

Chapter 633

Grades, Standards and Labels for Feeds, Fertilizers and Seeds

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FEEDING STUFFS

633.010 Definitions. (1) "Commercial feeding stuffs" includes all materials, single or mixed, intended for use in feeding or mixing for livestock or fowls, or both, or represented by any seller or distributor of such material as suitable for such purpose, except the following:

(a) Whole seeds or grains.
 (b) The unmixed meals made directly from and consisting of the entire grains of corn, wheat, rye, barley, oats, buckwheat, flaxseed and grain sorghums.

(c) Unground hays and straws, unground and unmixed screenings, cottonseed hulls, corn stover and oat hulls, and feed molasses when unmixed with other materials.

(d) All other materials containing at least 60 percent water.

(2) As used in ORS 633.010 to 633.130, unless the context requires otherwise, "person" includes any manufacturer, importer, jobber, firm, association or person.

633.020 Tags required on feeding stuffs.

(1) Every lot or parcel of commercial feeding stuffs sold, offered or exposed for sale or distributed within this state shall be labeled or have affixed thereto a tag in a conspicuous place on the outside. The tag shall contain a legible and plainly printed statement in the English language clearly and truly certifying:

(a) The net weight of the contents of the package, lot or parcel.

(b) The name, brand or trade-mark.

(c) The name and principal address of the manufacturer or person responsible for placing the commodity on the market.

(d) The minimum percent of crude protein.

(e) The minimum percent of crude fat.

(f) The maximum percent of crude fiber.

(g) The maximum percent of ash.

(h) In the case of poultry feeds, the maximum percent of grit and shell or other mineral matter.

(i) The specific name of each ingredient used in its manufacture.

(2) The crude protein, crude fat, crude fiber and ash shall be determined by the methods in force at the time by the Association of Official Agricultural Chemists of North America.

633.030 Filing certified copy of statement; samples. Before any person shall sell, offer or expose for sale or distribute in this

state any commercial feeding stuffs, he shall file with the State Department of Agriculture a certified copy of the statement required by ORS 633.020, with the exception of paragraph (a), for each brand of commercial feeding stuffs. The certified copy shall be accompanied, when the department so requests, by a sealed package containing at least one pound of the commercial feeding stuffs to be sold, offered or exposed for sale or distributed in this state. The person furnishing such sample shall thereupon make affidavit that the sample is representative of the commercial feeding stuffs offered for registration.

633.040 Fee for registration of feed brands. Each person manufacturing or selling any commercial feeding stuffs shall pay to the State Department of Agriculture on or before January 1 of each year a registration fee of \$10 per brand for each brand of commercial feeding stuffs sold, offered or exposed for sale or distributed in this state. However, for brands registered on or after July 1 of any year one-half of the prescribed registration fee shall be paid for the remainder of that year.

633.050 Only one statement and fee required for specific brand. Whenever a person manufacturing or selling a brand of commercial feeding stuffs has filed the statement required by ORS 633.030 and paid the registration fee as required by ORS 633.040, no other person shall be required to file such statement or pay such fee upon such brand.

633.060 Powers of department relating to registration of feed brands and trade-marks; changing ingredients. (1) The State Department of Agriculture may refuse to register any commercial feeding stuffs under a name, brand or trade-mark which would be misleading or deceptive, or which would tend to mislead or deceive as to the materials of which it is composed, or when the specific name of each ingredient used in its manufacture is not stated. It also may refuse to register during any year, or the succeeding year, more than one commercial feeding stuff under the same name or brand when offered by the same person.

(2) Should any commercial feeding stuffs be registered and it afterward is discovered that such registration is in violation of any of the provisions of ORS 633.010 to 633.130, the department may cancel such registration.

(3) The department may refuse to allow

any person to lower the guaranteed analysis or change the ingredients of any brand of his commercial feeding stuffs during the term for which registered, unless satisfactory reasons are presented for making such change.

(4) The provisions of ORS 561.310 to 561.390 relating to the refusal, suspension and revocation of licenses apply to this section.

633.070 Annual analysis of sample; authority to enter premises and take samples. All authorized officers, employees and deputies of the State Department of Agriculture shall have free access to all places of business, mills, buildings, carriages, cars, vessels and parcels of whatsoever kind used in the manufacture, transportation, importation, sale or storage of any commercial feeding stuffs. They may open any parcel containing or supposed to contain any commercial feeding stuffs, and upon tender and full payment of the selling price of the sample, take therefrom in the manner prescribed in ORS 633.080, samples for analysis. The State Department of Agriculture shall annually cause to be analyzed at least one sample so taken of every commercial feeding stuffs that is found sold, offered or exposed for sale or distributed in this state.

633.080 Manner of taking sample; analysis and report of result. (1) A representative sample of each brand of commercial feeding stuffs found, sold, offered or exposed for sale shall be taken by the authorized officer, employee or deputy of the State Department of Agriculture in the presence of at least one witness.

(2) No action shall be maintained for a violation of ORS 633.010 to 633.130 based upon an analysis of a sample from less than five separate original packages, unless there are less than five separate original packages in the lot, in which case portions for the official sample shall be taken from each original package. If the commercial feeding stuffs is in bulk, portions shall be taken from not less than five different places in the lot. However, this does not exclude sampling in bulk when not exposed sufficiently to take portions from five different places, in which case portions are to be taken from as many places as practicable.

(3) If the sample thus secured is larger than is required, it shall be mixed and quartered until a sample of suitable size remains. Such sample shall be divided into two parts

and placed in packages and sealed in the presence of the witness. One of the packages so sealed shall be tendered, and, if accepted, delivered to the person apparently in charge of such feeding stuffs. The other package, the department shall analyze or cause to be analyzed. The result of such analysis, together with such additional information as the department may deem advisable, shall be transmitted promptly to the manufacturer or person responsible for the placing of the commodity on the market and published in reports or bulletins from time to time. If the manufacturer or person responsible for the placing of any commodity so sampled upon the market is unable to secure the sample delivered to the person apparently in charge of the feeding stuffs sampled, he shall, upon request to the State Department of Agriculture, be furnished with a portion of the official sample referred to in this section.

(4) The methods of analysis shall be those in force at the time by the Association of Official Agricultural Chemists of North America.

633.090 Adulterated feeds, definition, seizure and disposal. (1) No person or his agent shall manufacture for sale, have in his possession with intent to sell, offer or expose for sale or sell any lot or parcel of commercial feeding stuffs which is adulterated within the meaning of ORS 633.010 to 633.130.

(2) For the purpose of those sections, commercial feeding stuffs shall be deemed to be adulterated if they include in any form any buckwheat hulls, rice hulls, cottonseed hulls, peanut shells, corncobs, cocoanut shells, ground or shredded straw, sawdust, cellulose, moldy or decayed feed, mill, elevator or other sweepings or dust, marble dust, or any injurious, deleterious or, for feeding purposes, worthless or damaged ingredient; but nothing in those sections shall prevent the sale of corn and cob meal containing no larger proportion of cob than the natural proportion of cob to corn on the ear.

(3) Authorized officers, employees and deputies of the State Department of Agriculture shall seize and hold any lot or parcel of commercial feeding stuffs, stored, sold, kept, offered or exposed for sale in violation of any of the provisions of those sections, and immediately thereafter proceed, in the manner directed by law, for the disposal of products seized by the department.

633.100 Unlawful sales; analysis as evidence; maximum crude fiber content; mixed feeds. (1) No person or his agent shall offer or expose for sale or sell any package, sample or any quantity of any commercial feeding stuffs:

(a) Which has not been registered with the State Department of Agriculture as required by ORS 633.030.

(b) Who has not paid the fee for such registration as specified in ORS 633.040.

(c) Which does not have affixed to it the tag or label required by ORS 633.020.

(d) Which is found by analysis made by or under the direction of a chemist in the State Department of Agriculture to contain a smaller percentage of crude protein or fat, or a larger percentage of crude fiber or ash, than stated in the guarantee.

(e) Who affixes a tag or label which is false or misleading in any respect.

(f) Who adulterates any commercial feeding stuffs, or adulterates with any substance injurious to the health of domestic animals.

(2) In all litigation arising from the purchase or sale of any commercial feeding stuffs in which its composition is involved, a certified copy of the official analysis, signed by a chemist of the State Department of Agriculture, shall be accepted as prima facie evidence of the composition of such commercial feeding stuffs.

(3) No person or his agent shall manufacture, sell, offer or expose for sale any commercial feeding stuffs containing more than 12 percent crude fiber as determined by the method of analysis in force at the time by the Association of Official Agricultural Chemists of North America, but this section shall not prohibit the sale of copra, clover or alfalfa meal, or any single feeding stuff that carries a natural fiber content to exceed the 12 percent as stated in this section, or any single feed carrying a natural fiber content in excess of 12 percent that has been treated with molasses. However, alfalfa meal that has been treated with molasses shall contain not more than 25 percent of crude fiber and not less than 10 percent of crude protein. No fiber can be added to any single feeding stuff and no feeding stuff can carry more fiber than the natural amount contained in the ingredients of the feed.

(4) This section shall not prohibit the sale of mixed feeds not conforming to the standards as to protein and fiber content, as specified in this section, if the mixed feeds

are sold in sacks or other containers plainly labeled or tagged so as to show the percentage of each ingredient of the mixed feed therein contained.

633.110 Enforcement of ORS 633.010 to 633.130. (1) The State Department of Agriculture is empowered to enforce ORS 633.010 to 633.130, to prescribe the form of labels or tags to be used and to prescribe and enforce such rules and regulations relating to the sale or distribution of commercial feeding stuffs as it deems necessary to carry into effect the full intent and meaning of those sections.

(2) In prescribing the form of labels or tags, and rules and regulations relating to the sale or distribution of commercial feeding stuffs, the department shall be governed by ORS 561.190.

633.120 Disposition of sums collected under ORS 633.010 to 633.130. The State Department of Agriculture and any official of this state receiving any fees, charges, fines, costs or other moneys resulting from the operation of ORS 633.010 to 633.130, shall pay into the State Treasury within 10 days after the beginning of each month all such sums so received during the preceding calendar month. Thereupon, the State Treasurer shall place the sums to the credit of the Department of Agriculture Account. All payments so made hereby are made an appropriation of such sums from the Department of Agriculture Account for the purpose of carrying into full force and effect the specific provisions of ORS 633.010 to 633.130.

633.130 Jurisdiction of ORS 633.010 to 633.130 offenses; commencement of prosecution. (1) Justice courts, district courts and municipal courts sitting as justice courts shall have concurrent jurisdiction with the circuit courts of all prosecutions arising under ORS 633.010 to 633.130.

(2) The district attorney may institute prosecutions for violations of those sections by information, or they may be instituted by indictment or by complaint verified before any magistrate.

633.140 Mill feed to be sold by weight. All mill feed, including crushed and ground grains, bran and shorts, shall be sold by weight.

633.150 to 633.200 [Reserved for expansion]

MEDICINAL STOCK FOODS

633.210 Definitions for ORS 633.210 to 633.250. As used in ORS 633.210 to 633.250, "medicinal stock food" includes all condimental, patented, proprietary or trade-marked stock or poultry foods or remedies in powdered form, claimed to possess medicinal properties or both medicinal and nutritive properties, whether sold under names such as food, tonic, regulator, powder, conditioner, remedy or any other name.

633.220 Labels. Every lot, parcel or package of medicinal stock food sold, offered or exposed for sale or distribution within this state, shall have affixed to it a label in a conspicuous place on the outside thereof. The label shall contain a legible and plainly printed statement in black ink, in English, clearly and truly certifying:

- (1) The net weight of the package.
- (2) The name, brand or trade-mark.
- (3) The name and principal address of the manufacturer or person responsible for placing the commodity on the market.
- (4) The specific name of each ingredient used in its manufacture.

633.230 License for manufacturers and importers. (1) Each manufacturer or importer manufacturing or selling any medicinal stock food shall pay to the State Department of Agriculture on or before October 1 of each year a license fee of \$10 for the manufacturing or selling of medicinal stock food bearing a distinguishing name or trade-mark, sold, offered or exposed for sale or distributed in this state.

(2) Whenever any manufacturer or importer of any medicinal stock food desires at any time to sell such material and has not paid the license fee therefor, he shall pay it before making any such sale.

633.240 Statement filed with department; submitting sample. Before any manufacturer or importer sells, offers or exposes for sale or distribution in this state any medicinal stock food bearing a distinguishing name or trade-mark, file with the State Department of Agriculture a certified copy of the statement required by ORS 633.220. The certified copy shall be accompanied, when the department so requests, by a sealed package containing at least one pound of the medicinal stock food to be sold, offered or exposed for sale or distribution in this state. The person furnishing the sample shall make

affidavit that the sample corresponds to the medicinal stock food which it represents, together with the specific name of each ingredient used in its manufacture.

633.250 Taking and analyzing samples; publication of analysis. (1) Any authorized officer, employe or deputy of the State Department of Agriculture may enter any premises where feedstuffs or medicinal stock food are stored, and take a sample, not to exceed two pounds, from any lot or package of any medicinal stock food used for feeding any kind of farm livestock or poultry, which is in possession of any manufacturer, importer, agent or dealer.

(2) Any sample so taken shall be put in a suitable vessel and a label signed by the officer, employe or deputy taking the sample, placed on or within the vessel, stating the name or brand of the manufacturer, importer or dealer, the name of the person from whose stock the sample was taken and the date and place of taking. However, whenever so requested, the sample shall be taken in duplicate and carefully sealed in the presence of the persons in interest or their representatives. In such case one of the duplicate samples shall be signed by the officer, employe or deputy taking it and retained by the person whose stock was sampled.

(3) The State Department of Agriculture shall cause at least one analysis of each feedstuff collected, as provided by this section, to be made annually. The analysis shall include the determinations of crude protein, crude fat, crude fiber and such other ingredients deemed advisable at any time to determine. The department shall cause the results of the analysis of the sample to be furnished the agricultural experimental station from time to time, to be published in annual bulletins or special circulars, together with such additional information concerning the character, composition and use thereof as circumstances require.

633.260 Jurisdiction of ORS 633.210 to 633.260 offenses; commencement of prosecution. (1) Justice courts, district courts and municipal courts sitting as justice courts shall have concurrent jurisdiction with the circuit courts of all prosecutions arising under ORS 633.210 to 633.260.

(2) The district attorney may institute prosecutions for violations of those sections by information, or they may be instituted by indictment or by complaint verified before any magistrate.

633.270 to 633.300 [Reserved for expansion]

FERTILIZERS

633.310 Definitions for ORS 633.310 to 633.480. As used in ORS 633.310 to 633.480:

(1) "Agriculture minerals" means mineral substances, mixtures of mineral substances, and mixtures of mineral and organic substances, except animal manures, containing less than five percent in available form of nitrogen, phosphorus pentoxide or potassium oxide, singly, collectively or in combination, designed for use principally as a source of plant food, in inducing increased crop yields or plant growth, or producing any physical or chemical change in the soil, except lime, sand and soil.

(2) "Commercial fertilizer" means any substance, or any combination or mixture of substances, designed for use principally as a source of plant food, in inducing increased crop yields or plant growth, or producing any physical or chemical change in the soil and shall contain five percent or more of available plant food, except hays, straws, peat and leaf mold, and unmanipulated animal manures.

(3) "Department" means the State Department of Agriculture.

(4) "Lime" means any substance or mixture of substances the principal constituent of which is calcium carbonate, calcium hydroxide or calcium oxide, either singularly or mixed with each other.

633.320 Labeling fertilizers. (1) No lot, parcel, package or receptacle containing commercial fertilizers shall be sold, offered or exposed for sale unless it has attached thereto or printed thereon a plainly printed label, stating:

(a) The name, brand, and trade-mark, if any, under which the product is sold.

(b) The number of net pounds of commercial fertilizer contained therein.

(c) The name and address of the manufacturer, importer or dealer.

(d) The chemical analysis stating the percentages claimed to be therein of total nitrogen, of available phosphoric acid and of available potash.

(e) The materials from which all said constituents are derived.

(2) In stating the chemical composition of the fertilizer, only the minimum percentages of nitrogen, phosphoric acid, and potash shall be stated, in whole numbers only.

(3) The label shall state the ingredients guaranteed in the following from and order:

Total nitrogen — percent (whole numbers only).

Available phosphoric acid — percent (whole numbers only).

Available potash — percent (whole numbers only).

(4) With the permission of the department, guarantees may be made as to the other plant foods not specified in ORS 633.310 to 633.480 but no such guarantee shall be made without the permission of the department.

(5) If the fertilizer consists entirely of bone, or tankage, or natural organic phosphates, in which all the phosphoric acid is not shown by laboratory methods to be available, the phosphoric acid content may be guaranteed on the label as "total phosphoric acid," but in no case shall both the total and available phosphoric acid be guaranteed on the same label.

(6) This section applies to all commercial fertilizers except limes and agricultural minerals.

633.330 Labeling lime. (1) No lime shall be sold or offered for sale for agricultural purposes, without a plainly printed label on or attached to each lot, parcel, package or receptacle containing such lime; or, if sold, offered or exposed for sale in bulk, a statement shall be delivered to the purchaser of such lime or of any part thereof. The statement or label shall contain the following plainly printed information:

(a) The number of pounds in each lot, parcel, package, receptacle or bulk lot.

(b) The name of the particular form of the lime, such as ground limestone, shells, burnt lime, lime hydrate.

(c) The name and principal address of the manufacturer or other person responsible for placing the material on the market in this state.

(d) The guaranteed minimum percentage of calcium oxide or carbonate contained therein, the maximum percentage of magnesium oxide or carbonate contained, the minimum total neutralizing power expressed in terms of calcium carbonate and the percentage of material that will pass respectively a 100-mesh, 50-mesh and 10-mesh sieve.

(2) No other form of label nor any other chemical term shall be used than those specified in this section, nor shall any misleading

name or brand be used in designating the material.

633.340 Labeling agricultural minerals. No agricultural minerals shall be sold or offered for sale without a plainly printed label on or attached to each lot, parcel, package or receptacle containing such agricultural minerals. The statement or label shall contain the following plainly printed information:

(1) The number of pounds in each lot, parcel, package or receptacle.

(2) The name and principal address of the manufacturer or other person responsible for placing the material on the market in this state.

(3) If such agricultural minerals are derived from by-products in the manufacture of sugar or acetylene, or from other by-products, the principal constituent of which is a compound of calcium, the percentage of calcium in terms of calcium carbonate, calcium hydroxide, or of calcium oxide therein.

(4) In case of sulphur, brimstone and every agricultural mineral the principal ingredient of which is sulphur, the percentage of sulphur therein.

(5) In case of gypsum, land plaster, plaster and every agricultural mineral the principal constituent of which is calcium sulphate, the percentage of calcium sulphate therein. ($\text{CaSO}_4 \cdot 2\text{H}_2\text{O}$).

(6) In case of phosphate rock and every other agricultural mineral the principal constituent of which is calcium phosphate, the percentage of both the available and the total phosphoric acid in terms of phosphorus pentoxide.

(7) In case of any agricultural mineral not specifically mentioned in this section, the percentage of all constituents claimed to be therein in terms of equivalents prescribed by the department.

(8) In case of any mixture of two or more agricultural minerals, the percentage of each principal constituent as prescribed in this section.

633.350 Sale of animal by-products. No person shall sell, offer or expose for sale for fertilizer purposes any leather, hair, wool waste, hoof, horn, or similar materials, either as such or mixed, unless they have been processed in such manner as to make their plant food content available in conformity with the standards of activity recommended by the Association of Official Agricultural Chemists of North America.

633.360 Filing label and payment of license fee. (1) Before any commercial fertilizer, lime or agricultural minerals are sold, offered or exposed for sale, the manufacturer, importer or person who causes it to be sold, offered or exposed for sale, shall file with the department at Salem, Oregon, a certified copy of the label or statement required by ORS 633.310 to 633.480. In addition, such statement shall be filed thereafter annually, during the month of December. Together with the filing of such label or statement he shall, in each case, pay to the department a license fee of \$10 for each commercial fertilizer, lime or agricultural mineral bearing a distinctive name, brand or trade-mark, which such manufacturer, importer or person is to sell, offer or expose for sale in this state during the calendar year next succeeding the payment. However, the placing of any new brand on the market at any time during any calendar year shall be preceded by the filing of such label or statement and payment of the license fee as required by this section.

(2) For the purposes of this section, commercial fertilizers and agricultural minerals shall be considered distinct brands when differing, in any manner whatever, either in guarantee, analysis, trade-mark, name or any other method of labeling.

(3) Each manufacturer, importer or person who has complied with the provisions of ORS 633.310 to 633.480 relative to filing the statement and payment of the license fee shall be entitled to receive a certificate from the department setting forth those facts.

(4) When a brand of commercial fertilizer or agricultural minerals is licensed in accordance with ORS 633.310 to 633.480, it shall relieve all agents, retailers or other persons from the necessity of procuring a license upon such brand, so long as the license upon such brand is in effect.

633.370 Disposition of fees. All moneys received from licenses or fees imposed pursuant to ORS 633.310 to 633.480 shall be placed in the State Treasury to the credit of the Department of Agriculture Account and expended by the department for salaries, laboratory expenses, chemical supplies, traveling expenses, printing and such other expenses necessary in enforcing those sections.

633.380 Methods of sampling and analyzing. All sampling and analyses of commercial fertilizers and agricultural minerals under ORS 633.310 to 633.480 shall be made

according to the methods agreed upon by the Association of Official Agricultural Chemists of North America.

633.390 Annual sampling and analysis; samples as evidence. (1) The department shall cause its authorized officers, employes and deputies to take samples annually, in accordance with ORS 633.400, of all commercial fertilizers and agricultural minerals the brands of which have been filed with the department, and cause analyses to be made thereof in accordance with ORS 633.380 to 633.410. The analyses may include such other determinations as the department may, at any time, deem advisable.

(2) In addition to such annual sampling, any authorized officer, employe or deputy of the department may, for the purpose of determining whether ORS 633.310 to 633.480 are being complied with, take samples of any commercial fertilizer or agricultural minerals, sold or offered for sale in Oregon, at such times and in such manner as he deems desirable; but only samples taken in accordance with ORS 633.400 shall be deemed official and used as evidence.

(3) Every person in possession of any commercial fertilizer or agricultural minerals shall grant free access thereto, for the purpose of sampling, to any authorized officer, employe or deputy of the department.

633.400 Persons authorized to take samples; manner of taking. (1) Any authorized officer, employe or deputy of the department may take a sample, not exceeding two pounds, for analysis, from any lot, parcel, package or container of commercial fertilizer or agricultural mineral. This official sample shall be taken in the following manner:

(a) A sampler shall be used that removes a core from the top to bottom of the bag or other container.

(b) Cores shall be taken from not less than 10 percent of the containers present, unless this process necessitates cores from more than 20 bags, in which case a core shall be taken from one bag for each additional ton represented.

(c) If less than 100 bags are present, samples shall be taken from not less than 10 bags.

(d) If less than 10 bags are present, all bags shall be sampled.

(2) The samples so drawn shall be thoroughly mixed, and from the mixture two equal samples shall be drawn and placed in glass vessels, carefully sealed. A label shall

be placed on each, stating the name or brand of the commercial fertilizer or agricultural mineral sampled, the name of the party from whose stock the sample was drawn and the name and place of the drawing. The label shall be signed by the officer, employe or deputy taking the sample. One of the duplicate samples shall be delivered to the person whose stock was sampled, or to the person in possession of such stock and the other retained by the officer, employe or deputy of the department making the inspection.

633.410 Publication of analysis. The department shall publish from time to time the results of the analyses provided for by ORS 633.380 to 633.400, with such additional information as circumstances may advise.

633.420 False or misleading representations. No person shall make any false or misleading representation in regard to any commercial fertilizer or agricultural minerals shipped, sold, offered or exposed for sale by him in this state, either as principal or agent. No person shall use any misleading or deceptive trade-mark or brand name in connection therewith.

633.430 Refusal and cancelation of brand registration. The department may refuse registration, or cancel the registration, of any commercial fertilizer or agricultural minerals, the sale of which would violate any of the provisions of ORS 633.310 to 633.480. The provisions of ORS 561.310 to 561.390 relating to the refusal and revocation of licenses by the department shall apply to the refusal to register, or cancelation of the registration, of brands of commercial fertilizers and agricultural minerals under ORS 633.310 to 633.480. However, the registration of each brand shall be considered as being in the nature of a distinct and separate license and the refusal to register, or cancelation of the registration of any brand registered or offered for registration by any person, shall not affect the registration of any other brand by the same person.

633.440 Administration and enforcement of ORS 633.310 to 633.480; seizure of products. (1) The department shall administer and enforce ORS 633.310 to 633.480, and for that purpose may make rules and regulations not inconsistent with law.

(2) The department shall prosecute any violations of those sections.

(3) Whenever an authorized representative of the department finds or has cause to

believe that any commercial fertilizer, agricultural mineral or lime is being sold, offered for sale or exposed for sale in this state in violation of those sections, he may seize such product, and shall proceed in the manner directed by law for the disposal of products seized by the department.

633.450 Certificates relating to sample and analysis as prima facie evidence. In any suit or action, civil or criminal, in any court of this state:

(1) A certificate, signed and acknowledged by a chemist in the employment of the department, relating to the analysis of any commercial fertilizer or agricultural minerals, shall be prima facie evidence of the fact that the samples mentioned in the certificate were properly analyzed as provided by ORS 633.380 to 633.400, and that the substances analyzed contained the component parts stated in such certificate of analysis.

(2) A certificate, signed and acknowledged by an authorized officer, employe or deputy of the department, relating to the sampling of any commercial fertilizer and agricultural mineral, shall be prima facie evidence of the fact that the samples mentioned in the certificate were taken as provided by those sections, and that the samples were taken from parcels, containers or lots mentioned or described in the certificate.

633.460 Inspection fee on commercial fertilizers, agricultural minerals and lime.

(1) Each person who sells commercial fertilizers or agricultural minerals in this state shall pay to the department an inspection fee of 10 cents for each ton of commercial fertilizer or agricultural mineral sold by such person during each year beginning July 1 and ending June 30 of the following year. Each person who sells lime in this state shall pay to the department an inspection fee of two cents for each ton of lime sold during each year beginning July 1 and ending June 30 of the following year.

(2) In computing the tonnage on which the inspection fee must be paid as required in subsection (1) of this section, sales of commercial fertilizers, agricultural minerals or lime to fertilizer manufacturers, sales of commercial fertilizers, agricultural minerals and lime in individual packages weighing five pounds net or less, and sales of commercial fertilizers, agricultural minerals and lime for shipment to points outside this state, may be excluded.

(3) It is the intent of ORS 633.460 and

633.470 that only one person shall be responsible for payment of the inspection fee. When more than one person doing business in this state is involved in the commercial distribution of such materials, then the person who sells to the ultimate dealer is responsible for reporting the tonnage and paying the inspection fees. However, a manufacturer, jobber, broker or wholesaler who sells commercial fertilizer, agricultural mineral or lime directly to the user of such material must also pay the tonnage fee on such materials.

(4) The term "ultimate dealer," as used in this section, means a person who sells commercial fertilizer, agricultural mineral or lime directly to the user.

633.470 Report of amounts sold; collection of unpaid inspection fees.

(1) Each person made responsible by ORS 633.460 and 633.470 for the payment of inspection fees for commercial fertilizers, agricultural minerals or lime sold in this state shall file a report with the department on October 1, January 1, April 1 and July 1 of each fiscal year of the number of tons of such materials sold during the three calendar months immediately preceding the date the report is due. The proper tonnage fee shall be remitted with the report. The person required to file the report and pay the fee shall have a 30-day period of grace, immediately following the day the report and payment are due, to file the report and pay the fee. The department may permit a further reasonable extension of time.

(2) The report required by this section shall be made under oath certifying to the correctness of the report.

(3) The report required by this section shall not be a public record. No person shall divulge any information given in such report which would reveal the business operation of the person making the report. However, nothing contained in this subsection shall be construed to prevent or make unlawful the use of information concerning the business operation of a person in any action, suit or proceeding instituted under the authority of ORS 633.310 to 633.480 including any civil action for collection of unpaid inspection fees, which action hereby is authorized and which shall be as an action at law in the name of the director of the department.

633.480 Jurisdiction of ORS 633.310 to 633.480 offenses; injunction; district attorney to represent department. (1) Justice courts, municipal courts acting as justice

courts, district courts and circuit courts shall have concurrent jurisdiction of all offenses under ORS 633.310 to 633.480.

(2) In addition to any other penalty provided by subsections (3) and (4) of ORS 633.990, circuit courts are vested with jurisdiction to restrain any violation or threatened violation of ORS 633.310 to 633.480 upon suit by the Director of Agriculture.

(3) In any action, suit or proceeding, criminal or civil, under ORS 633.310 to 633.480, the district attorney for the county in which the venue of such action, suit or proceeding may lie, shall represent the department if it so requests.

633.490 to 633.500 [Reserved for expansion]

SEEDS

633.510 Definitions for ORS 633.510 to 633.750. As used in ORS 633.510 to 633.750:

(1) "Agricultural and turf seeds" means the seeds of Canada bluegrass, *poa compressa*; Kentucky bluegrass, *poa pratensis*; rough bluegrass, *poa trivialis*; wood bluegrass, *poa nemoralis*; bulbous bluegrass, *poa bulbosa*; orchard grass, *dactylis glomerata*; red top, *agrostis alba*; Seaside bent grass, *agrostis palustris*; Astoria bent grass, *agrostis tenuis astoriana*; highland bent grass, *agrostis tenuis oregonensis*; Colonial or Rhode Island bent grass, *agrostis tenuis*; velvet bent grass, *agrostis canina*; smooth brome grass, *bromus inermis*; meadow fescue and tall fescue, *festuca elatior*; chewings fescue, *festuca rubra fallax*; and other perennial fescues; crested wheat grass, *agropyron cristatum*; slender wheat grass, *agropyron pauciflorum*; western wheat grass, *agropyron smithii*; blue bunch wheat grass, *agropyron spicatum*; and smooth wheat grass, *agropyron inerme*; meadow foxtail, *alopecurus pratensis*; foxtail millets, *setaria italica*; Japanese barnyard millet, *echinochloa crusgalli frumentacea*, and proso millet, *panicum milaceum*; tall meadow oat grass, *arrhenatherum elatius*; Italian rye grass, *lolium multiflorum*; perennial rye grass, *lolium perenne*; reed canary grass, *phalaris arundinacea*; sorghum, *andropogon sorghum*; Kaffir corn, *andropogon sorghum*; sudan grass, *andropogon sudanensis*; velvet grass or mesquite, *holcus lanatus*; cheat, *bromus secalinus*; and other grasses used for forage, seed or turf purposes; alfalfa, *medicago sativa*; alsike clover, *trifolium hybridum*; crimson clover, *trifolium incarnatum*; red clover, *trifolium pratense*; white clover, *trifolium repens*; ladino clover, *trifolium repens latum*; strawberry clover, *trifolium fragiferum*; sweet clovers, *melilotus* spp.; vetches, *vicia* spp.; Canada field peas, *pisum arvense*; flat peas, *lathyrus* sp.; field beans, *phaseolus vulgaris*; soy beans, *glycine hispida*; and other legumes and other plants used for forage, seed or turf purposes; flax, *linum usitatissimum*; beets and mangels; *beta vulgaris*; rape, *brassica napus*; turnips, *brassica rapa*; rutabaga, *brassica campestris*; and buckwheat, *fagopyrum vulgare*.

(2) "Certified" or "registered" apply to agricultural, turf, grain or vegetable seeds, bulblets, tubers or horticultural plants that have been inspected and labeled by, and in accordance with the standards and rules adopted by the dean of the school of agriculture of Oregon State College, or by some similar regularly constituted authority provided for such work, and using similar standards and rules in other states or countries.

(3) "Dean" means the dean of the school of agriculture of Oregon State College, who is also the director of the agricultural experiment station and the cooperative agricultural extension service.

(4) "Director" means the Director of Agriculture.

(5) "Foreign seed" means all seeds or bulblets in the lot or sample other than pure seed.

(6) "Inert matter" means that part of any lot or sample consisting of material incapable of producing any of the higher plants, and shall include stones, dirt, leafage, stems, badly broken seeds, masses of spores and other inert material.

(7) "Mixed seed" or "mixture" means any lot of seeds that contains more than five percent by weight of each of two or more kinds of agricultural or turf seeds.

(8) "Noxious weed seeds" means the seeds or bulblets of those weeds that are specifically named in ORS 633.560, or that may be added thereto, whose persistency, difficulty of eradication, objectionable qualities or habits of growth make them particularly undesirable, or whose seeds may be considered commercially inseparable.

(9) "Other crop seed" means that part of the lot or sample consisting of other agricultural or turf seeds, grains or bulblets, than the pure seed.

(10) "Percentage of germination" means the percentage of pure seeds of a lot or

sample that produce satisfactory sprouts when tested according to standard rules for seed testing.

(11) "Percentage of hard seed" means the percentage of pure seeds remaining hard, sound and ungerminated at the close of a standard germination test.

(12) "Pure seed" means the pure seed or bulblets constituting the major portion of any unmixed lot or sample, and in the case of mixtures, includes any grain, agricultural or turf seed consisting of not less than five percent by weight, of the kinds of seed under consideration, as distinguished by its appearance from other crop seeds, weed seeds and inert matter.

(13) "Turf seeds" means any of those seeds commonly used alone or in mixtures for the sowing of lawns or fine turfs, and includes all lawn grasses and similar turf mixtures.

(14) "Vegetable seeds" includes the seeds of those crops usually grown in Oregon in gardens or on truck farms or for canning and freezing purposes and generally known and sold under the name of "vegetable seeds."

(15) "Weed seeds" means any seeds or bulblets other than agricultural, turf, grains or vegetable seeds.

633.520 Labeling agricultural and turf seeds. Each lot or package of agricultural or turf seeds sold, offered or exposed for sale within this state for seeding purposes shall be clearly and plainly labeled in English to show:

(1) The commonly accepted name of such seeds.

(2) The country or state where grown.

(3) The approximate percentage, by weight, of pure seed.

(4) The approximate total percentage, by weight, of weed seeds.

(5) The approximate total percentage, by weight, of other crop seeds.

(6) The approximate total percentage, by weight, of inert matter.

(7) The name and approximate number per pound of each kind of the seeds of noxious weeds, as defined in ORS 633.560, which are present.

(8) The approximate percentage of germination of such agricultural and turf seeds, together with the calendar month and year the seed was tested. No more than 12 calendar months shall have elapsed between the last day of the calendar month in which the

germination test was completed and the date of offering for sale.

(9) The percentage of hard seed, when present.

(10) The name and address of the vendor of such seeds.

633.530 Labeling mixed seed. Each lot of mixed seed, or each mixture sold, offered or exposed for sale within this state shall be clearly and plainly labeled in English to show:

(1) That such seed is a mixture.

(2) The name and approximate percentage, by weight, of each kind of agricultural or turf seed present in excess of five percent, by weight, of the total mixture.

(3) The approximate total percentage, by weight, of weed seeds.

(4) The approximate total percentage, by weight, of inert matter.

(5) The name and approximate number per pound of each kind of the seeds of the noxious weeds, as defined in ORS 633.560, which are present.

(6) The approximate percentage of germination of each kind of agricultural or turf seed present in the mixture, in excess of five percent, by weight, together with the calendar month and year the seed was tested. No more than 12 calendar months shall have elapsed between the last day of the calendar month in which the germination test was completed and the date of offering for sale.

(7) The name and address of the vendor.

633.540 Labeling vegetable seed. Each separate container of vegetable seeds, except vegetable varieties of peas, beans, corn and other such seeds of similar size in packages weighing less than five pounds, and other vegetable seeds in packets weighing not more than one-half pound each, sold, offered or exposed for sale within this state for seeding purposes, shall be clearly and plainly labeled in English as follows:

(1) The kind and variety of seed.

(2) The approximate percentage of germination, together with the calendar month and year the seed was tested or, in lieu of this requirement, the words "Oregon standard germination" may be used, when the percentage of germination of such seed is equal to or greater than the percentage established in the standards provided for by ORS 633.680. No more than 12 calendar months shall have elapsed between the last day of the calendar month in which the ger-

mination test was completed and the date of offering for sale.

(3) The kind and number of any noxious weed seeds per pound of vegetable seed.

(4) The name and address of the person or firm who put up or packeted the seed and labeled them.

633.550 Exemptions from labeling provisions. Agricultural turf or vegetable seeds or mixtures of the same shall be exempt from the provisions of ORS 633.510 to 633.750:

(1) When sold to be recleaned before being sold, offered or exposed for sale for seeding purposes.

(2) When held for the purpose of recleaning.

(3) When such seeds consist of buckwheat, flax, vetches, peas, beans, soybeans or mixtures thereof when possessed, sold or exposed for sale for milling, food or feeding purposes only.

633.560 Noxious weed seeds or bulblets designated; permissible amounts of noxious weed seeds; change of designation as noxious weed. (1) For the purpose of ORS 633.510 to 633.750, the seeds or bulblets of the following weeds are declared to be noxious when present in agricultural, turf or vegetable seeds: The white tops, *Lepidium draba*, *Lepidium repens*, and *Hymenophyllum pubescens*; Russian knapweed, *Centaurea picris*; all dodders, *Cuscuta* spp.; quack grass, *Agropyron repens*; wild morning glory or bindweed, *Convolvulus arvensis*; Canada thistle, *Cirsium arvense*; blue lettuce, *Lactuca pulchella*; death weed or sumpweed, *Iva axillaris*; Johnson grass, *Sorghum halepense*; leafy spurge, *Euphorbia esula*; Austrian field cress, *Radicula austriaca*; perennial sow thistle, *Sonchus arvensis*; puncture vine, *Tribulus terrestris*; toad flax, *Linaria vulgaris*; alkali mallow, *Sida hederacea*; corn cockle, *Agrostemma githago*; Australian burnweed or fireweed, *Erechtites prenanthoides*; the star thistle, *Centaurea Melitenses*, *Solstitialis* and *Iberica*; St. Johnswort or goat weed, *Hypericum perforatum*; wild garlic, *Allium vineale*; ox-eye daisy, *Chrysanthemum leucanthemum*; cow cockle, *Vaccaria pyramidata*; buckhorn plantain, *Plantago lanceolata*, camelthorn, *Alhagi camelorum*.

(2) The following seeds are declared to be noxious only when present in the fine turf seeds including the bent grasses, red top, the blue grasses, the fine fescues, Eng-

lish and Italian rye grasses and in mixtures prepared for lawn or fine turf sowing: Field madder, *Sherardia arvensis*; spotted cat's ear, *Hypochaeris radicata*; dandelions, *Leontodon* spp.; chickweed or big mouse ear, *Cerastium vulgatum*; yarrow, *Achillea millefolium*, and rippleseed plantain, *Plantago major*.

(3) No person may sell, offer or expose for sale for planting purposes in this state any agricultural or turf seeds, or any mixtures containing any of the seeds of camelthorn, wild garlic, white top in any of its forms, Russian knapweed, or leafy spurge, or in excess of one seed of any of the dodders, Canada thistle, Johnson grass or quack grass, in 50 grams of alfalfa, sweet clover, red clover, crimson clover, meadow fescue, rape, the rye grasses, brome grass, the wheat grasses and other agricultural or turf seeds or mixtures of seeds, having approximately the same number of seeds per pound as those named, or in excess of one seed in 25 grams of alsike, white and ladino clover, chewings fescue, or chard grass, bulbous blue grass, or other agricultural or turf seeds or mixtures of seeds, having approximately the same number of seeds per pound as those just named, or in excess of four seeds of buckhorn plantain in five grams of red clover, sweet clover, alsike clover, white clover or alfalfa. However, nothing in ORS 633.510 to 633.750 shall prevent the sale of lots of seed of quack grass or buckhorn plantain when they constitute a major portion of any lot and are labeled in accordance with ORS 633.520 and 633.530.

(4) Upon written request by the dean, naming the seed of any additional weed as noxious, or requesting the removal of any seed from the list of noxious weed seeds, and stating reasons therefore, the director may designate such suggested change in the list of noxious weed seeds by rule or regulation, and the change shall be given to the press and shall be printed in pamphlet form available for distribution.

633.570 Disposal of screenings containing noxious weed seeds. All screenings and other material removed in the cleaning or processing of agricultural, turf and vegetable seeds containing any weed seeds designated as noxious under ORS 633.560 or by rule or regulation shall be destroyed, ground or treated in a manner or by a method established and approved by the director that will destroy the viability of all such noxious

weed seeds. However, the screenings and other material may be moved under permit issued by the director or his designated deputies, in accordance with rules and regulations established by the director, to another place or conditioning plant for further cleaning, processing or both.

633.580 Seed testing laboratory; cooperative agreements with federal agency. (1) The dean shall maintain and operate a properly equipped seed testing laboratory, in connection with the state agricultural experiment station, and make all tests on regulatory samples agreed upon as necessary by the director and the dean and in accordance with rules and regulations, promulgated after agreement, by the director.

(2) The dean may enter into cooperative arrangements with the Bureau of Plant Industry, Soils, and Agricultural Engineering of the United States Department of Agriculture for research work in seed testing, and for such portion of the regulatory, certification or registration, and general seed testing work, as may be mutually agreeable, and may make free tests for any farmer in Oregon to the extent determined upon as reasonable and possible by the dean and the bureau.

633.590 Free testing of seeds for farmers. (1) It hereby is established that the making of free seed tests becomes a part of the public interest only in the case of seeds tested for farmers, for use for planting purposes on land under their own control, and for governmental or state, research or regulatory agencies, and that other tests to be used as a basis for establishing the quality of seed for sales purposes are properly tested for which seed testing fees shall be paid.

(2) Each Oregon farmer desiring free seed testing shall file with each sample sent to the seed testing laboratory for testing, an application for such testing, on a form approved by the dean and the Bureau of Plant Industry, Soils, and Agricultural Engineering of the United States Department of Agriculture. The form shall contain the statement of application for such free service, a statement that the test is for his planting purposes only and an agreement that the report of the test will not be used for commercial or advertising purposes.

(3) The dean, and the bureau may determine and fix the number and distribution of such free tests permissible during any year. This number shall not exceed six for any one

farmer in any fiscal year. Each test requested for any farm or farmer in excess of this number shall be paid for at the commercial rates authorized by ORS 633.600.

633.600 Commercial tests, fees, rules and regulations. (1) The dean may authorize the seed testing laboratory to make seed tests for certification or registration purposes, and commercial tests, for the use of any person. He may make a fee or charge for each commercial test, and for any test in excess of the free quota for farmers, provided for by ORS 633.590.

(2) The dean may fix and determine the fee or charge for such commercial seed testing work so as to cover the cost. He may also determine what portion of certification fees shall be transferred to the seed testing fund to cover the approximate cost of such work.

(3) The dean may make reasonable rules and regulations covering any phase of seed testing, require the payment of the fees and charges and refuse further commercial seed testing to any person failing to pay promptly the charges for his seed testing.

633.610 Seed testing fund. All moneys collected as fees or charges for seed testing work shall be deposited in a special fund to be known as the seed testing fund. The fund shall be maintained by the dean, who may expend such funds, in the manner usually employed by the experiment station in disbursement of receipts, for:

(1) Salaries, wages and necessary expenses of employes while on official duty.

(2) The purchase of necessary equipment, materials and supplies.

(3) Other expenses necessary to the carrying out of seed testing work.

633.620 Certification and registration of seeds, tubers and plants. (1) Certification or registration of varieties of agricultural, turf, grain or vegetable seeds, or tubers, or horticultural plants, for planting purposes as certified or registered seeds, tubers or plants shall be conducted in this state by Oregon State College.

(2) Varieties eligible for certification and registration, rules, regulations and standards for such certification and registration, that will provide for seed of high quality, and official seals and tags, shall be determined upon and adopted by the dean.

(3) The dean may establish field inspection fees and charges for inspection, certification and registration in an amount suffi-

cient to cover the cost of such work. The dean may also charge the approximate cost price for tags, ties and seals and, when necessary, make charges covering the cost of field, or threshed seed, or bin inspections, when such inspections are called for at such times and places as to involve a total expense in excess of the income from the established fees or charges. In all cases the fees and charges shall be fixed at a rate that will cover the approximate cost of the work.

(4) However, the dean may authorize the inspection and certification or registration of agricultural, turf, grain and vegetable seeds, potatoes and other tubers without the collection of fees, when grown in areas not in excess of one acre, by members of 4-H Clubs and of the Future Farmers of America.

633.630 Certification fund. All moneys collected as fees or charges for inspection, certification and registration work of agricultural, turf, grain and vegetable seeds, tubers and horticultural plants shall be receipted for, and shall be deposited in a special fund to be known as the certification fund. The fund shall be maintained by the dean who may expend such funds for salaries, wages and necessary travel and other expenses of employees while on official duty, for purchase of necessary equipment, materials and supplies, for testing of seeds, for other expenses necessary to the carrying out of such inspection, certification and registration work and for no other purpose. The expenditures shall be made in accordance with the usual disbursement of receipts of the cooperative agricultural extension service.

633.640 Dean may employ assistants. For the purposes of performing the duties assigned to him, in carrying out ORS 633.510 to 633.750, the dean may employ necessary assistance and delegate to such assistants, analysts and inspectors so employed the duties assigned to him by those sections.

633.650 Use in advertising of words "certified" or "registered." No person shall:

(1) Use orally or in writing, relative to any agricultural, turf, grain or vegetable seeds, or any tubers, or horticultural plants, sold, advertised, exposed or offered for sale, for planting purposes in this state, the term "certified" or "registered," alone or with other words; or

(2) So use any other term or form of words, which suggests that seed, tubers or horticultural plants, have been certified or

registered by an inspection agency authorized by any state, or that there has been inspection or certification or either; or

(3) Use any such seals or tags similar to certification or registration seals or tags, on any lot of seeds, tubers or horticultural plants, unless such seed, tubers or horticultural plants have in fact been certified or registered after official inspection and certification by Oregon State College, or by the official agency designated for such work in another state or country and using standards and rules and regulations assuring a quality similar to that established for such certified or registered seeds, tubers or horticultural plants in Oregon.

633.660 Enforcement and administration of ORS 633.510 to 633.750. The Director of Agriculture shall enforce ORS 633.510 to 633.750. However, the work of testing seeds and sampling, inspecting, sealing and labeling agricultural, turf, grain and vegetable seeds, potatoes and other tubers, and horticultural plants for certification or registration, as provided by ORS 633.580 to 633.640, shall be done by Oregon State College.

633.670 Inspection and sampling of seeds; seizure of seeds; report of test. (1) In the enforcement of ORS 633.510 to 633.750, the director, his deputies, inspectors or samplers are granted access to and may enter during regular business hours, any store, warehouse, mill, cleaning or storage place, depot or other structure, freight car or other vehicle, in which agricultural, turf or vegetable seeds are being stored, handled or transported. He shall examine and inspect any such agricultural, turf or vegetable seeds, being possessed, sold, offered or exposed for sale for planting purposes, in this state, for their compliance with those sections. He may or may not be accompanied by a representative or employee of the person whose premises are so entered. He may draw or cause to be drawn a representative sample of any lot of such seed for official testing and analysis.

(2) Any sample so drawn may represent any lot, or portion of such lot, of such seed and, as finally prepared, may consist of not more than one pound, which shall be divided into two approximately duplicate samples, each of which shall be properly identified, labeled and sealed in accordance with the rules and regulations adopted under ORS 633.510 to 633.750. One of the samples shall be transmitted to the Oregon agricultural

experiment station seed laboratory for official testing for regulatory purposes. The other sample shall be tendered to the representative of the organization from whose structure or vehicle the sample was taken.

(3) The director may seize any lot or parcel of agricultural, turf or vegetable seeds possessed, sold, offered or exposed for sale for planting purposes in this state that appears to be in violation of any of the provisions of ORS 633.510 to 633.750, and proceed in the manner directed by law for the disposal of products seized by the department.

(4) Any sample taken under those sections, and the report showing the results of the official test made on any such sample, shall be prima facie evidence in any court in this state of the true condition of the entire lot, in the examination of which the sample was taken.

(5) A copy of the result of any such test shall be mailed to the person or his authorized representative, if known, owning, possessing or holding the seed from which the sample was drawn.

(6) The director may cause to be published in the official paper or bulletin of the department a report of all seed inspection work done for regulatory purposes and shall indicate in the report:

(a) The name and address of each person whose seed was inspected.

(b) The total number of such inspections.

(c) The number and kind of seeds of which samples were inspected and tested.

(d) The number or a list of samples complying with ORS 633.510 to 633.750.

(e) A detailed list showing kinds of seed and the nature of violations of any of the provisions of those sections as found in the inspection and testing of any such seeds belonging to any such person.

633.680 Establishment of standards of germination, rules, regulations, fees and charges. (1) The director may establish standards of germination for vegetable seeds, and reasonable rules and regulations necessary to effectuate the purpose of ORS 633.510 to 633.750, covering:

(a) Licensing, suspension, reinstatement and revocation of licenses, which rules and regulations shall conform to the law governing suspension, refusal or revocation of licenses by the State Department of Agriculture.

(b) Regulatory and official sampling.

(c) Labeling of seeds.

(d) Quarantining, which rules and regulations shall conform to the law for establishment of quarantines by the State Department of Agriculture.

(e) Seizure, treatment and disposition of seeds from outside this state.

(f) Seizure of seeds.

(g) Treatment, movement under permit and disposition of screenings.

(h) Changes in the list of noxious weeds.

(2) All such rules and regulations shall be printed in pamphlet form and be available for distribution.

(3) The director may establish fees and charges for official sampling, applied for by the owner, at not less than \$1 or more than \$10 for any lot, consisting of not more than one carload. He may also establish reasonable charges covering issuance of permits, and the treatment and disposition of seeds seized and held under quarantine. However, in any case where the service involved is in such location or under such circumstances that the usual fees or charges are insufficient to cover the expense, he may make additional charges to avoid loss to this state.

633.690 Quarantine of seed entering state; seizure and disposition of nonconforming seed. (1) The director may place a quarantine on all agricultural, turf or vegetable seeds entering this state from any outside source. However, seed labeled in accordance with ORS 633.510 to 633.750 shipped into the state by any person holding an Oregon license in full force shall not necessarily be quarantined; and any such seeds in tight containers in transit directly through this state, to points outside this state, shall not be subject to quarantine. Any such seeds from outside this state, that are destined to points in this state for processing or conditioning purposes, for later use in this state, or for shipment from this state, shall be held under quarantine until the disposition of all screenings from such seeds, containing any seeds of noxious weeds, and until any such processed or conditioned seeds sold, offered or exposed, for sale, in this state comply with ORS 633.510 to 633.750.

(2) The director may draw necessary samples of such seed, seize, and hold such seed until the necessary tests are completed and arrangements for the disposition of the seed are consummated. If the seed is found to be in compliance with those sections it

shall be immediately released. If the seed is found to be in violation of any part of those sections, he shall so notify the shipper and, unless the director is instructed to return such seed within 30 days or unless such seed is put in condition to comply with the provisions of those sections and all costs covering such inspection and seizure are paid, he shall cause the seed to be destroyed.

633.700 Licenses to sell seed. (1) No person may sell, offer or expose for sale in this state any seeds for planting purposes unless he holds an unsuspended license, in full force, secured from the director for the current calendar year, in accordance with rules and regulations adopted by the director as provided for in ORS 633.510 to 633.750. However, any grower selling seeds of his own production exclusively, and persons selling only vegetable and flower seeds at retail, in packages weighing not in excess of one-half pound, as prepared for such trade by other seed companies, if the seed company preparing such packaged seed for sale, has a license in force for the sale of such seed in this state, shall not be required to secure such license. For the purposes of ORS 633.510 to 633.750, any firm operating more than one branch, plant or warehouse, where seeds are sold, offered or exposed for sale, shall secure a separate license for each such branch, plant or warehouse.

(2) Any person desiring to sell, offer or expose for sale in this state, any agricultural, turf or vegetable seeds, for planting purposes, except as provided in this section, shall make application to the director for a license for this purpose. The application shall be signed by the applicant or his authorized agent, shall be in a form approved by the director and shall contain an agreement under which the applicant agrees to abide by ORS 633.510 to 633.750 and the rules and regulations promulgated thereunder by the director. Upon presentation of such signed application for a license, and the tendering of the license fee of \$2.50 per calendar year, or any portion thereof, the Director of Agriculture, shall issue the license to the applicant. It shall be in force during the calendar year or so long as the licensee complies with those sections, and the rules and regulations adopted from time to time by the director.

633.710 Department action on violations by licensee. (1) When the department finds that any licensee fails to label seed properly,

or the results of regulatory tests show that the labeling is not in accord with the results of tests on officially drawn samples, or otherwise violates the terms of this agreement and the provisions of ORS 633.510 to 633.750, the department shall issue a written warning, stating the violation. If the licensee continues to violate those sections, the department may suspend his license in the same manner as provided by law for the suspension of licenses by the State Department of Agriculture. The licensee shall have the same right to a hearing and appeal to the courts as provided by law in such cases.

(2) After hearing, the department may reinstate the license if the violation is clearly accidental, reinstate the license for a probationary period of not more than six months or revoke it permanently. A summary of all pertinent facts and findings in such cases shall be published in the official publication of the State Department of Agriculture.

633.720 Sampling and testing on request of owner of seed. On application of any person owning or controlling any lot of seed, the director may draw an official sample of any lot of such seed for official testing purposes. After dividing the sample into two approximately equal portions and properly identifying, labeling and sealing them, he shall tender one portion to the applicant and shall send the other portion directly to the agricultural experiment station for testing. The experiment station shall report the results of such tests to the person for whom such sample was drawn, and he shall pay for such sampling at rates established by the director, in accordance with ORS 633.680, and for the seed testing at commercial rates as established by the dean in accordance with ORS 633.600.

633.730 Annual appropriation for seed inspection and testing. There hereby is appropriated out of the General Fund of the State Treasury not otherwise appropriated, \$6,000 annually or so much thereof as may be necessary, and no more, to the organizations, and for the purposes following:

(1) To the State Department of Agriculture, \$2,500 annually, for the collection of samples and the enforcement of ORS 633.510 to 633.750.

(2) To the state agricultural experiment station, \$3,500 annually, for the testing of the number of regulatory samples agreed upon as necessary for carrying out the purposes

of ORS 633.510 to 633.750, by the director and the dean, and drawn by representatives of the State Department of Agriculture, for the free testing of samples for farmers who make written application for tests of seed for sowing purposes on their own farms, in accordance with those sections and for research work on methods of seed testing.

633.740 Use of funds appropriated. The sums appropriated by ORS 633.730 are to be used for payment of salaries, wages, necessary travel and other expenses of deputies, inspectors, samplers, analysts, specialists and assistants, the purchase of equipment, materials and supplies, the rental or purchase of necessary land and other expenses necessarily incurred under the supervision of the respective officers of the State Department of Agriculture and the agricultural experiment station to whom the appropriations are made.

633.750 Disposition of fines, fees and charges under ORS 633.510 to 633.750. All moneys collected for issuance of licenses, for fines paid for violations of ORS 633.510 to 633.750 and all fees and charges collected in accordance with those sections and the rules and regulations made under those sections, other than the fees and charges specified in ORS 633.610 and 633.630, shall be deposited with the State Treasurer by the director, and by the State Treasurer placed in the Department of Agriculture Account. All such moneys hereby are appropriated for the purpose of carrying out those sections.

633.760 to 633.980 [Reserved for expansion]

PENALTIES

633.990 Penalties. (1) Violation of any provision of subsection (1) of ORS 633.100 is punishable, upon conviction, by a fine not exceeding \$100 for the first offense and not exceeding \$500 for each subsequent offense.

(2) Violation of ORS 633.210 to 633.250 is punishable, upon conviction, by a fine of not less than \$10 nor more than \$1,000 or by imprisonment in the county jail not exceeding one year, or both. A second conviction for violation of any provision of those sections is punishable, upon conviction, by a fine of not less than \$50 nor more than \$1,000 or by imprisonment in the county jail not less than 10 days nor more than one year, or both.

(3) Except as otherwise provided by subsection (4) of this section, violation of ORS 633.310 to 633.480, or of any rule or regulation of the department made under those sections, is punishable, upon conviction, by a fine not exceeding \$100 for each violation.

(4) Violation of subsection (3) of ORS 633.470 is a misdemeanor.

(5) Violation of ORS 633.090 or 633.510 to 633.750 is punishable, upon conviction, by a fine of not less than \$10 nor more than \$100.

(6) Violation of ORS 633.140 is punishable, upon conviction, by a fine of not less than \$5 nor more than \$500, or by imprisonment in the county jail for not less than five nor more than 90 days, or both.