

CHAPTER 74-03-01 GENERAL SEED CERTIFICATION REQUIREMENTS

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74-03-01-01. Seed certification in North Dakota.

The certification of seed in North Dakota is a function of the state seed department as outlined in North Dakota Century Code chapter 4.1-53. This chapter applies to all crops, except seed potatoes, which are regulated pursuant to North Dakota Century Code chapter 4-49 4.1-55 and Administrative Code article 74-04, grown for the production of all classes of North Dakota certified seed. If a North Dakota crop is accepted for field inspection and certification for which there are no North Dakota field or seed standards, the latest standards published by the association of official seed certifying agencies for that crop will apply.

History: Amended effective January 2, 2006; July 1, 2007; April 1, 2018.

General Authority: NDCC 4.1-53-11

Law Implemented: NDCC 4.1-53-02, 4.1-53-42

74-03-01-02. Purpose of seed certification.

The purpose of seed certification is to maintain and make available to the public high quality seed of crop varieties so produced, handled, and distributed as to ensure proper identity and genetic purity. This rule is exhortatory and does not create a cause of action on account of any failure by the department to correctly identify or certify seed variety or selection.

History: Amended effective July 1, 2007.

General Authority: NDCC 4.1-53-11

Law Implemented: NDCC 4.1-53-42, 4.1-53-45

74-03-01-03. Eligibility requirement for certification of crop varieties.

As used in this chapter, "variety" includes hybrids and breeding lines, and selections, clones, or strains of true varieties.

1. Only those varieties that are accepted by the North Dakota state seed department as meriting certification in accordance with the criteria established by the association of official seed

certifying agencies shall be eligible for certification. A variety will normally be considered eligible for certification if it has received favorable action by one or more of the following:

- a. A national variety review board.
- b. The plant variety protection office, including additional information itemized in subdivisions e through i of subsection 2 of section 74-03-01-03, which is required.
- c. An official seed certifying agency.
- d. The organization for economic cooperation and development (OECD).

In the absence of a national review board, a state or regional variety review committee may determine the eligibility for certification, if operating under similar criteria and approved by the seed commissioner. Contact the state seed commissioner for varieties not covered by one of the above categories on questions regarding eligibility.

2. The following must be made available by the originator, developer, owner, or agent when eligibility for certification is requested by the applicant. After a variety has been released, there is no limitation as to when it may be accepted into certification by AOSCA or its vested member agencies providing that all other provisions of this section are met.
 - a. The name of the variety. This name must be the established name if the variety has previously been marketed.
 - b. A statement concerning the variety's origin and the breeding procedure used in its development.
 - c. A detailed description of the morphological, physiological, and other characteristics of the plants and seed that distinguish it from other varieties.
 - d. Evidence of performance of the variety, such as comparative yield data, insect and disease resistance, or other factors supporting the identity of the variety.
 - e. A statement delineating the geographic area of adaptation of the variety.
 - f. A statement on the plans and procedures for the maintenance of stock seed classes, including the number of generations through which the variety may be multiplied.
 - g. A description of the manner in which the variety is constituted when a particular cycle of reproduction or multiplication is specified.
 - h. Any additional restrictions on the variety, specified by the breeder, with respect to geographic area of seed production, age of stand, or other factors affecting genetic purity.
 - (1) Should testing be required to verify the presence of a particular trait by the developer, sponsoring breeder, or originator before final certification, the exact protocols, approved facilities, tolerances, and all other relevant information will be provided to the seed-certifying agency that may retain the results of any test for its records.
 - (2) Additional certification requirements. Seed may require additional certification requirements that are clearly referenced in the variety description, provided that the following is completed:

- (a) Additional certification requirements have been communicated by the sponsoring breeder or originator to all parties involved with regulation and production of the variety; and
 - (b) The sponsoring breeder or originator shall authorize the seed-certifying agency to verify specific characteristics that are referenced in the variety description. Verification of such characteristics will be completed before a certificate (tag) of final certification is issued by the seed-certifying agency.
- i. A sample of seed representative of the variety that will be planted for certified seed production.
3. This rule does not create a mandatory duty or a cause of action on account of the department's recognizing or refusing to recognize a variety as meriting certification.

History: Amended effective May 1, 1986; September 1, 2002; January 2, 2006; July 1, 2007; July 1, 2010; October 1, 2012.

General Authority: NDCC 4.1-53-11

Law Implemented: NDCC 4.1-53-43

74-03-01-04. Classes (generation) and sources of certified seed.

1. Four classes (generations) of seed shall be recognized in seed certification: breeder, foundation, registered, and certified.
 - a. Breeder seed is directly controlled by the originating plant breeder, sponsoring institution or firm, which supplies the source for the initial and recurring increase of foundation seed.
 - b. Foundation seed is the progeny of breeder or foundation seed produced under control of the originator or sponsoring plant breeding institution, or person, or designee thereof. As applied to certified seed, foundation seed is a class of certified seed produced under procedures established by the certifying agency for the purpose of maintaining genetic purity and identity.
 - c. Registered seed is the progeny of foundation or other approved seed stocks that is so handled as to maintain satisfactory genetic identity and purity and that has been approved and certified by the certifying agency. This class of seed shall be of a quality suitable for the production of certified seed.
 - d. Certified seed is the progeny of foundation, registered, or other approved seed stocks that is so handled as to maintain satisfactory genetic identity and purity and that has been approved by the state seed department.
2. The number of generations which a variety may be multiplied shall be limited to that specified by the originating breeder or owner of a variety, but shall not exceed two generations beyond foundation seed. The following exceptions to the limitation of generations are allowed with permission from the variety owner and authorization from the state seed department:
 - a. Unlimited recertification of the certified class may be permitted for crop varieties when foundation seed is not being maintained.
 - b. The production of an additional generation of the certified class may be permitted on a one-year basis when:
 - (1) Foundation and registered seed supplies are not adequate to plant the needed certified acreage of the variety; and

- (2) The additional generation of certified seed produced to meet the emergency is declared ineligible for recertification.
3. Seed that fails to meet the certification standards for reasons other than those affecting genetic purity may be certified and will be labeled as "substandard".

History: Amended effective May 1, 1986; January 2, 2006; July 1, 2010; October 1, 2012.

General Authority: NDCC 4.1-53-11

Law Implemented: NDCC 4.1-53-42, 4.1-53-44, 4.1-53-45

74-03-01-05. Eligibility of growers.

Any person shall be eligible to produce registered or certified seed providing such seed is produced, handled, and distributed in accordance with article 74-02, applicable certification rules, and all applicable North Dakota seed laws and rules. The state seed commissioner reserves the right to reject any application for certification or refuse certification on any lot of seed if essential evidence is incomplete, if information given is incorrect, or if circumstances indicate that it would be advisable for the good of the certified seed industry.

History: Amended effective May 1, 1986.

General Authority: NDCC 4.1-53-11

Law Implemented: NDCC 4.1-53-42, 4.1-53-47

74-03-01-06. Seed eligibility.

1. The seed department shall be supplied with satisfactory evidence of the source and class of seed used to plant each crop considered for certification.
2. Eligible seed stocks include breeder's, foundation, registered or, in special cases, approved lots of the certified class. Eligible seed obtained from another person must be accompanied by the official tag or bulk certificate from an approved certifying agency, which will be the documentation of acceptance required for field inspection.
3. Certified seed growers may plant seed from their own fields if the field passed inspection and if the class of seed is eligible to be certified. The grower must provide sufficient evidence to the department to verify eligibility.
4. Certified seed growers may only plant seed from their own field that failed field inspection previously if the field did not fail due to genetic purity, and the grower is the applicant for field inspection. If the field fails inspection a second time for any reason, that seed shall no longer be eligible for ~~the production of certified~~ certification.
5. Contract growers may not replant any of the seed produced unless final certification has been completed.
6. Growers should check with the state seed department regarding approved lots of the certified class eligible for recertification.

History: Amended effective May 1, 1986; September 1, 2002; January 2, 2006; July 1, 2010; October 1, 2012; April 1, 2018.

General Authority: NDCC 4.1-53-11

Law Implemented: NDCC 4.1-53-42, 4.1-53-44, 4.1-53-45

74-03-01-07. Field eligibility and requirements.

1. A crop will not be eligible for the production of foundation, registered, or certified class seed if planted on land on which the same kind was grown previously for the number of years as

stated in the specific crop standards. Exceptions may be made if the previous crop was the same variety and was inspected for certification.

2. A grower may establish field eligibility history for the next production year by planting certified seed on the field in the current year, applying for field inspection, and having the field declared eligible for production of seed of the same variety the next year.

History: Amended effective May 1, 1986; September 1, 2002; July 1, 2010.

General Authority: NDCC 4.1-53-11

Law Implemented: NDCC 4.1-53-42

74-03-01-08. Field management and isolation.

The production unit for certification shall be a field. No field or part of a field will be accepted unless field boundaries are clearly defined and properly isolated according to the specific crop standards. Isolation distances may be extended at the request of the seed commissioner for reasons including the production of transgenic crops or other kinds in proximity to fields being grown for the purpose of seed certification.

When it is necessary to remove a strip to obtain proper isolation, the part of the strip to be removed must be cut into the field to be inspected.

If two classes of the same variety are planted adjacent to one another in the same field, and field inspection has been applied for both, isolation may be accomplished by placing a flag at each end of the field ten feet [3.05 meters] into the higher class of seed, prior to inspection. The flags must be plainly visible at the time of inspection. The grower may harvest that isolated ten-foot [3.05-meter] section of crop with the lower class of seed.

History: Amended effective September 1, 2002; January 2, 2006; July 1, 2010; October 1, 2012.

General Authority: NDCC 4.1-53-11

Law Implemented: NDCC 4.1-53-42

74-03-01-09. Field inspection.

1. Applications. Applications for field inspection, accompanied by the correct fees, payment of past-due accounts, and proof of seed eligibility, must be received at the state seed department office in Fargo not later than June fifteenth. The penalty fee will apply after that date. Applications for grass seed must be received by May first to avoid late penalty. Applications for hybrid wheat and industrial hemp must be received by June 1 to avoid late penalty. Applications for millet and buckwheat must be received by July fifteenth to avoid late penalty. Applications for soybeans requiring only a single inspection (preharvest) must be received by August first to avoid late penalty. In case of an emergency or unusual circumstances due to weather or crop conditions, the deadline may be extended at the discretion of the seed commissioner. In such an event, late application penalties may be waived.
2. Information required on application. The application shall be completed by the applicant and returned to the seed department. All questions must be answered completely and correctly. The location of the farm and field, including the legal description, shall be given clearly so that the inspector will be able to find the farm and field readily without waste of time and extra travel. Farm service agency field maps or equivalent must be provided by the applicant. If the seed is the grower's own seed, sufficient evidence must be provided to the department to verify eligibility. If the seed is purchased, an official certified seed tag or bulk certificates must accompany the application.
3. Roguing and spraying fields. Roguing is essential to maintain the purity of varieties and high standards of certified seed. Roguing fields prior to inspection is recommended to remove undesirable plants from fields. Plants that should be removed include off-type plants, other

crop plants, prohibited and restricted noxious weeds, and other impurities which may be growing in the field.

Roguing is usually done by pulling off-types or other crop plants or weeds and removing them from the field. In the case of small grain, roguing should be done after heading as foreign plants are seen most easily at this time. In hybrid seed production, fertile off-types and undesirable plants should be removed before pollen is shed. Sterile off-types may be removed any time prior to the final inspection.

Whenever practical and advisable, seed fields should be sprayed with pesticides according to the manufacturer's label to control pests. Growers must follow posting requirements as specified by state and federal agencies responsible for the regulation and use of pesticides.

4. Weeds and diseases.
 - a. Prohibited noxious weeds under North Dakota seed laws and rules are leafy spurge, field bindweed (creeping jenny), Canada thistle, perennial sow thistle, Russian knapweed, hoary cress (perennial peppergrass), absinth wormwood, musk thistle, spotted knapweed, and yellow starthistle.
 - b. Restricted noxious weeds under North Dakota seed laws and rules are dodder species, hedge bindweed (wild morning glory), wild oats, and quackgrass.
 - c. A field may be rejected if it is the field inspector's opinion that the amount and kind of weeds present make it difficult to conduct the inspection, or the field condition is such that the quality of the cleaned seed may be questionable.
 - d. Objectionable weed seeds are restricted noxious weeds under North Dakota seed laws and rules and may include some common weeds which cause a specific problem in the conditioning of some individual crops.
 - e. Diseases not governed by specific crop standards may be cause for rejection if it is the field inspector's opinion that the quality of the cleaned seed may be affected or if results of tests made on the seed indicate a disease condition which will affect the crop produced from such seed.
5. Cancellation of field inspection. An application may be canceled by the applicant before the field inspection is completed. The application fee minus an administrative fee will be refunded to the applicant. The request for cancellation, however, must reach the state seed department before the inspector arrives in the general locality of the field or before inspection has occurred. Refunds will not be made after the field is inspected or because the field has been rejected.
6. Appeal. Reinspection of rejected fields may be considered, provided the application for appeal allows a reasonable amount of time for reinspection prior to harvest. A fee for reinspection may be assessed.
7. The variety name stated on the application will be standard for inspection when entering the field. Absent compelling visual evidence to the contrary, the variety or selection declared by the applicant will be presumed correct if the documentation provided is valid.

History: Amended effective May 1, 1986; May 1, 1988; December 18, 1989; September 1, 2002; January 2, 2006; July 1, 2007; July 1, 2010; October 1, 2012; April 1, 2018.

General Authority: NDCC 4.1-53-11

Law Implemented: NDCC 4.1-53-37, 4.1-53-42, 4.1-53-59

74-03-01-10. Fees.

Charges for fees and services are subject to change. For current fees contact the state seed department.

History: Amended effective May 1, 1986; May 1, 1987; May 1, 1988; December 18, 1989; May 1, 2001; September 1, 2002.

General Authority: NDCC 4.1-53-11

Law Implemented: NDCC 4.1-53-11

74-03-01-11. Seed conditioning, sampling, and laboratory inspection.

1. **Identification in storage.** Field-inspected seed must be identified at all times. Identification must be traceable to field inspection numbers from the crop year in which the seed was produced. Conditioned seed in storage must be identified by kind, variety, class, and lot number displayed on the bin or storage container.
2. **Preconditioned sample testing.** To hasten labeling or determine the quality of seed which has passed field inspection prior to conditioning, a representative sample of seed may be submitted to the state seed department for the purpose of germination and disease testing. The sample should be cleaned on a small mill or hand sieve to approximate as nearly as possible the quality of the entire lot after conditioning.

Results of germination and disease tests conducted on preconditioned samples may be used for final certification purposes. A labeler may request new tests for labeling purposes after the seed lot is conditioned. Fragile crops such as soybeans, field beans, lentils, chickpeas, and field peas must be tested for germination after the final conditioning of the seed lot to assure correctness of label claims. The labeler is responsible in all cases for information stated on seed labels.

3. **Conditioning.** All field-inspected seed which is to be labeled must be conditioned and must meet the minimum seed standards for the crop and class. Field-inspected seed may be conditioned either by the grower or by an approved seed conditioner.
 - a. Conditioning by seed grower.
 - (1) A seed grower does not need an approved conditioning facility permit if the grower conditions the grower's own seed on the grower's premises with the grower's equipment.
 - (2) The seed grower must complete a sampler's report in its entirety, attach the report to a two-pound [.907-kilogram] sample that is representative of the entire seed lot, and deliver to the state seed department for analysis.
 - b. Conditioning by an approved facility.
 - (1) To be eligible for final certification, field-inspected seed shall be conditioned by a facility approved by the seed department. Seed conditioned at an unapproved facility will be ineligible for final certification.
 - (2) If ownership of the seed lot is transferred to a different individual or entity, the grower must complete and sign a grower's declaration. Transfer of ownership of field-inspected seed is limited to an approved conditioner or bulk retailer unless the transfer has been approved by the commissioner.

- (3) While conditioning, the seed lot must be sampled at regular intervals by an authorized sampler. The sample and completed sampler's report must be submitted to the state seed department for analysis.
4. **Sampling procedures.** Representative samples of seed for testing and analysis shall be collected during or after conditioning in accordance with sampling procedures outlined in the current AOSCA Operational Procedures.
 - a. All seed lots eligible for final certification shall be sampled during conditioning as follows:
 - (1) Portions of conditioned seed may be drawn by hand as seed is conditioned to form a composite, representative sample for a seed lot; and
 - (2) Automatic mechanical devices may be used to continually or intermittently draw representative samples as a seed lot is conditioned.
 - b. Specific instructions to samplers are found on the reverse side of the samplers report.
5. **Maximum lot size and numbering.**
 - a. The maximum lot size for bagged seed is five thousand bushels [17619.54 dekaliters] except for small seeded legumes and grasses which is twenty-two thousand five hundred pounds [10000 kilograms]. Bulk seed lots do not have a maximum size limit except bin capacity. Each bin is considered a separate seed lot. For all crops, one sample for each lot is required. The entire lot must be certified at the time final certification is completed.
 - b. The lot number shall be designated by the labeler. The lot number of the seed planted may not be used as the new lot number for the seed being certified during the current crop year.
6. **Commingling (mixing) of inspected seed fields.** Seed of the same kind and variety from different fields that pass field inspection may be commingled if the seed is of the same class and general quality. If seed of different classes is commingled, the seed becomes eligible for the lowest class only.
7. **Commingling carryover certified seed lots.** Carryover seed from certified lots may be commingled if the seed is of the same variety, class, and general quality. If seed of different classes is commingled, the seed becomes eligible for the lowest class only. A new germination test is required for labeling. Germination tests should be done on each lot prior to commingling to ensure none of the lots have gone out of condition.
8. The state seed department may resample any lot of seed before final certification or after the seed is labeled.
9. **Official samples.** At the request of a customer, an official sample may be collected by a representative of the seed department, with expenses incurred by the customer. The seed department shall determine the appropriate collection method and sample size. Sampling bulk seed in bins requires that a minimal amount of seed is withdrawn from the bin. The amount shall be determined by the quantity of seed in the lot, but shall be no less than five percent of the total lot size. Test results from official samples shall supersede all previous test results and shall be final.
10. **Laboratory analysis.**
 - a. All laboratory testing shall be done by qualified personnel of the state seed department. Analysis and tests of seed samples and definition of analysis terms shall be in accordance with the rules of the association of official seed analysts (AOSA). In certain cases when time constraints are critical to the efficient movement of certified seed, the

commissioner may accept germination or other test results from an approved laboratory, through the certification agency of the state of origin of the seed.

- b. If more than one sample of seed from the same lot is tested without additional conditioning, an average shall be taken of all purity tests conducted. Results from the most recent germination or disease test shall be used as the final result.
- c. Seed from certain classes or kinds, or both, may be subject to variety identification analysis at the discretion of the department, with testing fees payable by the grower or labeler.

History: Amended effective May 1, 1986; May 1, 1988; December 18, 1989; August 1, 1991; September 1, 2002; January 2, 2006; July 1, 2007; July 1, 2010; October 1, 2012; April 1, 2018.

General Authority: NDCC 4.1-53-11

Law Implemented: NDCC 4.1-53-11, 4.1-53-46

74-03-01-12. Labeling.

All classes of certified seed, when offered for sale, shall have an official certification label affixed to each container clearly identifying the certification agency, the lot number or other identification, variety name and kind, and class of seed. The responsibility for properly labeling foundation, registered, or certified seed rests with the grower or first distributor.

1. Records. Each person whose name appears on the label and handles seed shall keep for a period of three years complete records of each lot of seed handled. All records pertaining to the lot involved must be accessible for inspection by the commissioner at any time during customary business hours. Records shall include:
 - a. Quantity of seed grown and conditioned or purchased for bulk sale.
 - b. Quantity of bulk certified seed sold by variety and lot number.
 - c. A current inventory of each variety of seed available for sale.
 - d. Consult Federal Seed Act regulations part 201 for recordkeeping requirements for seed in interstate commerce.
2. Samples. It is the initial labeler's responsibility to maintain possession of a two-pound [.907-kilogram] sample identified by kind, variety, class, and lot number of each lot of certified seed sold, whether bagged or in bulk, for a period of one year after the final disposition of the seed lot.
3. No person may disclaim responsibility of the vendor of the seed for the data on the label required by law, and any such disclaimer of vendor's express or implied warranty is invalid.
4. Bagged seed.
 - a. All bagged seed represented or sold as foundation, registered, or certified must be bagged in new bags and the official certification tag properly affixed on the bag. Certification tags are void if improperly used or not attached to the bag. Containers or tote bags larger than one hundred sixty pounds [72.77 kilograms] may be considered bulk seed.
 - b. The use of two tags, the official certification tag and a separate analysis tag, on foundation, registered, or certified seed is optional.
 - c. Certified seed will be considered mislabeled unless the seed analysis is on either the certification tag or on an additional tag or printed on the bag.

- d. Certification tags are not valid when they are transferred in any manner other than attached to the eligible seed bag.
- 5. Bulk seed. In the case of seed sold in bulk, the bulk certified seed certificate takes the place of the certified seed tag. The complete seed analysis will be printed on the certificate.
 - a. Foundation and registered class seed may be sold in bulk only by the applicant producer, or by an approved conditioner.
 - b. Certified class seed may be sold in bulk by the applicant producer, an approved conditioner, or an approved bulk retail facility.
 - c. Approved bulk retail facilities may be allowed to handle bulk registered seed on a case-by-case basis only when authorized by the state seed department. If authorized by the seed department, the bulk retailer must designate which bins will be used for registered seed.
 - d. Bulk retail seed facilities must be approved annually before certified seed can be handled in bulk. Such facilities may be part of a seed conditioning facility or may be approved only for handling bulk certified seed. Before approval, all procedures for receiving, storing, dispensing, and recordkeeping must be inspected. The applicant must demonstrate acceptable procedures for maintaining purity and identity of bulk certified seed.
 - e. Offsite bins or satellite bin locations shall be managed in the same manner as those at an approved facility. Bins shall be listed on a separate bin list registered under the name of an approved facility. All satellite locations shall be inspected annually by the seed department.
 - f. Handling bulk certified seed:
 - (1) A separate storage bin must be available for each lot that will be sold in bulk. Each bin shall be considered a separate lot of seed and shall be labeled accordingly.
 - (2) All bins, augers, conveyors, and other equipment must be cleaned before storage or handling certified seed.
 - (3) All hopper bins must be equipped with bottom access ports, inside ladders, or some other means approved by the seed department to facilitate access for cleaning.
 - (4) All augers used to convey seed must be reversible.
 - (5) All bins must be clearly and prominently marked to show kind, variety, class, and lot number.
 - (6) All bin openings must be closed to prevent contamination, except when seed is being put in or removed from the bin, or to allow for aeration.
 - g. A maximum of two physical transfers are permitted after final certification.
 - h. It is the seller's responsibility to:
 - (1) Handle seed in a manner to prevent mixtures and contamination.
 - (2) Supply seed that is representative of the seed tested and approved for certification.
 - (3) Ensure all bins, augers, conveyors, and other equipment are adequately cleaned before handling certified seed.

- (4) Determine that the vehicle receiving bulk certified seed has been cleaned prior to receiving the seed. If it is not clean, this is to be noted on the bill of sale or transfer certificate.
 - (5) Provide to the purchaser a bulk certificate for each load of bulk certified seed at the time of delivery.
 - (6) Ensure that the conditioned lot is not moved from the premises of the approved conditioning facility or labeler's facility until the sample has been tested by the state seed department laboratory and shows that the lot is eligible for certification.
- i. It is the buyer's responsibility to:
- (1) Obtain a bulk certificate from the seller for each load of bulk certified seed at the time of delivery.
 - (2) Provide a clean vehicle or container in which to load seed.
 - (3) Maintain purity of the seed after it has been loaded into the buyer's vehicle.

History: Amended effective May 1, 1986; September 1, 2002; January 2, 2006; July 1, 2007; July 1, 2010; October 1, 2012.

General Authority: NDCC 4.1-53-10

Law Implemented: NDCC 4.1-53-11, 4.1-53-10, 4.1-53-12, 4.1-53-13, 4.1-53-39

74-03-01-13. Preissued certification tags.

Certified tags may be issued before conditioning only if prior approval has been granted by the state seed department. Tags will be preissued only under the following conditions:

1. A representative sample from the conditioned seed lot, along with the grower's declaration, if required, sampler's report, and printed analysis tag must be submitted immediately after the lot is conditioned.
2. The conditioned lot shall not be moved from the labeler's premises until the sample has been tested by the state seed department laboratory and final certification has been completed. If the seed lot does not meet label claims, the lot will be rejected, and the labeler must remove certification tags and return them to the state seed department.
3. The use of a certification label preprinted on bags will be permitted if prior approval by the state seed department is granted. Analysis information may also be printed on the bag. The approved conditioning facility must submit a preprinted analysis tag from the bags used with the sample for final certification.

History: Amended effective May 1, 1986; September 1, 2002; July 1, 2010; October 1, 2012.

General Authority: NDCC 4.1-53-11

Law Implemented: NDCC 4.1-53-12, 4.1-53-13, 4.1-53-44

74-03-01-14. Carryover seed.

1. **Unconditioned carryover.** All unconditioned carryover seed eligible for certification must be reported to the state seed department. Failure to report will disqualify the seed for certification.
2. **Certified carryover.**
 - a. **Bagged seed.** All carryover seed must be retested for germination before new certified tags will be issued by the state seed department.

- b. Bulk seed. All carryover bulk seed must be retested for germination before new bulk certificates will be issued. Carryover bulk seed cannot be recertified in bags unless a new sample is submitted for purity and germination analysis.

History: Amended effective May 1, 1986; September 1, 2002; January 2, 2006; July 1, 2010; October 1, 2012.

General Authority: NDCC 4.1-53-12

Law Implemented: NDCC 4.1-53-42

74-03-01-14.1. Applicant's responsibility.

It is the responsibility of the applicant to maintain genetic purity and identity at all stages of certification including seeding, harvesting, and storing. The applicant or grower, approved conditioner, and bulk retailer are responsible for maintaining genetic purity and identity during conditioning and handling. Evidence that any lot of seed has not been protected from contamination that might affect genetic purity or is not properly identified shall be cause for possible rejection of certification.

History: Effective May 1, 1986; amended effective January 2, 2006; July 1, 2010.

General Authority: NDCC 4.1-53-11

Law Implemented: NDCC 4.1-53-42

74-03-01-15. Misuse of certification privileges.

Any seed grower, conditioner, or retailer found guilty of misusing certification tags, misrepresenting seed, or violating any of the rules governing the growing, conditioning, and marketing of foundation, registered, or certified seed, or guilty of violations of the North Dakota seed laws and rules with respect to any seed which the grower, conditioner, or retailer sells, may at the discretion of the state seed commissioner be denied the right to produce, condition, or market seed for certification. Violators may be subject to fines by administrative action of the state seed department.

History: Amended effective May 1, 1986; May 1, 1988; September 1, 2002; January 2, 2006; July 1, 2010; October 1, 2012.

General Authority: NDCC 4.1-53-11

Law Implemented: NDCC 4.1-53-42, 4.1-53-45, 4.1-53-53, 4.1-53-57

74-03-01-16. Approved conditioners.

Any seed conditioner may be designated as an "approved conditioner" to condition field-inspected seed for final certification if, after inspection, it is the state seed department inspector's opinion that the facility is properly managed and equipped to maintain genetic purity and varietal identity of each seed lot. A separate inspection and permit is required for each fixed facility or mobile conditioning unit. The managers and the designated samplers in these facilities are under agreement to handle all seed and seed records and to draw representative samples of all seed lots for certification according to the certification rules and regulations.

1. Approved conditioners of small grains are required to have the following operational equipment capable of: (1) length grading - either a disc separator or indent cylinder or combination machine which removes long and short fractions and (2) width grading - either an air screen machine or precision graders with aspiration in line.
2. The commissioner may approve specialized equipment and facilities utilized for the purpose of seed conditioning, repackaging, treating, or inoculating certified seed.

History: Amended effective May 1, 1986; December 18, 1989; September 1, 2002; July 1, 2010; October 1, 2012; April 1, 2018.

General Authority: NDCC 4.1-53-11

Law Implemented: NDCC 4.1-53-42, 4.1-53-46

74-03-01-17. Interagency certification.

Interagency certification is a procedure established to maintain certification eligibility of seed originating in another state.

- 1. Field inspected in another state and transferred to North Dakota for final certification.**
 - a. North Dakota labelers may purchase seed that passed field inspection in another state and complete final certification and labeling in North Dakota. A certificate of transfer from the state in which the seed originated must be submitted to the state seed department to verify eligibility.
 - b. The labeler is responsible for completing final certification. If conditioning is necessary, a representative sample must be submitted to the state seed department along with a completed sampler's report and a copy of the certificate of transfer. The seed shall meet North Dakota seed standards for certification.
 - c. Interagency certification labels will be issued by the North Dakota state seed department.
- 2. Field inspected in North Dakota and transferred to another state for final certification.**
 - a. A seed producer may transfer seed that passed field inspection in North Dakota to a purchaser in another state with approval from the state seed department. The producer must submit a completed certificate of transfer to the state seed department verifying eligibility of the seed. Once approved, the state seed department will forward copies to the purchaser and the official certification agency of the state where the seed is destined.
 - b. The purchaser is responsible for completing the requirements for certification with the certification agency.
- 3. Certified in another state and transferred to North Dakota for relabeling.**
 - a. Seed that has been previously certified and labeled by an official certifying agency from another state may be reconditioned, rebagged, and relabeled in North Dakota.
 - b. When the seed is reconditioned or rebagged, a new sample must be submitted to the state seed department for analysis. The North Dakota labeler must submit a certification label from the state of origin as proof of eligibility along with a completed sampler's report.
 - c. New interagency certification labels will be issued by the state seed department.

Interagency seed lots not meeting North Dakota certification standards may require resampling or retesting to ensure compliance with North Dakota certification standards.

History: Amended effective May 1, 1986; September 1, 2002; January 2, 2006; October 1, 2012; April 1, 2018.

General Authority: NDCC 4.1-53-11

Law Implemented: NDCC 4.1-53-13, 4.1-53-42

74-03-01-18. Exclusion of warranty.

Field seeds certified in accordance with this chapter have been field inspected and laboratory tested as specified in this chapter. The state seed department and inspection services function and serve only in an official regulatory manner and do not relieve the grower or owner of the grower's or owner's responsibility. Neither the producer, the seller, the North Dakota seed commission, the seed commissioner, or the commissioner's employees make any warranty or representation of any kind, express or implied, as the quantity or quality of the crop produced from certified seed, including merchantability, fitness for a particular purpose, absence of disease, or varietal or selection identity.

The only representation is that the seed was inspected under the seed certification rules and regulations of the North Dakota state seed department.

Inspections, tests, certifications, and other acts are not intended to induce reliance on the state seed department's inspections, certifications, or any other action or inaction for any purpose relating to quantity or quality of the seed or crop produced, fitness for purpose, merchantability, absence of disease, or variety or selection identification. Certification means only that the seed was randomly inspected and at the time of the inspection the field or seed lot met the rules of the department.

History: Effective September 1, 2002; amended effective July 1, 2007; October 1, 2012.

General Authority: NDCC 4.1-53-11

Law Implemented: NDCC 4.1-53-59

**CHAPTER 74-03-02
SPECIFIC CROP REQUIREMENTS - SMALL GRAINS AND FLAX**

Section
 74-3-2-1 Land Requirements
 74-3-2-2 Field Inspection
 74-3-2-3 Field Standards
 74-3-2-4 Seed Standards (Wheat - Oats - Barley - Rye - Triticale)
 74-03-02-05 ~~Seed Standards (Flax)~~

74-03-02-01. Land requirements.

A crop of small grain ~~or flax~~ will not be eligible for certification if planted on land on which the same kind was grown the year previous unless the previous crop was the same variety and was inspected for certification. A crop of winter wheat may be planted on a field that previously produced spring wheat. Foundation or registered class fields of durum will not be eligible for certification if planted on land on which spring wheat was planted either of the two previous years.

History: Amended effective May 1, 1986; January 2, 2006; July 1, 2010; April 1, 2018.

General Authority: NDCC 4.1-53-11

Law Implemented: NDCC 4.1-53-11, 4.1-53-42

74-03-02-02. Field inspection.

All field inspection of small grain ~~and flax~~ will be made after the crop is fully headed ~~or in the case of flax in bloom or in the boll stage~~. A field harvested before inspection will not be eligible for certification.

History: Amended effective January 2, 2006; April 1, 2018.

General Authority: NDCC 4.1-53-11

Law Implemented: NDCC 4.1-53-11, 4.1-53-42

74-03-02-03. Field standards.

1. Isolation.

- a. Prior to inspection, the field must be isolated from inseparable crops by a fence row, natural boundary, or by a strip at least five feet [1.52 meters] wide which is either mowed, sprayed, or uncropped.
- b. All rye fields producing certified seed must be isolated by at least six hundred sixty feet [201.17 meters] from rye fields of any other variety or fields of the same variety that do not meet the varietal purity requirements for certification.

2. Specific field standards(wheat - barley - oats - rye -triticale).

Factor	Maximum Tolerance		
	Foundation	Registered	Certified
Other varieties *	1:10,000	1:5,000	1:2,000
Inseparable other crops	1:30,000	1:10,000	1:5,000
Prohibited noxious weeds **	none	none	none

*Other varieties include plants that can be differentiated from the variety being inspected, but shall not include variants which are characteristic of the variety.

~~**The tolerance for prohibited or objectionable weeds, or both, in the field will be determined by the inspector.~~

~~3. Specific field standards (flax).~~

Factor	Maximum Tolerance		
	Foundation	Registered	Certified
Other varieties *	1:10,000	1:5,000	1:2,000
Prohibited noxious weeds **	none	none	none

~~*Other varieties include plants that can be differentiated from the variety being inspected, but shall not include variants characteristic of the variety.~~

~~**The tolerance for prohibited or objectionable weeds, or both, in the field will be determined by the inspector.~~

History: Amended effective May 1, 1986; September 1, 2002; January 2, 2006; July 1, 2010; October 1, 2012; April 1, 2018.

General Authority: NDCC 4.1-53-11

Law Implemented: NDCC 4.1-53-11, 4.1-53-42

74-03-02-04. Seed standards (wheat - oats - barley - rye - triticale).

Seed count required on wheat, oats, barley, and durum.

Variety identification test required for hard red spring wheat and barley.

Factor	Standards for Each Class		
	Foundation	Registered	Certified
Pure seed (minimum) *	99.0 percent	99.0 percent	99.0 percent
Total weed seeds (maximum)	2 per pound	5 per pound	10 per pound
Other varieties **	1 per 2 pounds	1 per pound	3 per pound
Other crop seeds (maximum)	1 per 2 pounds	1 per pound	3 per pound
Inert matter (maximum) ***	1.0 percent	1.0 percent	1.0 percent
Prohibited noxious weed seeds +	none	none	none
Objectionable weed seeds (maximum) ++	1 per 2 pounds	1 per 2 pounds	1 per pound
Germination +++	85.0 percent	85.0 percent	85.0 percent

*The standard for durum and rye shall be 98.0 percent minimum.

**Other varieties shall not include variants characteristic of the variety. White wheat must be tested for red wheat contaminants.

***For all crops foreign matter other than broken seed shall not exceed 0.2 percent. Durum, triticale, and rye may contain 2.0 percent maximum inert matter.

+Including the seeds of quackgrass.

++Objectionable weed seeds shall include the following: dodder, wild oats, hedge bindweed (wild morning glory), giant ragweed (kinghead), falseflax, and dragonhead.

+++Winter wheat, durum, and rye minimum 80.0 percent.

Note: A barley labeler is responsible for having a loose smut test, by an official laboratory, on the harvested seed of each field of barley. If seed from more than one field is blended without having a

test for each field, a loose smut test must be made on each seed lot or subplot. The percentage of loose smut will be printed on the certification certificate or label. ~~The foundation class of barley has a zero tolerance for barley stripe mosaic virus.~~

History: Amended effective May 1, 1986; May 1, 1988; December 18, 1989; August 1, 1991; September 1, 2002; January 2, 2006; July 1, 2010; October 1, 2012; April 1, 2018.

General Authority: NDCC 4.1-53-11

Law Implemented: NDCC 4.1-53-11, 4.1-53-42

~~74-03-02-05. Seed standards (flax).~~

Factor	Standards for Each Class		
	Foundation	Registered	Certified
Pure seed (minimum)	99.0 percent	99.0 percent	98.5 percent
Total weed seeds (maximum)	15 per pound	15 per pound	30 per pound
Other varieties (maximum)*			
Brown	2 per pound	8 per pound	16 per pound
Yellow	4 per pound	16 per pound	32 per pound
Other crop seeds (maximum)	2 per pound	5 per pound	10 per pound
Inert matter (maximum)**	1.0 percent	1.0 percent	1.5 percent
Prohibited noxious weed seeds***	none	none	none
Objectionable weed seeds (maximum) †	1 per 2 pounds	1 per 2 pounds	3 per pound
Germination (minimum)	85.0 percent	85.0 percent	85.0 percent

*Other varieties shall not include variants characteristic of the variety.

**Foreign matter, other than broken seed, may not exceed 0.2 percent.

***Including seeds of quackgrass.

†Objectionable weed seeds shall include the following: dodder species, wild oats, hedge bindweed (wild morning glory), giant ragweed (kinghead), small seeded falseflax, and American dragonhead.

~~**History:** Amended effective May 1, 1986; May 1, 1987; May 1, 1988; September 1, 2002; January 2, 2006; October 1, 2012.~~

~~**General Authority:** NDCC 4.1-53-11~~

~~**Law Implemented:** NDCC 4.1-53-11, 4.1-53-42~~

CHAPTER 74-03-03
SPECIFIC CROP REQUIREMENTS –ALFALFA (NONHYBRID)
HYBRID WHEAT

Section

- 74-3-3-1 Land Requirements
- 74-3-3-2 Field Inspection
- 74-3-3-3 Field Standards
- 74-3-3-4 Seed Standards

~~74-03-03-01. Land requirements.~~

~~A field to be eligible for the production of foundation, registered, or certified seed must not have been in alfalfa production in the previous four years, unless the field was planted to the same class or a higher class of the same variety and passed field inspection for certification in one of the three years.~~

~~History: Amended effective October 1, 2012.~~

~~General Authority: NDCC 4.1-53-11~~

~~Law Implemented: NDCC 4.1-53-11, 4.1-53-42~~

~~74-03-03-02. Field inspection.~~

~~Field inspection prior to harvest will be required each year a seed crop is removed.~~

~~General Authority: NDCC 4.1-53-11~~

~~Law Implemented: NDCC 4.1-53-11, 4.1-53-42~~

~~74-03-03-03. Field standards.~~

- ~~1. **Age.** Production for seed certification shall be limited to fields not more than six years old, excluding the year seeded.~~
- ~~2. **Portion.** A portion of a field may be certified if the area to be certified is clearly defined. Portions of the field not meeting requirements for certification must not be allowed to reach the bud stage.~~
- ~~3. **Isolation.** A field producing foundation, registered, or certified seed must have the minimum isolation distance from fields of any other variety or fields of the same variety that do not meet the varietal purity requirements for certification, as given in the following table:~~

Class	Fields of Less- Than Five Acres	Fields of Five- Acres or More
Foundation	1,320 feet	1,320 feet
Registered	660 feet	330 feet
Certified	330 feet	165 feet
Between different classes of the same variety	165 feet	165 feet

~~4. Specific field standards.~~

Factor	Maximum Permitted in Each Class		
	Foundation	Registered	Certified
Other varieties *	1:1,000	1:400	1:100
Sweetclover	none	5 plants per acre	25 plants per acre

~~*Other varieties include plants that can be differentiated from the variety being inspected, but shall not include variants characteristic of the variety.~~

~~History: Amended effective May 1, 1986; January 2, 2006; October 1, 2012.~~

~~General Authority: NDCC 4.1-53-11~~

~~Law Implemented: NDCC 4.1-53-11, 4.1-53-42~~

~~74-03-03-04. Seed standards.~~

Factor	Standards for Each Class		
	Foundation	Registered	Certified
Pure seed (minimum)	99.0 percent	99.0 percent	99.0 percent
Total weed seeds (maximum)	0.1 percent	0.2 percent	0.5 percent
Other varieties (maximum)*	0.1 percent	.25 percent	1.00 percent
Other crop seeds (maximum)	0.2 percent	.35 percent	1.00 percent
Sweetclover seed (maximum)	none	18 per pound	45 per pound
Inert matter (maximum)	1.0 percent	1.0 percent	1.0 percent
Prohibited noxious weed seeds**	none	none	none
Objectionable weed seeds***	none	9 per pound	13 per pound
Germination and hard seeds (minimum)	85.0 percent	85.0 percent	85.0 percent

~~*Including sweetclover.~~

~~**Includes the seeds of quackgrass and dodder species.~~

~~***Objectionable weed seeds shall include the following: wild oats, dragonhead, hedge bindweed (wild morning glory), giant ragweed (kinghead), nightflowering catchfly, hoary alyssum, white cockle, buckhorn plantain, small-seeded falseflax, and dragonhead.~~

~~History: Amended effective May 1, 1986; September 1, 2002; October 1, 2012.~~

~~General Authority: NDCC 4.1-53-11~~

~~Law Implemented: NDCC 4.1-53-11, 4.1-53-42~~

Section

74-03-04-01 General Requirements

74-03-04-02 Land Requirements

74-03-04-03 Field Inspection

74-03-04-04 Field Standards

74-03-04-05 Seed Standards

74-03-04-01. General requirements. The following genetic standards are applicable for the production of parental lines and hybrid wheat produced by comingling a cytoplasmic male-sterile seed parent and a fertility restorer line.

1. **Eligibility requirements for varieties.** Standards applicable to wheat varieties apply to the production of pollinator lines.
2. **Definition of parental types**
 - a. **Maintainer (B-line).** A line with normal fertile cytoplasm that is used as a pollinator to increase the Seed Parent.
 - b. **Seed Parent (A-line).** A cytoplasmic male-sterile line (cms), that is genetically

identical to the Maintainer line that when pollinated by a Restorer, produces hybrid seed.

- c. Restorer (R-line). Any male fertile line possessing nuclear restoration genes used as a pollinator in the production of commercial hybrid seed.

3. Eligible seed classes.

- a. Only the Certified class is recognized in the production of commercial hybrid seed. A commercial hybrid is planted for any use except for seed production. To be certified, a commercial hybrid must be produced from Foundation class seed stocks. These seed stocks shall consist of male steriles, inbred lines, and/or hybrids.
- b. Only the Foundation class is recognized for parental lines.

History: Effective April 1, 2018

General Authority: NDCC 4.1-52-10

Law Implemented: NDCC 4.1-52-10, 4.1-53-42

74-03-04-02. Land requirements.

1. Maintainer and Restorer lines will not be eligible for Foundation class if planted on land on which the same kind was grown the previous two years unless the previous crop was same variety and was inspected for certification.
2. Seed Parents will not be eligible for certification if planted on land on which the same kind was grown the previous two years.
3. Commercial hybrid will not be eligible for certification if planted on land on which the same kind was grown the previous two years.

History: Effective April 1, 2018.

General Authority: NDCC 4.1-52-10

Law Implemented: NDCC 4.1-52-10, 4.1-53-42

74-03-04-03. Field inspection. Fields for the production of parental lines utilized in hybrid wheat production shall be inspected as follows. Roguing to remove undesirable plants must be done prior to field inspection. Rogued plants must be removed from the field.

1. AxB production. Seed parents shall be inspected three times. The first inspection shall occur after heading but before anthesis to check for off-type plants. The second and third inspections shall be during anthesis to check for shadders in the seed parent, the presence of which shall immediately be communicated with the seed producer to allow for roguing.
2. Maintainers and Restorers. Male lines shall be inspected at least once for purity after the crop is fully headed.
3. Commercial hybrid production fields shall be inspected at least once.

History: Effective April 1, 2018

General Authority: NDCC 4.1-52-10

Law Implemented: NDCC 4.1-52-10, 4.1-53-42

74-03-04-04. Field standards

1. Isolation.

- a. Seed Parent increases (AxB). Fields or parts of fields acceptable for production of seed parents to be used for the production of commercial hybrid seed must be so located that the seed parent is not less than 2,640 feet (1/2 mile) from fields of other kinds or varieties which could provide a source of contamination, or from fields of the same variety that do not meet varietal purity requirements for certification. The A-line and B-line shall be separated by an unplanted strip of ground adequate to prevent mechanical mixture.
- b. Restorer increases. Prior to inspection, the field must be isolated from inseparable crops by a strip at least five feet wide to prevent mechanical contamination.
- c. Commercial hybrids: Fields or parts of fields acceptable for production of commercial hybrid seed must be no less than 330 feet from fields of other kinds or varieties which would provide a source of contamination, or from fields of the same variety that do not meet varietal purity requirements for certification.

2. Specific Field Standards.

<u>Factor</u>	<u>A-Line Foundation</u>	<u>B & R-Lines Foundation</u>	<u>Commercial Hybrid Certified</u>
<u>Pollen Shedders</u>	<u>1:3,000</u>	<u>N/A</u>	<u>NA</u>
<u>Other varieties</u>	<u>1:3,000</u>	<u>1:3,000</u>	<u>1:3,000</u>
<u>Inseparable Other Crops</u>	<u>1:30,000</u>	<u>1:30,000</u>	<u>1:5,000</u>
<u>Prohibited noxious weed seeds**</u>	<u>none</u>	<u>none</u>	<u>none</u>

* Other varieties include plants that can be differentiated from the variety being inspected, but shall not include variants which are characteristic of the variety.

** The tolerance for prohibited or objectionable weeds, or both, in the field will be determined by the inspector.

History: Effective April 1, 2018

General Authority: NDCC 4.1-52-10

Law Implemented: NDCC 4.1-52-10, 4.1-53-42

74-03-04-05. Seed standards.

Variety identification test is required for A, B and R-lines. Hybridity test is required on hybrid seed. Seed Count required on all lines.

Standards for Each Class

	A, B, R-Lines	Commercial Hybrid
<u>Factor</u>	<u>Foundation</u>	<u>Certified</u>
<u>Pure seed (minimum)</u>	<u>98.0 percent</u>	<u>98.0 percent</u>
<u>Hybridity (minimum)*</u>	<u>N/A</u>	<u>75%</u>
<u>Total weed seeds (maximum)</u>	<u>0.10 percent</u>	<u>0.10 percent</u>
<u>Other varieties **</u>	<u>0.005</u>	<u>0.05 percent</u>
<u>Other crop seeds (maximum)</u>	<u>0.01 percent</u>	<u>0.08 percent</u>
<u>Inert matter (maximum) ***</u>	<u>2.0 percent</u>	<u>2.0 percent</u>
<u>Prohibited noxious weed seeds</u>	<u>none</u>	<u>none</u>
<u>Germination</u>	<u>80.0 percent</u>	<u>80.0 percent</u>

* Hybridity will be determined by a method of acceptable accuracy that can be reproduced by a certifying agency. The completed test must be submitted to the agency with a declaration of the hybridity prior to final certification of each lot.

**Other varieties include plants that can be differentiated from the variety being inspected, but shall not include variants which are characteristic of the variety.

*** Inert matter shall not include more than 0.5% of material other than seed fragments of the variety under consideration.

History: Effective April 1, 2018

General Authority: NDCC 4.1-52-10

Law Implemented: NDCC 4.1-52-10, 4.1-53-42

**CHAPTER 74-03-05
SPECIFIC CROP REQUIREMENTS - RED CLOVER
FLAX**

[Repealed effective May 1, 1986]

Section

- 74-03-05-1 Land Requirements
- 74-03-05-2 Field Inspection
- 74-03-05-3 Field Standards
- 74-03-05-4 Seed Standards

74-03-05-01. Land requirements.

A crop of flax will not be eligible for certification if planted on land on which the same kind was grown the year previous unless the previous crop was the same variety and was inspected for certification.

History: Amended effective April 1, 2018.

General Authority: NDCC 4.1-53-11

Law Implemented: NDCC 4.1-53-11, 4.1-53-42

74-03-05-02. Field inspection.

All field inspection of flax will be made after the crop is in bloom stage. A field harvested before inspection will not be eligible for certification.

History: Amended effective April 1, 2018.

General Authority: NDCC 4.1-53-11

Law Implemented: NDCC 4.1-53-11, 4.1-53-42

74-03-05-03. Field standards.

1. Isolation.

Prior to inspection, the field must be isolated from inseparable crops by a fence row, natural boundary, or by a strip at least five feet [1.52 meters] wide which is either mowed, sprayed, or uncropped.

2. Specific field standards (flax).

Factor	Maximum Tolerance		
	Foundation	Registered	Certified
Other varieties*	1:10,000	1:5,000	1:2,000
Prohibited noxious weeds**	none	none	none

*Other varieties include plants that can be differentiated from the variety being inspected, but shall not include variants characteristic of the variety.

**The tolerance for prohibited or objectionable weeds, or both, in the field will be determined by the inspector.

History: Amended effective April 1, 2018.
General Authority: NDCC 4.1-53-11
Law Implemented: NDCC 4.1-53-11, 4.1-53-42

74-03-05-04. Seed standards (flax).

<u>Factor</u>	<u>Standards for Each Class</u>		
	<u>Foundation</u>	<u>Registered</u>	<u>Certified</u>
<u>Pure seed (minimum)</u>	<u>99.0 percent</u>	<u>99.0 percent</u>	<u>98.5 percent</u>
<u>Total weed seeds (maximum)</u>	<u>15 per pound</u>	<u>15 per pound</u>	<u>30 per pound</u>
<u>Other varieties (maximum) *</u>			
<u>Brown</u>	<u>2 per pound</u>	<u>8 per pound</u>	<u>16 per pound</u>
<u>Yellow</u>	<u>4 per pound</u>	<u>16 per pound</u>	<u>32 per pound</u>
<u>Other crop seeds (maximum)</u>	<u>2 per pound</u>	<u>5 per pound</u>	<u>10 per pound</u>
<u>Inert matter (maximum) **</u>	<u>1.0 percent</u>	<u>1.0 percent</u>	<u>1.5 percent</u>
<u>Prohibited noxious weed seeds ***</u>	<u>none</u>	<u>none</u>	<u>none</u>
<u>Objectionable weed seeds (maximum) +</u>	<u>1 per 2 pounds</u>	<u>1 per 2 pounds</u>	<u>3 per pound</u>
<u>Germination (minimum)</u>	<u>85.0 percent</u>	<u>85.0 percent</u>	<u>85.0 percent</u>

*Other varieties shall not include variants characteristic of the variety.

**Foreign matter, other than broken seed, may not exceed 0.2 percent.

***Including seeds of quackgrass.

+Objectionable weed seeds shall include the following: dodder species, wild oats, hedge bindweed (wild morning glory), giant ragweed (kinghead), small seeded falseflax, and American dragonhead.

History: Amended effective April 1, 2018.
General Authority: NDCC 4.1-53-11
Law Implemented: NDCC 4.1-53-11, 4.1-53-42

CHAPTER 74-03-09.1
SPECIFIC CROP REQUIREMENTS - HYBRID CANOLA AND RAPESEED

Section

74-03-09.1-01	Land Requirements
74-03-09.1-02	Seed Requirements
74-03-09.1-03	Field Inspection
74-03-09.1-04	Field Standards
74-03-09.1-05	Seed Standards

74-03-09.1-01. Land requirements.

Crops for production of foundation seed must not be planted on land that has grown canola, rapeseed, or mustard or oilseed radish during the preceding five years. Crops for production of certified seed must not be planted on land that has grown canola, rapeseed, or mustard or oilseed radish during the preceding three years.

History: Effective October 1, 2012; April 1, 2018.

General Authority: NDCC 4.1-53-11

Law Implemented: NDCC 4.1-53-11, 4.1-53-42

74-03-09.1-02. Seed requirements.

Only the certified class is recognized in the production of commercial hybrid seed. Breeder or foundation seed must be used to establish all fields of hybrid canola or rapeseed for certification.

History: Effective October 1, 2012.

General Authority: NDCC 4.1-53-11

Law Implemented: NDCC 4.1-53-11, 4.1-53-42

74-03-09.1-03. Field inspection.

Field inspection shall be made when the seed parent is in early bloom. Additional inspections may be required.

History: Effective October 1, 2012.

General Authority: NDCC 4.1-53-11

Law Implemented: NDCC 4.1-53-11, 4.1-53-42

**CHAPTER 74-03-10
SPECIFIC CROP REQUIREMENTS - SAFFLOWER**

Section	
74-3-10-1	Land Requirements
74-3-10-2	Field Inspection
74-3-10-3	Field Standards
74-3-10-4	Seed Standards

74-03-10-01. Land requirements.

Safflower will not be considered for certification if planted on land where safflower has been grown the past two years. It is recommended that the crop be planted on summerfallow or on land immediately following a separable crop.

History: Amended effective May 1, 1988.

General Authority: NDCC 4.1-53-11

Law Implemented: NDCC 4.1-53-11, 4.1-53-42

74-03-10-02. Field inspection.

Field inspection shall be made after the crop reaches the bloom stage (at least fifty percent of the plants showing one or more blossoms).

History: Amended effective May 1, 1986.

General Authority: NDCC 4.1-53-11

Law Implemented: NDCC 4.1-53-11, 4.1-53-42

74-03-10-03. Field standards.

1. **Isolation.** Fields of safflower planted to produce the registered or certified class of seed shall be at least one thousand three hundred twenty feet [402.34 meters] from any other variety or noncertified field of safflower. When certified classes of seed of the same variety are planted in close proximity, no isolation requirement applies, except to maintain field borders.

2. Specific field standards.

Factor	Maximum Permitted in Each Class		
	Foundation	Registered	Certified
Other varieties *	1:5,000 <u>10,000</u>	1:2,000	1:1,000
Inseparable other crops	1:30,000	1:10,000	1:3,000
Prohibited noxious weeds**	none	none	none

*Other varieties shall include plants that can be differentiated from the variety being inspected, but shall not include variants characteristic of the variety.

**The tolerance for prohibited or objectionable weeds, or both, in the field will be determined by the inspector.

History: Amended effective May 1, 1986; September 1, 2002; January 2, 2006; October 1, 2012; April 1, 2018.

General Authority: NDCC 4.1-53-11

Law Implemented: NDCC 4.1-53-11, 4.1-53-42

74-03-10-04. Seed standards.

Factor	Foundation	Registered	Certified
Pure seed (minimum)	98.0 percent	98.0 percent	98.0 percent
Inert matter (maximum)	2.0 percent	2.0 percent	2.0 percent
Other crops or varieties (maximum)	1 per 2 pounds	1 per pound	3 per pound
Weed seeds (maximum)	2 per pound	5 per pound	10 per pound
Prohibited noxious weed seed *	none	none	none
Objectionable weed seeds**	1 per 2 pounds	1 per 2 pounds	2 per pound
Germination (minimum)		80 percent	80 percent
Sclerotia (maximum)	5 per pound	5 per pound	5 per pound

*Including the seeds of quackgrass.

**Objectionable weed seeds shall include the following: dodder, wild oats, hedge bindweed (wild morning glory), giant ragweed (kinghead), falseflax, and dragonhead.

History: Amended effective May 1, 1986; September 1, 2002; January 2, 2006; October 1, 2012.

General Authority: NDCC 4.1-53-11

Law Implemented: NDCC 4.1-53-11, 4.1-53-42

CHAPTER 74-03-14
SPECIFIC CROP REQUIREMENTS – INDUSTRIAL HEMP

<u>Section</u>	
74-3-14-1	<u>General Requirements</u>
74-3-14-2	<u>Land Requirements</u>
74-3-14-3	<u>Field Inspection</u>
74-3-14-4	<u>Field Standards</u>
74-3-14-5	<u>Seed Standards</u>

74-03-14-01. General requirements. All production of industrial hemp crops is subject to license application approval that may be required by regulatory authorities. Only growers who possess a current license with the North Dakota Department of Agriculture are eligible to produce certified seed. Only varieties of industrial hemp approved by regulatory authorities for seed production and which meet Federal Seed Act eligibility requirements will be eligible for certification. Growers may be required by regulatory agencies to obtain THC test results according to applicable regulations. Growers may be required to submit test results to the seed certifying agency before labels are issued. Upon meeting final certification requirements, eligible seed will be labeled in the licensee's name only.

History: Effective April 1, 2018

General Authority: NDCC 4.1-52-10

Law Implemented: NDCC 4.1-52-10, 4.1-53-42

74-03-14-02. Land requirements. A crop of Foundation or Registered class industrial hemp will not be eligible for certification if planted on land on which the same kind of crop was grown the previous three years unless the previous crop was the same variety and passed field inspection for certification. A crop for Certified class will not be eligible for certification if planted on land on which the same kind of crop was grown the previous two years unless the previous crop was the same variety and passed field inspection for certification.

History: Effective April 1, 2018

General Authority: NDCC 4.1-52-10

Law Implemented: NDCC 4.1-52-10, 4.1-53-42

74-03-14-03. Field inspection. It is the grower's responsibility to ensure that fields are inspected prior to swathing or harvesting. A field harvested before inspection will not be eligible for certification. All fields must be inspected at least once before harvest at a stage of growth when varietal purity is best determined. Two inspections are required for Foundation seed fields.

History: Effective April 1, 2018

General Authority: NDCC 4.1-52-10

Law Implemented: NDCC 4.1-52-10, 4.1-53-42

74-03-14-04. Field standards

1. Isolation.

- a. Prior to inspection, the field must be isolated from fields of any other variety or fields of the same variety not meeting genetic purity requirements for certification.
- b. The minimum isolation distances required between inspected industrial hemp and other hemp crops shall be maintained as specified in the following table. There shall be no hemp plants within 300 feet of a seed field and no more than 4 plants per acre outside 300 feet. Industrial hemp crops shall be isolated from other inseparable crops by a minimum of ten feet.

<u>Other Hemp Crops</u>	<u>Dioecious Types</u>		<u>Monoecious Types and Hybrids</u>	
	<u>Foundation Registered</u>	<u>Certified</u>	<u>Foundation Registered</u>	<u>Certified</u>
<u>Different varieties of Industrial Hemp or Non-certified crop of same variety</u>	<u>16,150 feet</u>	<u>3,230 feet</u>	<u>NA</u>	<u>NA</u>
<u>Lower certified class of seed crop of same variety</u>	<u>6,460 feet</u>	<u>646 feet</u>	<u>NA</u>	<u>NA</u>
<u>Dioecious variety of Industrial Hemp or Non-certified crop of the same kind</u>	<u>NA</u>	<u>NA</u>	<u>16,150 feet</u>	<u>3,230 feet</u>
<u>Different varieties of the same type of Industrial Hemp (Monoecious or Female Hybrid)</u>	<u>NA</u>	<u>NA</u>	<u>6,460 feet</u>	<u>646 feet</u>
<u>Lower certified class of seed crop of same variety</u>	<u>NA</u>	<u>NA</u>	<u>3,230 feet</u>	<u>646 feet</u>

2. Specific Field Standards.

- a. Roguing to remove undesirable plants must be done before field inspection. Rogued plants must be removed from the field to be harvested.
- b. Any combination of impurities may be reason for failing an inspection. Unless otherwise specified by the breeder, an industrial hemp crop for certification must not exceed the limits specified in the following table. Impurities may include harmful contaminants (species capable of cross pollinating with the inspected variety), plants of other varieties or distinct types foreign to the variety being inspected, weeds or other inseparable crops.
- c. The table indicates the maximum number of impurities permitted in approximately 10,000 plants of the inspected crop.

Factor	Dioecious Types		Monoecious Types		Monoecious Types & Hybrids
	Foundation	Registered Certified	Foundation	Registered	Certified
"Too Male" Monoecious plants	NA	NA	500	1,000	NA
Dioecious male plants shedding pollen	NA	NA	1	2	100
Other impurities	3	10	3	10	10

History: Effective April 1, 2018

General Authority: NDCC 4.1-52-10

Law Implemented: NDCC 4.1-52-10, 4.1-53-42

74-03-14-05. Seed standards.

Factor	Standards for Each Class		
	Foundation	Registered	Certified
Pure seed (minimum)	98.0 percent	98.0 percent	98.0 percent
Total weed seeds (maximum)	0.10 percent	0.10 percent	0.10 percent
Other varieties	0.005 percent	0.01 percent	0.05 percent
Other crop seeds (maximum)	0.01 percent	0.03 percent	0.08 percent
Inert matter (maximum) *	2.0 percent	2.0 percent	2.0 percent
Prohibited noxious weed seeds	none	none	none
Other kinds**	0.01 percent	0.03 percent	0.07 percent
Germination	80.0 percent	80.0 percent	80.0 percent

* Inert matter shall not include more than 0.5% of material other than seed fragments of the variety under consideration.

** Other kinds shall not exceed 2 per pound for Foundation, 6 for Registered and 10 for Certified

History: Effective April 1, 2018

General Authority: NDCC 4.1-52-10

Law Implemented: NDCC 4.1-52-10, 4.1-53-4

CHAPTER 74-04-01
SEED POTATO CERTIFICATION STANDARDS

Section	
74-4-1-1	Definitions
74-4-1-2	General Requirements and Responsibilities
74-4-1-3	Exclusion of Warranty and Limitation of Remedy
74-04-01-04	Application Fees and Restrictions
74-04-01-05	Seed Potato Farm Requirements
74-04-01-06	Seed Eligibility
74-04-01-07	Seed Classification and Limited Generation
74-04-01-08	Field Inspection Standards
74-4-1-9	Postharvest Testing Program
74-4-1-10	Storage and Packaging Requirements
74-4-1-11	Official North Dakota Seed Potato Grades

74-04-01-02. General requirements and responsibilities.

1. Participation and responsibility.
 - a. Participation in this seed potato program is voluntary and may be withdrawn prior to the first inspection.
 - b. Responsibilities.
 - (1) Seed department responsibilities. The inspections, approvals, certification, and production of these rules and regulations will be done by the state seed department.
 - (2) Applicants' responsibilities. The farming, sanitation practices, storing, and packing will be the grower's responsibility. It is the responsibility of the applicant to maintain genetic purity and identity at all stages of certification, including planting, harvesting, storing, and handling. Evidence that any lot of seed has not been protected from contamination that might affect genetic purity or is not properly identified shall be cause for possible rejection of certification.
2. General requirements.
 - a. Potatoes to be eligible for the program shall have been in a certification program and winter tested for eligibility.
 - b. Fields will pass two or more inspections given by visual examination of a representative sample of the plants which method and size of sample will be determined by the state seed department.
 - c. Fields passing inspection will be stored in a seed warehouse and sorted to grade at shipping time.
 - d. Responsibility for the quality of work done in sorting the potatoes falls upon the grower or a thoroughly qualified agent authorized by the grower.
 - e. Requirements for certification are not complete on any lot of eligible potatoes until properly labeled as described in this chapter and an official seed grade inspection certificate has been issued. Official labels will be provided to the grower by the state seed department in hard copy or electronic form. Official seed grade inspections are compulsory for seed shipped out of state. Grade inspection is voluntary for intrastate shipments. For those shipments that are not inspected, or that fail to meet grade standards described in section 74-04-01-11, the label must state "no grade".
 - f. The responsibility for properly and accurately labeling foundation or certified seed rests with

the grower of the seed. The labels will be issued to the purchaser only on order or authorization from the grower, who must provide to the purchaser a proper and accurate label for each container or load of seed at the time of delivery. ~~These labels are to accompany the potatoes at shipment.~~ Labels must not be applied to stock other than that indicated on the tags or bulk certificates. Bulk shipments, by truck or railcar, when thoroughly disinfected, may be considered the container.

- g. The seed label must contain the following information:
- (1) Year in which the crop was produced.
 - (2) Grower/labelers name.
 - (3) Variety.
 - (4) Generation.
 - (5) Class
 - (6) Certification or application number of the seed lot.
 - (7) Total amount in container represented by cwt.
- h. Resorting or regrading. If a lot of potatoes fails to meet certified seed grade requirement upon inspection, they are to be reconditioned to meet the requirement or the official labels must be removed.
- i. Reconditioning while in transit. In the case of any circumstance making it essential to recondition seed in transit, permission must be obtained from the state seed department.
- j. Latent virus testing. Serological testing for latent viruses shall be voluntary and a requirement for only virus-tested seed. Virus-tested seed meeting established tolerances may be indicated on the label.
- k. Upon the discretion of the state seed department, potato seed lots originating from out of state may be subjected to a laboratory test, by a seed department-approved laboratory, for the detection of seedborne pathogens. Eligibility for recertification of any seed lot so tested must be based on that laboratory test. Additional documentation, including health certificates or summer or winter, or both, field readings, may be required by the seed department prior to acceptance for recertification in this state.
- l. Failure to comply with any of the requirements of this chapter may be cause for rejection or cancellation of the lot or the certification of any seed as seed potatoes.
3. No person may disclaim responsibility of the vendor of the seed for the data or information on the label required by law and any such disclaimer of vendor's express or implied warranty is invalid.
4. Violations. The state law specifically states the use of the term "certified" or the term "registered" or any term or terms conveying a meaning substantially equivalent to the meaning of any said terms, either orally or in writing, printing, marking, or otherwise in reference to or in connection with or in advertising or characterizing or labeling seed potatoes or the containers thereof is prohibited, unless such potatoes shall have been duly inspected and certified pursuant to the provisions of the law. Any violation of this law and any person on conviction thereof, shall be fined not more than one hundred dollars and cost for first offense and not more than five hundred dollars and costs of prosecution for subsequent offenses.

History: Amended effective December 1, 1981; June 1, 1992; January 2, 2006; July 1, 2007; October 1, 2012, April 1, 2018.

General Authority: NDCC 28-32

Law Implemented: NDCC 4.1-55-02

74-04-01-04. Application fees and restrictions.

1. Application for field inspection must be received in the state seed department, university station, Fargo, North Dakota, not later than June fifteenth. There is a ~~one~~ three dollar per acre [.40 hectare] cash penalty for later applications.
2. At least one-half the fees and all due accounts must accompany the applications.
3. Applications are subject to cancellation in the case of crop failure or other valid reason and the application fee, minus a cancellation fee will be returned if the request reaches the state seed department before the inspector arrives in the general locality of the field. However, in such a case, the crop must be plowed under or destroyed so as not to create a disease hazard.
4. Separate application forms are required for latent virus testing.
5. Loss by drown outs, if over twenty-five percent of the field, will be allowed after the first inspection only. No adjustments will be made thereafter.
6. Fee schedules for field inspection, grade inspection, latent virus testing, cancellation fees, and late penalties are subject to change and available at the state seed department.
7. Prompt payment of all fees will be required at all times.
8. Additional testing such as laboratory tests will be assessed at costs to the grower.

History: Amended effective December 1, 1981; December 1, 1987; June 1, 1992; September 1, 1997; September 1, 2002, April 1, 2018.

General Authority: NDCC 28-32

Law Implemented: NDCC 4.1-55-02