# WEST VIRGINIA CODE: §19-16-2

**§19-16-2. Label requirements for agricultural crops, lawn and turf, vegetable, tree and shrub, flower seeds, and seed potatoes.**

(a) Each container of agricultural, vegetable, or flower seeds which is distributed or transported within this state for sowing purposes shall bear on the container, or have attached to the container in a conspicuous place, a plainly written or printed label or tag in the English language.

(b) For all treated agricultural, vegetable, or flower seeds (for which a separate label may be used) the label shall include the following:

(1) A word or statement indicating that the seed has been treated;

(2) The commonly accepted coined, chemical, biological, or abbreviated chemical (generic) name of the applied substance or description of the process used;

(3) A caution statement, such as “do not use for food, feed, or oil purposes”, if the substance in the amount present with the seed is harmful to humans or other vertebrate animals. The caution for toxic substances shall be a poison statement or symbol, or both a poison statement and symbol; and

(4) The date beyond which the inoculant is not to be considered effective (date of expiration), if the seed is treated with an inoculant.

(c) For agricultural seeds, except for grass seed mixtures, seed sold on a pure live seed basis, or for hybrids which contain less than 95 percent hybrid seed, the label shall include the following:

(1) The commonly accepted name of the kind and variety for each agricultural seed component present in excess of five percent of the whole and the percentage by weight of each in order of its predominance. Hybrids shall be labeled as hybrids;

(2) The lot number or other lot identification;

(3) The origin (state or foreign country), if known, of alfalfa, red clover, and field corn (except hybrid corn). If the origin is unknown, that fact shall be stated;

(4) The percentage by weight of all weed seeds;

(5) The name and rate of occurrence per pound or ounce of each kind of restricted noxious weed seed or undesirable grass seed present. The name and approximate number of each kind of noxious weed seed: (A) Per ounce in Agrostis spp., Poa spp., Rhodes grass, Bermuda grass, timothy, orchard grass, fescues, alsike and white clover, reed canary grass, Dallas

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grass, ryegrass, foxtail millet, alfalfa, red clover, sweet clovers, lespedezas, smooth brome, crimson clover, Brassica spp., flax, Agropyron spp., and other agricultural seeds of similar size and weight, or mixtures within this group; and (B) per pound in Sudan grass, wheat, oats, rye, barley, buckwheat, sorghums, vetches, and other agricultural seeds of a size and weight similar to or greater than those within this group, or any mixtures within this group;

(6) The percentage by weight of agricultural seeds (which may be designated as "crop seeds") other than those required to be named on the label;

(7) The percentage by weight of inert matter;

(8) For each named agricultural seed:

(A) The percentage of germination, exclusive of hard seed;

(B) The percentage of hard seed, if present;

(C) The calendar month and year the test was completed to determine the percentages; and

(D) If the registrant chooses, the "total germination and hard seed";

(9) The name and address of the person who labeled the seed, or who distributes the seed within this state; and

(10) The total of subdivisions (1), (4), (6), and (7) of this subsection must equal 100 percent.

(d) For grass seed mixtures for lawn or turf purposes the label shall include the following:

(1) The word "mixed", "mixture", or "blend" with the name of the mixture or blend;

(2) The heading "Pure Seed" and "Germination", or "Germ" in the proper places;

(3) The commonly accepted name of kind, or kind and variety of each agricultural seed component in excess of five percent of the whole, and the percentage by weight of pure seed in order of its predominance and in columnar form;

(4) The percentage by weight of agricultural seed other than those required to be named on the label (which shall be designated as "crop seed");

(5) The percentage by weight of inert matter not to exceed 10 percent by weight, except that 15 percent inert matter is permitted in Kentucky Bluegrass labeled without a variety name. Except for coating material, fertilizer, and mulch, as provided by subdivision three, subsection (e) of this section, foreign material not common to grass seed shall not be added;

(6) The percentage by weight of all weed seeds. Maximum weed seed content may not exceed one half of one percent by weight;

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(7) Noxious weed seeds and undesirable grass seed that are required to be labeled by rule and listed under the heading “Noxious Weed Seeds” or “Undesirable Grass Seed”. Undesirable grass seed may not exceed 0.5 percent by weight;

(8) For each agricultural seed named under subdivision (3) of this subsection:

(A) The percentage of germination, exclusive of hard seed;

(B) The percentage of hard seed, if present;

(C) The calendar month and year the test was completed to determine the percentages. The most recent available chronological test date shall be used; and

(D) When only one test date is listed for the entire mixture, the listed test date shall be the oldest chronological test date of the components;

(9) The name and address of the person who labeled the seed, or who distributes the seed within the state.

(10) The total of subdivisions (3), (4), (5), and (6) of this subsection must total 100 percent.

(e) For agricultural seeds that are coated, the label shall include the following:

(1) The percentage by weight of pure seeds with coating material removed;

(2) The percentage by weight of coating material;

(3) The percentage by weight of inert material exclusive of coating material;

(4) Percentage of germination, to be determined on 400 pellets with or without seeds; and

(5) In addition to the provisions of this subsection, the labeling of coated seed shall comply with the requirements of subsections (b), (c), and (d) of this section.

(f) For vegetable seeds in packets as prepared for use in home gardens or household plantings; or in preplanted containers, mats, tapes, or other planting devices, the label shall include the following:

(1) The name of kind and variety of seed;

(2) The lot number or other lot identification;

(3) One of the following:

(A) The calendar month and year the germination test was completed and the statement “Sell by”, which date may be no more than 12 months from the date of the test, exclusive of the month of the test;

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(B) The year for which the seed was packed for sale, noted by the statement “Packed for” or “Sell by” which blank shall be filled by the calendar year; or

(C) The percentage germination and the calendar month and year the test was completed to determine such percentage, provided that the germination test must have been completed within 12 months exclusive of the month of the test; and

(4) The name and address of the person who labeled the seed or who distributes the seed for sale within this state.

(g) For seeds which germinate less than the standard as established by rule promulgated under this article, the label shall include the following:

(1) The percentage of germination, exclusive of hard seed;

(2) The percentage of hard seed, if present; and

(3) The words “Germination Below Standard” in not less than eight-point type.

(h) For seeds placed in a germination medium, mat, tape, or other device in such a way as to make it difficult to determine the quantity of seed without removing the seeds from the medium, mat, tape, or device, a statement to include the minimum number of seeds in the container.

(i) For vegetable seeds in containers other than packets prepared for use in home gardens or household plantings, and other than preplanted containers, mats, tapes, or other planting devices, the label shall include the following:

(1) The name of each kind and variety present in excess of five percent and the percentage by weight of each in order of its predominance;

(2) The lot number or other lot identification;

(3) For each named vegetable seed:

(A) The percentage germination exclusive of hard seed;

(B) The percentage of hard seed, if present;

(C) The calendar month and year the test was completed to determine the percentages; and

(D) If the registrant chooses, the “total germination and hard seed”;

(4) The name and address of the person who labeled the seed, or who distributes the seed within this state.

(j) For flower seeds in packets prepared for use in home gardens or household plantings or

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flower seeds in preplanted containers, mats, tapes, or other planting devices:

(1) For all kinds of flower seeds:

(A) The name of the kind and variety, or a statement of type and performance characteristics as prescribed in the rules and regulations promulgated under the provisions of this article;

(B) One of the following:

(i) The calendar month and year the germination test was completed and the statement "Sell by", which date may be no more than 12 months from the date of the test, exclusive of the month of the test;

(ii) The year for which the seed was packed for sale, noted by the statement "Packed for" or "Sell by", which blank shall be filled by the calendar year; or

(iii) The percentage germination and the calendar month and year the test was completed to determine such percentage, provided that the germination test must have been completed within 12 months exclusive of the month of the test; and

(C) The name and address of the person who labeled said seed, or who sells, offers, or exposes said seed for sale within this state.

(2) For seeds of those kinds for which standard testing procedures are prescribed and which germinate less than the germination standard last established under the provisions of this article:

(A) The percentage of germination exclusive of hard seeds;

(B) The percentage of hard or dormant seed, if present; and

(C) The words "Below Standard", in not less than eight-point type.

(3) For seeds placed in a germination medium, mat, tape, or other device in such a way as to make it difficult to determine the quantity of seed without removing the seeds from the medium, mat, tape, or device, a statement to indicate the minimum number of seeds in the container.

(k) For flower seeds in containers other than those contained in subsection (j) of this section:

(1) The name of the kind and variety or a statement of type and performance characteristics as prescribed in rules and regulations promulgated under the provisions of this article, and for wildflowers, the genus, species, and subspecies, if appropriate.

(2) The lot number or other lot identification.

(3) For wildflower seed only with a pure seed percentage of less than 90 percent:

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(A) The percentage by weight of each component listed in order of their predominance;

(B) The percentage by weight of weed seed, if present; and

(C) The percentage by weight of inert matter.

(4) For those kinds of seed for which standard testing procedures are prescribed:

(A) The percentage germination exclusive of hard or dormant seed;

(B) The percentage of hard or dormant seed, if present; and

(C) The calendar month and year that the test was completed to determine such percentages.

(5) For those kinds of seed for which standard testing procedures are not available, the year of production or collection.

(6) The name and address of the person who labeled the seed or who sells, offers, or exposes the seed for sale within this state.

(l) For agricultural seeds sold on a pure live seed basis in accordance with the rules promulgated pursuant to this article, each container must bear a label containing the information required by subsection (c) of this section, except that:

(1) The label need not show:

(A) The percentage by weight of each agricultural seed component, as required by subdivision (1), subsection (c) of this section; or

(B) The percentage by weight of inert matter, as required by subdivision (7), subsection (c) of this section; and

(2) The label must show for each named agricultural seed, instead of the information required by subdivision (8), section (c) of this section:

(A) The percentage of pure live seed determined in accordance with rules; and

(B) The calendar month and year in which the test determining the percentage of live seed was completed.

(m) For agricultural and vegetable hybrid seed which contain less than 95 percent hybrid seed, the label shall include the following:

(1) The kind or variety which must be labeled as “hybrid”;

(2) The percent which is hybrid, labeled parenthetically in direct association following

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named variety, such as, Comet (85 percent Hybrid); and

(3) Varieties in which the pure seed contain less than 75 percent hybrid seed which shall not be labeled as hybrids.

(n) For combination mulch, seed, and fertilizer products the label shall include the following:

(1) The word “combination” followed by the words “mulch — seed — fertilizer (if appropriate)” on the upper 30 percent of the principal display panel. The word “combination” must be the largest and most conspicuous type on the container, equal to or larger than the product name. The words “mulch — seed — fertilizer” shall be no smaller than one-half the size of the word “combination” and in close proximity to the word “combination”. These products shall contain a minimum of 70 percent mulch; and

(2) For agricultural, lawn, and turf seeds placed in a germination medium, mat, tape, or other device or mixed with mulch:

(A) The product name;

(B) The lot number;

(C) The percentage by weight of pure seed of each kind and variety named which may be less than five percent of the whole;

(D) The percentage by weight of other crop seeds;

(E) The percentage by weight of inert matter which shall not be less than 70 percent;

(F) The percentage by weight of weed seeds;

(G) The name and number of noxious weed seeds per pound or ounce, if present;

(H) The percentage of germination (and hard seed if appropriate) of each kind or kind and variety named and date of test;

(I) The name and address of the person who labeled the seed, or who distributes the seed within this state; and

(J) The totals of paragraphs (C), (D), (E), and (F) of this subdivision must total 100 percent.

(o) The labeling requirements for agricultural, vegetable, and flower seeds shall be considered to have been met if the seed is weighed from a properly labeled bulk container in the presence of the purchaser.

(p) Once a dealer has broken the seal on a container of seed for any reason, the dealer is fully responsible for its contents, including the guarantees for purity, germination rate, and anything else pertaining to the integrity of the opened seed container.

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(q) For combination products containing seed and granular fertilizer:

(1) The word “combination” followed by the words “seed-fertilizer” must appear on the upper 30 percent of the principal display panel. The word “combination” must be the largest and most conspicuous type on the container, equal to or larger than the product name. The word “seed-fertilizer” shall be no smaller than one-half the size of the word “combination” and in close proximity to the word “combination”.

(2) On the analysis label, the percentage by weight of the fertilizer in the container shall be listed on a separate line as a component of the inert matter.

(r) Label requirements for tree and shrub seeds:

Each container of tree and shrub seed which is distributed or transported within this state for sowing purposes shall bear on the container or have attached on the container in a conspicuous place a plainly written or printed statement on the label or tag in the English language, giving the information required under this subsection. The statement may not be modified or denied in the labeling or on another label attached to the container — except that labeling of seed supplied under a contractual agreement may be by invoice accompanying the shipment or by an analysis tag attached to the invoice, if each bag or other container is clearly identified by a lot number stenciled on the container, or if the seed is in bulk. Each bag or container that is not identified shall carry complete labeling.

(1) For all treated tree and shrub seeds as defined in this article (for which a separate label may be used):

(A) A word or statement indicating that the seed has been treated;

(B) The commonly accepted coined, chemical, biological, or abbreviated chemical (generic) name of the applied substance or description of the process used;

(C) A caution statement, such as “Do not use for food, feed or oil purposes”, if the substance in the amount present with the seed may be harmful to humans or other vertebrate animals. The caution for mercurials and similarly toxic substances shall be a poison statement and symbol; and

(D) The date beyond which the inoculant is not to be considered effective (date of expiration), if the seed has been treated with an inoculant;

(2) For all tree and shrub seeds subject to the article:

(A) The common name of the species of seed (and subspecies, if appropriate);

(B) The scientific name of the genus and species (and subspecies, if appropriate);

(C) The lot number or other lot identification; and

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(D) Their origin:

(i) For seed collected from a predominantly indigenous stand, the area of collection given by latitude and longitude, or geographic description, or political subdivision such as state or county;

(ii) For seed collected from other than a predominantly indigenous stand, the area of collection and the origin of the stand or the statement "Origin not Indigenous";

(E) The elevation or the upper and lower limits of elevations within which the seed was collected;

(F) The purity as a percentage of pure seed by weight;

(G) For those species for which standard germination testing procedures are prescribed by the commissioner, the following:

(i) Percentage germination exclusive of hard seed;

(ii) Percentage of hard seed, if present;

(iii) The calendar month and year test was completed to determine such percentages; or

(iv) In lieu of subparagraphs (i), (ii), and (iii) of this paragraph, the seed may be labeled "Test is in process, results will be supplied upon request";

(H) For those species for which standard germination testing procedures have not been prescribed by the commissioner, the calendar year in which the seed was collected;

(I) The name and address of the person who labeled the seed or who distributes the seed within this state.

(s) Label requirements for seed potatoes:

The following information shall appear on each label attached to a bag or container of certified seed potato:

(A) The name of the person or agency certifying such seed potato;

(B) The name of the official state or governmental agency making the inspection upon which the certification is made; and

(C) The name and address or identification number of the grower of such seed potatoes.

(t) *Required labeling for interstate shipping.* – 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, an AMS number identifying the interstate shipper shall be shown,

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along with the full name and address of the consignee.

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