WEST VIRGINIA CODE: §19-16-1

§19-16-1. Definitions.

“Advertisement” means all representations, other than those on the label, disseminated in any manner or by any means, relating to seed within the scope of this article.

“Agricultural seed” includes forage seeds (grasses and legumes), tobacco, soybeans, cereal, oil, fiber, and other kinds of crop seeds commonly recognized within this state as agricultural seeds, lawn and turf seeds, and combinations of those seeds, and may include noxious weed seeds when the commissioner determines that the seed is being used as agricultural seed.

“Blend” means seed consisting of more than one variety of a kind, each in excess of five percent by weight of the whole.

“Brand” means word/words, name, symbol, number, mark, design, unique design, or any combination which identifies seed of one entity from seed of another.

“Bulk” means seed when loose in vehicles of transportation or in storage, or in retail displays and not in seed bags or other containers.

“Certifying agency” means: (1) An agency authorized under the laws of a state, territory, or possession to officially certify seed and which has standards and procedures approved by the United States Secretary of Agriculture to assure the genetic purity and identity of the seed certified; or (2) an agency of a foreign country determined by the United States Secretary of Agriculture to adhere to procedures and standards for seed certification comparable to those adhered to generally by seed certifying agencies under subdivision (1) of this subsection.

“Coated” means a seed unit covered with any substance which changes the size, shape, or weight of original seed. Seeds coated with ingredients such as, but not limited to, rhizobia, dyes, and pesticides are not considered coated seeds.

“Commissioner” refers to the Commissioner of Agriculture of the State of West Virginia or a duly authorized employee.

“Complete record” means any and all information which relates to the origin, treatment, germination, purity, kind, and variety of each lot of agricultural seed sold in this state, or which relates to the treatment, germination, kind, and variety of each lot of vegetable, or tree and shrub seed sold in this state. The information shall include seed samples and records of declarations, labels, purchases, sales, conditioning, bulking, treatment, handling, storage, analyses, tests, and examinations.

“Conditioning” means drying, cleaning, scarifying, and other operations which may change the purity or germination of the seed and require the seed lot to be retested to determine the

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label information.

“Dealer” means any person who exclusively sells, exposes for sale, offers for sale, exchanges, or barters seed for sowing purposes within this state to the ultimate consumer.

“Distinct” means that the variety can be differentiated by one or more identifiable morphological, physiological, or other characteristics from all other varieties of public knowledge.

“Distribute” means to offer for sale, sell, expose for sale, exchange, or barter seed for sowing purposes within the state.

“Distributor” means any person who sells, exposes for sale, offers for sale, exchanges, barters, gives, parcels out, allots, shares, or dispenses a seed for sowing purposes within the state.

“Dormant” means viable seed, excluding hard seed, which fails to germinate when provided the specified germination conditions for the kind of seed in question.

“Flower seeds” includes seeds of herbaceous plants grown for their blooms, ornamental foliage, or other ornamental parts, and commonly known and sold under the name of flower or wildflower seeds in this state.

“Genuine growers declaration” means a statement signed by the grower which gives for each lot of seed the lot number, kind, variety (if known), origin, weight, year of production, date of shipment, and to whom the shipment was made.

“Germination” means the emergence and development from the seed embryo of those essential structures which, for the kind of seed in question, are indicative of the ability to produce a normal plant under favorable conditions.

“Hard seeds” means seeds which remain hard at the end of the prescribed test period because they have not absorbed water due to an impermeable seed coat.

“Hermetically sealed” means a container that is designed and intended to be secure against the entry of microorganisms and thereby to maintain the commercial sterility of its contents after processing.

“Hybrid” means the first generation seed of a cross produced by controlling the pollination and by combining: (1) Two or more inbred lines; (2) one inbred or a single cross with an open-pollinated variety; or (3) two varieties or species, except open-pollinated varieties of corn (Zea mays). The second generation of subsequent generations from the crosses shall not be regarded as hybrids. Hybrid designations shall be treated as variety names.

“Inert matter” means all matter not seed, which includes, but is not limited to, broken seeds, sterile florets, chaff, fungus bodies, and stones, as determined by methods defined by rule.

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“Introduced wildflower” means kinds, or the types and varieties derived from those kinds that are not indigenous to North America.

“Kind” means one or more related species or subspecies which singly or collectively is known by one common name, for example, corn, oats, alfalfa, and timothy.

“Labeling” includes a tag or other device attached to or written, stamped, or printed on any container or accompanying any lot of bulk seeds purporting to set forth the information required on the seed label by this act, and it may include any other information relating to the labeled seed.

“Lot” means a definite quantity of seed identified by a lot number, code number, or other mark, every portion or bag of which is uniform within recognized tolerances for the factors which appear on the label.

“Mixture”, “mix”, or “mixed” means seed consisting of more than one kind or variety, each present in excess of five percent by weight of the whole. A mixture of varieties of a single kind may be labeled as a blend.

“Mulch” means a protective covering of any suitable substance placed with seed which acts to retain sufficient moisture to support seed germination and sustain early seedling growth, and aid in the prevention of the evaporation of soil moisture, the control of weeds, and the prevention of erosion.

“Native wildflower” means kinds or the types and varieties derived from those kinds that are indigenous to North America.

“Noxious weed seeds” includes prohibited noxious weed seeds, restricted noxious weed seeds, and undesirable grass seed.

“Off type” means any seed or plant not a part of the variety in that it deviates in one or more characteristics from the variety as described and may include: A seed or plant of another variety; a seed or plant not necessarily any variety; a seed or plant resulting from cross-pollination by another kind or variety; a seed or plant resulting from uncontrolled self-pollination during production of hybrid seed; or segregates from any of the off types set forth in this subsection.

“Official sample” means any sample of seed taken by the commissioner in accordance with the provisions of this article and rules promulgated under this article.

“Origin”, for an indigenous stand of trees, means the area on which the trees are growing; for a nonindigenous stand, it is the place from which the seeds or plants were originally introduced.

“Other crop seed” means seed of plants grown as crops (other than the kind or variety included in the pure seed) as determined by methods defined by rule.

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"Person" means an individual, partnership, corporation, company, association, receiver, trustee, agent, fiduciary, firm, or any group of organized persons, whether incorporated or not.

"Prohibited noxious weed seeds" means those weed seeds which are prohibited from being present in agricultural, vegetable, or tree and shrub seed, and are the seeds of weeds which are highly destructive and difficult to control by good cultural practices and the use of herbicides.

"Pure live seed" means the product of the percent of germination, plus hard or dormant seed, multiplied by the percent of pure seed divided by 100, where the result is expressed as a whole number.

"Pure seed" means seed exclusive of inert matter and all other seeds not of the seed being considered as determined by methods defined by rule.

"Purity" means the name or names of the kind, type, or variety and the percentage or percentages thereof; the percentage of other agricultural seed or crop seed; the percentage of weed seeds, including noxious weed seeds; the percentage of inert matter; and the names of the noxious weed seeds and the rate of occurrence of each.

"Registrant" means any person who registers as a seedsman in order to distribute seed for sowing purposes within the state.

"Restricted noxious weed seeds" means those weed seeds which are objectionable in agricultural crops, lawns, and gardens of this state, but which can be controlled by good cultural practices or the use of herbicides.

"Seed potato" refers to vegetatively propagated tubers used or intended to be used for potato production which must grade equal to or better than the minimum requirements of U.S. No. 1, from the standpoint of physical defects, size, or disease, and must be certified by an official certifying agency.

"Sell-by date" means the last date that the seed may legally be sold in the state.

"Seizure" means a legal process carried out by court order against a definite amount of seed.

"Stable" means that the variety will remain unchanged in its essential and distinctive characteristics and its uniformity when reproduced or reconstituted as required by the different categories of varieties.

"Stop sale or embargo" means an administrative order, provided by this article, restraining the sale, use, disposition, and movement of a definite amount of seed.

"Test date" means the month and year in which the germination test was completed.

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"Total viable" means the sum of percentage germination plus dormant plus hard seeds.

"Treated" means that the seed has received an application of a substance, or that it has been subjected to a process for which a claim is made. For label, shall be the commonly accepted coined, chemical (generic), biological, or abbreviated chemical name.

"Tree and shrub seeds" includes seeds of woody plants commonly known and sold as tree and shrub seeds in this state.

"Tree seed collector's declaration" means a statement, signed by a grower or person having knowledge of the place of collection, giving, for a lot of seed, the lot number, common or scientific name of the species (and subspecies, if appropriate), origin, elevation, and quantity of tree and shrub seed.

"Type" means a group of varieties so nearly similar that the individual varieties cannot be clearly differentiated, except under special conditions.

"Undesirable grass seeds" means seeds of grass species declared to be restricted noxious weed seed when found in lawn and turf seed.

"Uniform" means that the variations in essential and distinctive characteristics are describable.

"Variant" means any seed or plant which: (1) Is distinct within the variety but occurs naturally in the variety; (2) is stable and predictable with a degree of reliability comparable to other varieties of the same kind, within recognized tolerances, when the variety is reproduced or reconstituted; and (3) was originally a part of the variety as released. A variant is not an off-type.

"Variety" means a subdivision of a kind which is distinct, uniform, and stable.

"Vegetable or herb seeds" includes the seeds of those crops which are grown in gardens or on truck farms and are generally known and sold under the name of vegetable or herb seeds in this state.

"Weed seed" means the seeds of all plants generally recognized as weeds within this state, as determined by methods defined by rule, and includes the categories of prohibited noxious weed seeds and restricted noxious weed seeds.

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