not have grown or been seeded to any cruciferous crops during the previous 5 years. This interval may be reduced to 3 years, if following the same variety and the same or higher certification class.

[61] Field producing any class of certified seed must be at least 50 feet from any other variety or fields of the same variety that do not meet the varietal purity requirement for certification.

[62] No other Crotalaria species allowed in Foundation, Registered and/or Certified production fields.

[63] Refer to the certifying agency in the production State(s) for certification standards.

■ 52. Amend § 201.78 by revising paragraph (e) to read as follows:

§ 201.78 Pollen control for hybrids.

* * * * *

(e) *Hybrid alfalfa.* When at least 75 percent of the plants are in bloom and there is no more than 15 percent seed set, 200 plants shall be examined to determine the pollen production index (PPI). Each plant is rated as 1, 2, 3 or 4 with ''1'' representing no pollen, ''2'' representing a trace of pollen, ''3'' representing substantially less than normal pollen, and ''4'' representing normal pollen. The rating is weighted as 0, 0.1, 0.6 or 1.0, respectively. The total number of plants of each rating is multiplied by the weighted rating and the values are totaled. The total is divided by the number of plants rated and multiplied by 100 to determine the PPI. For hybrid production using separate male and female rows, the maximum PPI allowed for 95 percent hybrid seed is 14 for the Foundation class, and 6 for the F1 hybrid. For hybrid production using comingled parent lines, the maximum PPI allowed for 75 percent hybrid Certified class seed is 25, with an allowance for blending to reach a PPI of 25 for fields with a PPI above 25, but no greater than 30.

PART 202—FEDERAL SEED ACT ADMINISTRATIVE PROCEDURES

■ 53. The authority citation for part 202 continues to read as follows:

Authority: 302, 305, 402, 408, 409, 413, 414, 53 Stat. 1275, as amended; 7 U.S.C. 1582, 1585, 1592, 1598, 1599, 1603, and 1604.

■ 54. In part 202, the heading is revised to read as set forth above.

Subpart C—Provisions Applicable to Other Proceedings

■ 55. In subpart C, revise the heading to read as set forth above.

Dated: January 9, 2020.

Bruce Summers,

Administrator, Agricultural Marketing Service.

[FR Doc. 2020–00400 Filed 1–24–20; 8:45 am]

BILLING CODE 3410–02–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 303 and 308

RIN 3064–AF19

Incorporation of Existing Statement of Policy Regarding Requests for Participation in the Affairs of an Insured Depository Institution by Convicted Individuals; Extension of Comment Period

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: On December 16, 2019, the Federal Deposit Insurance Corporation (FDIC) published in the **Federal Register** a Notice of Proposed Rulemaking (Notice) that proposed to revise the existing regulations requiring persons convicted of certain criminal offenses to obtain prior written consent before participating in the conduct of the affairs of any depository institution to incorporate the FDIC's existing Statement of Policy, and to amend the regulations setting forth the FDIC's procedures and standards applicable to an application to obtain the FDIC's prior written consent. The FDIC has determined that an extension of the comment period until March 16, 2020, is appropriate.

DATES: The comment period for the Notice published on December 16, 2019 (84 FR 68353), is extended from February 14, 2020, to March 16, 2020.

ADDRESSES: You may submit comments by any of the methods identified in the proposal.

FOR FURTHER INFORMATION CONTACT: Brian Zeller, Review Examiner, (319) 395–7394 x4125, or Larisa Collado, Section Chief, (202) 898–8509, in the Division of Risk Management Supervision; or Graham N. Rehrig, Senior Attorney, (202) 898–3829, John Dorsey, Acting Supervisory Counsel, (202) 898–3807, or Andrea Winkler, Acting Assistant General Counsel, (202) 898–3727 in the Legal Division.

SUPPLEMENTARY INFORMATION: On December 16, 2019, the FDIC published in the **Federal Register** a Notice that proposed to revise the existing regulations requiring persons convicted of certain criminal offenses to obtain prior written consent before participating in the conduct of the affairs of any depository institution to incorporate the FDIC's existing Statement of Policy, and to amend the regulations setting forth the FDIC's procedures and standards applicable to an application to obtain the FDIC's prior written consent. The Notice sought comment from the public regarding ''the scope of Section 19, possible amendments to the relief process, the scope of the *de minimis* offense exemption, and the treatment of expunged criminal records,'' as well as comments related to the expected effects of the proposed rule. The Notice stated that the comment period would close on February 14, 2020. The FDIC has received a request to extend the comment period. An extension of the comment period would provide additional opportunity for the public to prepare comments to address questions posed by the FDIC. Therefore, the FDIC is extending the end of the comment period for the Notice from February 14, 2020, to March 16, 2020.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on January 22, 2020.

Annmarie H. Boyd,

Assistant Executive Secretary.

[FR Doc. 2020–01298 Filed 1–24–20; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2019–1081; Product Identifier 2019–NM–153–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Bombardier, Inc., Model BD–100–1A10 airplanes. This proposed AD was prompted by reports of the loss of all air data system information provided to the flightcrew, which was caused by icing at high altitudes. This proposed AD would require revising the existing airplane flight manual (AFM) to provide the flightcrew with procedures to stabilize the airplane's airspeed and attitude. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by March 12, 2020.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Bombardier, Inc., 200 Côte-Vertu Road West, Dorval, Québec H4S 2A3, Canada; North America toll-free telephone 1–866–538–1247 or direct-dial telephone 1–514–855–2999; email *ac.yul@aero.bombardier.com;* internet *https://www.bombardier.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2019–1081; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Darren Gassetto, Aerospace Engineer,