



# The North Dakota Seed Journal

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Newsletter of the North Dakota State Seed Department

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## Preparing for Field Inspection

*Joe Magnusson, Field Seed Program Manager*

Deadlines for field inspection applications will be here sooner than you think. Here are a few pointers for this season.

### Plant eligible seed on eligible ground

Seed cannot be planted on fields that had the same crop the previous year unless it was the same variety and that field was inspected for certification. Foundation class durum can't be planted on fields that had spring wheat the previous two years. Though it is not recommended, you can plant a crop on land that previously had an inseparable crop (small grains on previous small grain residue) with the exception of durum on wheat as stated above. If this is your only planting option, monitor the field for volunteers. If you notice patches of other crop plants, you can cancel the field prior to inspection. Some crop admixtures (wheat, barley and oats) can be removed from the seed lot with careful conditioning.

### Apply for field inspection

In early May, applications for field inspection will be mailed to all growers who have applied for inspection the past two years. Field inspection is critical to the certification process. If you don't apply we can't certify the seed. Complete and submit the application by the appropriate deadline. Enclose a copy of the proof of seed eligibility (bulk certificate or tag), an FSA map of the field and the proper fee. Applications are also available in the Online Forms section of our website, at your local county agent, or by calling the Seed Department. Don't forget to sign and date the application.

### Isolation is required

A minimum 5-foot isolation strip is required between inseparable crops and different varieties of the same crop. Isolation can be achieved by leaving a bare strip at planting time or by mowing or cultivating. A natural barrier such as a ditch, fencerow or roadway is acceptable. A field will be rejected if isolation is not in place at the time of inspection. Growers may request a re-inspection after the isolation strip is in place, but a second inspection will incur additional fees.

### Weeds of concern

Field bindweed is the most common weed resulting in a failed inspection. It is a prohibited weed and difficult to remove from small grains due to similar size and density. Control this weed before the inspector arrives to ensure your field will pass inspection. Thistles are also a concern in field peas and crops of similar size. Even though seed of these weeds may not be viable, it is difficult to remove the seed heads from the crop seed. Inspectors will reject all areas found with patches of thistle and require you to avoid these areas at harvest.

### Harvest

It is the seed grower's responsibility to ensure each seed field has been inspected and has passed before harvest. Do not harvest a field if you are unsure. Call your inspector or the Seed Department to confirm the status. Review the field inspection report for any corrections or areas to avoid during harvest. Make sure all your equipment is clean prior to harvest. If you utilize custom harvesters, don't assume their equipment is clean. Inspect it yourself to be sure.



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ND State Seed Department  
p 701.231.5400 f 701.231.5401  
ndseed@ndseed.ndsu.edu



# From the Commissioner's Desk

COVID-19 is affecting our organization just as everyone else in the ag industry. Everything I'm about to write may have changed by the time The Seed Journal arrives at your door. As of today, the snowball is still picking up speed as the virus affects our daily lives.

Today, everything we are doing revolves around establishing a balance between accomplishing our mission to the seed industry and protecting the health of our staff, which is the only thing that will remain constant over the next few months. Actually, you can swap those objectives; staff comes first. I'm sure our customers will understand. During the past month, we've gone from aware, to concerned, to anxious and every point between on the spectrum. The doors to our Fargo and Grafton facilities were locked on March 17th to limit outside contact, for reasons of employee well-being. Since that time, we've continued to operate at near-normal pace with a full staff in order to satisfy the objective of customer service. In all cases, we're closely following state directives and federal guidelines for managing the spread of COVID-19. Balance.

Based on where we've been over the past month, this operating status may (and probably will) change. While most of us hope and pray we soon hit the plateau for positive virus tests and start trending downward, we know that every health professional hopes for the opposite...in terms of the "soon" part. The term "flatten the curve" will now and forever be burned into our collective consciousness, and is contrary to our wishful idea that this situation quickly turns around. If government-society is successful in "flattening the curve",

Ken Bertsch.....State Seed Commissioner  
Steve Sebesta.....Deputy Seed Commissioner  
Kent Sather.....Director, Potato Program  
Jason Goltz.....Field Seed Program Manager  
Joe Magnusson.....Field Seed Program Manager  
Jeanna Mueller.....Seed Laboratory Manager  
Starr Thies.....Business Manager  
Mike Oosterwijk.....Potato Program Supervisor

our operation and yours could be in upheaval for 2-3 months...or longer.

I expect that the Seed Department will soon add an additional level of isolation, whether that means alternating schedules or another means of limiting the interaction of people in-house. That said, we also have a team of people in the field performing shipping point inspections on potato. We've asked those staff members to distance as much as possible from customers, drivers and line-workers at warehouses; and have asked customers to provide the same courtesy to our staff. While sample flow and final certification always wanes in the spring, not so with potato inspections whose pace will increase through the months of April and May. Ultimately, the "essential service" nature of what we do to certify seed or inspect potatoes will be accounted for when aligning the balance between staff and customer needs.

If, and I pray this doesn't happen, a member of our team tests positive, we'll quickly be into worst-case scenarios. We've worked on multiple contingency plans to address slowdown and shutdown modes of operations, none of which are preferred for providing good service, but all of which will keep business moving to a reduced extent. The best I can commit to you is...we'll do our best.

I've told our staff that these actions are intended to keep us ahead of the curve, we just don't know which direction the curve is headed. Governor Burgum said it best last week during a press conference. He stated (and I paraphrase) "I hope everyone understands and accepts that we are making decisions without all the facts". How true.

Whether staff, Commission members, customers or anyone involved in the industry, we all hope and pray that you stay safe and healthy.

Best wishes, and good luck



## New Administrative Rules Now in Effect

A number of changes in seed certification administrative rules that seed growers should note went into effect April 1. The draft proposal was approved by the Seed Commission last December, passed the mandatory public comment period without comments in February and was approved by the attorney general's office in March. The complete set, showing changes, is available on the department website under "News" but here's a brief description.

- Added Palmer amaranth to prohibited noxious weed seed list
- Simplified carryover seed requirements
- Updated isolation requirements for mustard, rapeseed and canola
- Updated sunflower field standards
- Added hybrid rye certification rules and standards
- Clarified hemp inspection requirements and isolation distances
- Added new certification rules and standards for faba beans
- Updated potato limited generation terminology

## The Importance of SOPs for Your Business

Steve Sebesta, Deputy Commissioner

How well do you know your business? More importantly, how well do others at your office or facility know your business? Do others at your business understand the daily operations well enough, so that when a sudden and long-term crisis happens they can step up and keep the business operating? Does your organization have a plan to keep the doors open to fulfill its goals and meet the needs of your customers? What would the absence of some key people in your organization do to your business? In view of what is occurring in the world today, these are important questions to ask of your business.

The ability to adapt to changing conditions is critical to a company's survival in difficult times. Our department is really fortunate to have a great team that is dedicated to serving our customers. In a normal year, our labs perform more than 20,000 tests on seed samples submitted for certification or service samples for common seed. Nearly one-third of those tests are performed in March and April during the rush preceding spring planting, and we complete final certification on two to three million bushels of seed during those months. We recognize the importance of keeping our business operating so samples are tested and seed lots are properly labeled for retail. It's important to you and North Dakota agriculture.

No one could have predicted the severity or scope of this pandemic two months ago, let alone a decade ago. Nonetheless, the Seed Department started laying the groundwork to enable us to adapt before that. In 2004, Seed Department managers began documenting standard operating procedures for tasks that are critical to our business. At that time, we viewed these as a quality control tool to ensure our employees were doing tasks properly every time and delivering consistent results to our customers. Certainly, agriculture is a seasonal business; we do the same basic tasks every year, but not all year long. Consequently, it's easy to forget some things from year to year. Have you ever asked yourself or your employees, "How'd we do it last year?"

To date, we have completed SOPs for most of the tasks in our Field Seed Program from application for field inspection through completion of final certification. Our Seed Lab has documented procedures for how they handle samples according to our business, over and above standard testing protocols published in the AOSA Rules for Testing Seed. Our Diagnostic Lab has a very detailed set of SOPs for their seed health and genetic tests. We have also taken steps over the years to cross-train employees in different areas to mitigate disruptions and ensure our work gets accomplished. This has paid off on numerous occasions.

We use a common format for all of our SOPs which define Purpose, Scope, Materials, Procedures, and Associated Documents. The objective of documenting tasks is to be able to provide detailed, step-by-step procedures of each important task. We do this to ensure consistent performance of the task,

consistent, high quality results, proper training for new employees or substitute employees, continuity of business in emergencies, safe work practices, and effective risk management.

The Covid-19 outbreak has been a sobering reminder of the importance of documented standard operating procedures. We still have work to do with ours, they are never really done, but we are in good position if some of our staff become infected and miss work. Are you?

## Reporting Reminders...

The annual report for seed sales, research fee report and carryover seed report are all due **September 1**.

The sales report and research fee report must be returned even if no sales were made.

The royalties for ND17009GT, ND18008GT, ND Stutsman and ND Benson soybeans are based on 140,000 seed count units. We will convert from bushels to units for you.

You are only required to pay fees on seed that is sold, not planted, sold as a commodity or for carryover seed.

If you would like your carryover seed to be included in the 2021 Field Seed Directory, that form must be returned by **September 1**.

Log sheets and unused bulk certificates are also due at that time.

## Summer Hours...

The State Seed Department will be closed Monday, May 25, for Memorial Day then begin our summer schedule May 26.

During the summer months, our office hours will be 7:30 am to 4:00 pm.

We will also be closed Friday, July 3, for Independence Day and we will return to our regular hours after Labor Day.

Staffing will somewhat depend on the COVID-19 situation. Summer is a busy time, but make sure you take some time to enjoy it.

## Potato Program Changes Limited Generation Terminology

*Kent Sather, Director, Potato Programs*

Seed potato certification programs use a Limited Generation increase structure, in part, to define seed lot eligibility. Every growing season, plants are exposed to pathogens and the diseases they cause. A disease that infects the plant may be expressed in the tubers. The following season, these infected plants may become a source of inoculum, infecting other plants or fields. Another generation of tubers may become infected, continuing the disease in the next crop. Limiting seasons of growth of certified seed lots is important for controlling disease incidence.

Producing disease-free sources of seed potatoes every year is essential. Annually, fresh, disease-free seed potato lots are generated in-vitro (tissue culture) and in greenhouse production. These disease-free seed lots are eventually planted in the field, starting another cycle of seed lot increase.

Disease load can accumulate over field generations causing yield and quality losses and resulting in lower returns for the grower. Certification programs are important to curtail disease buildup by establishing tolerances and limiting the number of years a seed lot can be grown.

Limited Generation systems identify a starting point for each seed lot, giving it some type of designation, but the nomenclature is not consistent in the industry. Some states call the first field year Nuclear (N). Others call it Generation 1 (G1). And others call it Field Year 1 (FY1). In our program, the first field year has been designated as Nuclear (N), followed by G1, G2, G3, G4, G5, and Certified or C for the final year.

Beginning in 2020, we will begin using the Field Year terminology: the first field year will be FY1, followed by FY2, FY3, FY4, FY5, FY6, and C for the last possible year of the limited generation increase. This conforms to a continued effort by states with seed potato certification programs to use similar terminology for their Limited Generation designations.

### North Dakota's Limited Generation for Certified Seed Potatoes Year in the Field (Field Year)

	1	2	3	4	5	6	7
<b>Was</b>	N	G1	G2	G3	G4	G5	C
<b>Will Be</b>	FY1	FY2	FY3	FY4	FY5	FY6	C

For more information search “Potato Association of America Limited Generation Table” to find a document that compares terminology of limited generation systems of the United States and Canada. Be sure it is the current table.

### Seasonal Field Inspector Needed - Will Train

The Seed Department is seeking a seasonal field inspector for SE North Dakota. Field inspectors do not need an agricultural background; we provide training and mentorship. Inspectors must be over 18, have a valid driver's license, be able to walk long distances and possess an independent work ethic. Field inspectors will be provided a state fleet vehicle and operate from their home. The inspector will work primarily in July-August for a minimum six weeks and have the opportunity to return in September for soybean inspections. Contact Jason at 701.231.5450 or [jgoltz@ndseed.ndsu.edu](mailto:jgoltz@ndseed.ndsu.edu) for a job description and additional details.

## Another Good Reason to Use Online Bulk Cert Tool

*Steve Sebesta, Deputy Commissioner*

We have seen a steady increase in the number of labelers that utilize our Online Bulk Certificate tool to generate labels for certified seed. In the business environment in which we are now operating, it only makes more sense to use it. Here's why:

It's fast – labelers can print bulk certificates as soon as a seed lot passes final certification. No waiting for the paper forms to arrive by mail. Has your mail service been interrupted at all? Ours has. Also, labelers no longer need to call our office to request additional bulk certificates. So far we have managed to maintain normal business hours, but we don't know how long that will continue. Using the Online Tool, bulk certificates may be printed as long as there is seed remaining in the lot.

It's convenient – print certificates whenever you want and from wherever you are. As long as you have connection to the internet, you may generate bulk certificates from your computer, tablet or even your cell phone. Bulk certificates may be printed on-site or they can be emailed to your customer as a pdf document. That's especially helpful if you must be away from your office.

As I write this article, our management team has been developing contingency plans for continuing business in the event we have to shut-down because of corona virus. Some things we simply have to do on-site. Seed analysts and diagnostic staff have to physically touch samples to complete their work – there is no way around that. But other tasks such as grading and approving seed lots for certification can be done remotely, which means some of us may not always be accessible.

Obviously, we didn't envision Covid-19 when we started programming our software to enable online functions, but this pandemic has demonstrated to us that online tools offer strategic advantages for your business. Once a seed lot is approved to be certified, you are in complete control of generating the labels required to sell seed. You don't have to worry that we could be operating with reduced staff, or worse.

Call Amber at (701) 231-5400 to get started.

## Is This Variety Protected?

*Jason Goltz, Regulatory Manager*

The Seed Department Regulatory Program often receives inquiries about the status of intellectual property (IP) protection of crop varieties. Callers usually ask whether a variety is protected and if they can legally sell it. It is usually better to first assume a variety is protected and then determine by which method. Assume that all new varieties are going to have some form of intellectual property rights protection. There are three main tools variety owners or developers use to protect their inventions.

**Plant Variety Protection (PVP & PVP Title V)** – According to the U.S. Plant Variety Protection Act the owner of the variety has the exclusive right to control the production and marketing of their varieties. Seed of these varieties can only be sold with the authorization from the owner. Producers who acquire seed of these varieties legally by authorization from the owner have the right to save seed for use on their farm indefinitely, but they cannot resell their production to others for planting purposes. The Title V option requires the seed to be sold only as a class of certified seed.

**Utility Patents** - A patent is a type of protection that gives the patent holder the right to exclude others from making,

using, offering for sale, selling, or importing into the United States the subject matter that is protected by the patent. The owner of the variety has the exclusive right to control the production and marketing of their varieties. Unlike PVP varieties, grain produced from legally acquired seed with a utility patent cannot be saved for planting on your own farm.

**License Agreements** – Some variety owners require a limited use license agreement in order to purchase and plant their varieties. These are often used in combination with PVP and patents. These agreements usually prohibit saving grain for replanting. Some owners call these CSO (Certified Seed Only) varieties and require that any seed sold must be certified. Grain of these varieties may not be saved or cleaned for planting. Also, do not assume that a variety from a foreign source is unprotected. Although it is not uncommon for foreign companies to use PVP as a method of protection, many foreign companies license their varieties to a company in the United States.

The North Dakota State Seed Department only enforces PVP and PVP Title V. Enforcement of patent laws and licenses is the variety owner's responsibility. Please don't make assumptions when it comes to seed. We are happy to assist you in determining whether a specific variety is protected under the PVPA and Title V, but beyond that, you will most likely need to contact the variety owner.

**North Dakota State Seed Department**

PO Box 5257  
Fargo, ND 58105-5257

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# NDSSD Calendar

- May 1.....** Applications due for grass seed inspections
- May 25.....** Memorial Day, office closed
- June 1 .....** Applications due for hemp, hybrid wheat, hybrid rye
- June 15 .....** Applications due for all crops including potato (excluding buckwheat, millet, & soybean requiring a single inspection)
- July 3 .....** Office closed for Independence Day
- July 15 .....** Applications due for buckwheat and millet
- Aug 1.....** Applications due for soybean requiring one inspection
- Sept 1.....** Reports due: Annual Report of Agricultural & Vegetable Seed Sold (labeling fees); Research Fees; Carryover Seed; Applications for Approved Conditioner & Bulk Retail Facilities