

## NOTICE OF PROPOSED RULEMAKING

**NOTICE IS HEREBY GIVEN** that the New Mexico Department of Agriculture (NMDA), proposes to repeal and replace 21.18.4.1 et. seq. NMAC, SEED STANDARDS AND CLASSIFICATIONS.

### **PURPOSE AND SUMMARY OF THE PROPOSED RULES:**

Primary proposed amendments to the current Seed Standards and Classifications rule language updates the fee schedule for testing seeds that support the state seed laboratory for analyzing samples submitted by constituents. The amendments update seed name and scientific names in the prohibited and restricted noxious weed seeds. Lastly, the rule amendments update the germination standards for vegetable seed and methods of sampling, inspecting, analyzing, testing and examination of seed by referencing the Federal Seed act 7 CFR part 201.

The departments obligation to the citizens of New Mexico is to assure that seeds sold in the state are labeled properly and meet the standards placed upon the label. The current fee schedule set in rule for seed testing by the department to recoup costs of testing and examine samples requested by outside persons or entities from the department.

Proposed rule changes will follow the repeal and replacement process rather than the amendment process for seed standards and classifications. These adjustments are necessary to help offset the increased cost seed testing and analysis for inflation and mandatory adjustments to staff salaries. The proposed changes also clean up the prohibited and noxious weed names and species as well as adopt the Federal Seed Act 7 CFR part 201 for methods of sampling and testing as well as germination standards which clean up the rule.

**STATUTORY AUTHORITY:** Granted to the Board of Regents of New Mexico State University under the New Mexico Seed Law, Chapter 76, Article 10, Sections 11 through 22, New Mexico Statutes Annotated, 1978 Compilation.

Copies of the Notice of Proposed Rulemaking and proposed rules (including any technical information) are available by electronic download from the New Mexico Department of Agriculture website (<https://www.nmda.nmsu.edu>) and at agency district and field offices.

**Tuesday, July 29 2025** at 10:00 am NMDA will host a public video/telephonic and in-person hearing at Gerald Thomas Hall Auditorium (Rm 194), New Mexico State University, located at 940 College Drive in Las Cruces, NM, 88003.

Join via Video for Tuesday, July 29, 2025, 10:00 am hearing:

Meeting URL: <https://nmsu.zoom.us/j/83992662632>

Meeting ID: 777 178 7960

Passcode: 328151

Or

Join via Phone for Tuesday, July 29, 2025, 10:00 am hearing:

+1 669 900 6833 or +1 719 359 4580

Meeting ID: 777 178 7960

Passcode: 328151

**Thursday, July 31 2025** at 10:00 am NMDA will host a public in-person hearing at the CNM workforce Training Center located at 5600 Eagle Rock Ave, NE in Albuquerque, NM, 87113.

Oral comments will be accepted at the hearing from members of the public and any interested parties.

Written comments will be accepted until 5:00pm on July 31, 2025. Comments may be submitted via email to [comments@nmda.nmsu.edu](mailto:comments@nmda.nmsu.edu) or may be filed by sending original copies to:

New Mexico Department of Agriculture, Office of Director  
MSC 3189, PO Box 30005, 1050 Stewart Street, Las Cruces, NM 88003-8005

Only signed statements, proposals or comments will be accepted. Scanned or electronic signatures conforming to federal and state court requirements will be accepted with the understanding that if there is any dispute regarding a signature, NMDA reserves the right to require that original signatures be provided to verify the electronic or facsimile signature.

**SPECIAL NEEDS:** If you are an individual with a disability who needs a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact NMDA at (575) 646-3702 at least one week prior to the meeting or as soon as possible.

The Director will consider all oral comments and will review all timely submitted written comments and responses.



## AVISO DE PROPUESTA DE NORMATIVA

**POR EL PRESENTE ANUNCIO SE COMUNICA** que el Departamento de Agricultura de Nuevo México (NMDA) propone derogar y reemplazar la sección 21.18.4.1 y siguientes del NMAC, ESTÁNDARES Y CLASIFICACIONES DE SEMILLAS.

### PROPÓSITO Y RESUMEN DE LAS NORMAS PROPUESTAS:

Las principales enmiendas propuestas a la normativa actual sobre Estándares y Clasificaciones de Semillas actualizan el programa de tarifas para el análisis de semillas que apoya al laboratorio estatal de semillas en el análisis de las muestras presentadas por los ciudadanos. Las enmiendas actualizan el nombre y los nombres científicos de las semillas de malezas nocivas prohibidas y restringidas. Finalmente, las enmiendas a la normativa actualizan los estándares de germinación para semillas de hortalizas y los métodos de muestreo, inspección, análisis, prueba y examen de semillas, haciendo referencia a la Ley Federal de Semillas, Título 7 del Código de Reglamentos Federales, parte 201.

La obligación del departamento en nombre de los ciudadanos de Nuevo México es garantizar que las semillas vendidas en el estado estén correctamente etiquetadas y cumplan con los estándares establecidos en la etiqueta. El programa actual de tarifas establecido por el departamento para el análisis de semillas busca recuperar los costos de las pruebas y examinar las muestras solicitadas por personas o entidades externas.

Los cambios propuestos a la reglamentación seguirán el proceso de derogación y reemplazo, en lugar del proceso de enmienda para las normas y clasificaciones de semillas. Estos ajustes son necesarios para compensar el aumento en el costo de las pruebas y análisis de semillas debido a la inflación y los ajustes obligatorios en los salarios del personal. Los cambios propuestos también depuran los nombres y especies de malezas prohibidas y nocivas, y adoptan la Ley Federal de Semillas, Título 7 del Código de Reglamentos Federales (CFR), parte 201, para los métodos de muestreo y análisis, así como para las normas de germinación que depuran la reglamentación.

**AUTORIDAD ESTATUTARIA:** Otorgada a la Junta de Regentes de la Universidad Estatal de Nuevo México en virtud de la Ley de Semillas de Nuevo México, Capítulo 76, Artículo 10, Secciones 11 a 22, de los Estatutos Anotados de Nuevo México, Compilación de 1978.

Se pueden descargar copias del Aviso de Propuesta de Normativa y de las normas propuestas (incluida cualquier información técnica) en el sitio web del Departamento de Agricultura de Nuevo México (<https://nmdeptag.nmsu.edu/>) y en las oficinas distritales y locales de la agencia.

**El martes 29 de julio de 2025** a las 10:00 a.m., el NMDA celebrará una audiencia pública, tanto por videoconferencia como por teléfono, y en persona, en el Auditorio Gerald Thomas Hall (Sala 194) de la Universidad Estatal de Nuevo México, ubicado en College Drive 940, Las Cruces, NM 88003.

Para unirse por videoconferencia a la audiencia del martes 29 de julio de 2025 a las 10:00 a.m.:

URL de la reunión: <https://nmsu.zoom.us/j/83992662632>

ID de la reunión: 777 178 7960

Código de acceso: 328151

O

Para unirse por teléfono a la audiencia del martes 29 de julio de 2025 a las 10:00 a.m.:

+1 669 900 6833 o +1 719 359 4580

ID de la reunión: 777 178 7960

Código de acceso: 328151

**El jueves 31 de julio de 2025** a las 10:00 a.m., el NMDA celebrará una audiencia pública presencial en el Centro de Capacitación Laboral de CNM, ubicado en 5600 Eagle Rock Ave NE, Albuquerque, NM 87113.

Se aceptarán comentarios orales del público y de cualquier parte interesada. Se aceptarán comentarios escritos hasta las 5:00 p. m. del 31 de julio de 2025. Los comentarios pueden enviarse por correo electrónico a [comments@nmda.nmsu.edu](mailto:comments@nmda.nmsu.edu) o enviar copias originales a:

New Mexico Department of Agriculture, Office of Director  
MSC 3189, P.O. Box 30005, 1050 Stewart Street, Las Cruces, NM 88003-8005

Solo se aceptarán declaraciones, propuestas o comentarios firmados. Se aceptarán firmas escaneadas o electrónicas que cumplan con los requisitos de los tribunales federales y estatales, en el entendido de que, en caso de disputa con respecto a una firma, el NMDA se reserva el derecho de exigir la presentación de firmas originales para verificar la firma electrónica o facsímil.

**NECESIDADES ESPECIALES:** Si usted es una persona con discapacidad que necesita un lector, amplificador, intérprete de lenguaje de señas cualificado o cualquier otro tipo de ayuda o servicio auxiliar para asistir o participar en la audiencia o reunión, comuníquese con el NMDA al (575) 646-3702 al menos una semana antes de la reunión o lo antes posible.

El Director considerará todos los comentarios orales y revisará todos los comentarios y respuestas escritos presentados oportunamente.





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**TITLE 21 AGRICULTURE AND RANCHING**  
**CHAPTER 18 SEEDS, FEEDS, AND FERTILIZERS**  
**PART 4 SEED STANDARDS AND CLASSIFICATIONS**

**21.18.4.1 ISSUING AGENCY:** New Mexico State University, New Mexico Department of Agriculture  
 [MSC 3189, Box 30005, Las Cruces, New Mexico 88003-8005, Telephone No. (575) 646-3007]  
 [21.18.4.1 NMAC - Rp, 21.18.4.1 NMAC, 10/7/2025]

**21.18.4.2 SCOPE:** Part 4 shall apply to any person selling commercial seeds in New Mexico.  
 [21.18.4.1 NMAC - Rp, 21.18.4.1 NMAC, 10/7/2025]

**21.18.4.3 STATUTORY AUTHORITY:** Granted to the board of regents of New Mexico state university under the New Mexico Seed Law, Chapter 76, Article 10, Sections 11 through 22, New Mexico Statutes Annotated 1978 Compilation.  
 [21.18.4.1 NMAC - Rp, 21.18.4.1 NMAC, 10/7/2025]

**21.18.4.4 DURATION:** Permanent.  
 [21.18.4.1 NMAC - Rp, 21.18.4.1 NMAC, 10/7/2025]

**21.18.4.5 EFFECTIVE DATE:** October 7, 2025, unless a later date is cited at the end of the history note at the end of a section.  
 [21.18.4.1 NMAC - Rp, 21.18.4.1 NMAC, 10/7/2025]

**21.18.4.6 OBJECTIVE:** The objective of Part 4 of Chapter 18 is to establish a list of prohibited and restricted noxious weed seeds, set germination standards for vegetable seeds, set tolerances for the testing of seeds, set guidelines for the sampling and testing of seeds, and set fees to be charged for seed testing when done at the request of or for the benefit of persons, firms or individuals, and designate the seed certification agency for New Mexico.  
 [21.18.4.1 NMAC - Rp, 21.18.4.1 NMAC, 10/7/2025]

**21.18.4.7 DEFINITIONS:** [RESERVED]

**21.18.4.8 PROHIBITED NOXIOUS WEED SEEDS:** The following weed seeds are declared to be prohibited noxious weed seeds. Seeds containing any of the weed seeds listed herein shall not be sold in New Mexico.

- A. Field Bindweed (*Convolvulus arvensis*)
- B. Camelthorn (*Alhagi camelorum*)
- C. Halogeton (*Halogeton glomeratus*)
- D. Nutgrass, Purple Nutgrass (*Cyperus esculentus*, *C. rotundus*)
- E. Poverty Weed (*Ambrosia tomentosa*)
- F. Quackgrass (*Elymus repens*)
- G. Russian Knapweed (*Rhaponticum repens*)
- H. Thistle, Canada (*Cirsium arvense*)
- I. Whitetop (*Cardaria draba*)

[21.18.4.1 NMAC - Rp, 21.18.4.1 NMAC, 10/7/2025]

**21.18.4.9 RESTRICTED NOXIOUS WEED SEEDS:** The following weed seeds are declared to be restricted noxious weed seeds. Seeds containing any of the weed seeds listed herein shall not be sold in New Mexico if the number of restricted noxious weed seeds exceeds those established in this section.

	Maximum allowed per pound
dodder ( <i>Cuscuta</i> spp.)	45
goatgrass ( <i>Aegilops</i> spp.)	1
Johnsongrass ( <i>Sorghum halepense</i> ) and other perennial sorghums	45

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morning glory ( <i>Ipomoea</i> spp.)	45
Texas blueweed ( <i>Helianthus ciliaris</i> )	45
white horse nettle (Bull nettle) ( <i>Solanum elaeagnifolium</i> )	90
wild oat ( <i>Avena fatua</i> )	90

[21.18.4.1 NMAC - Rp, 21.18.4.1 NMAC, 10/7/2025]

**21.18.4.10 GERMINATION STANDARDS FOR VEGETABLE SEEDS:** The germination standards for vegetable seeds shall be as found in 7 CFR 201.31.

[21.18.4.1 NMAC - Rp, 21.18.4.1 NMAC, 10/7/2025]

**21.18.4.11 METHODS OF SAMPLING AND TESTING:** The methods of sampling, inspecting, analyzing, testing, and examining agricultural and vegetable seed shall be the methods adopted by the Federal Seed Act 7 CFR Part 201. Methods of testing seeds for which the Federal Seed Act 7 CFR Part has not adopted methods of testing shall be determined by the state seed analyst or methods adopted by the association of official seed analysts.

[21.18.4.1 NMAC - Rp, 21.18.4.1 NMAC, 10/7/2025]

**21.18.4.12 TOLERANCES:** Tolerances shall be the applicable tolerances established by the Federal Seed Act 7 CFR Part 201. In the case of prohibited noxious weed seeds, the tolerance shall be based on declaration of "none". In the case of vegetable seed in amounts of one pound or less not labeled as to actual germination, it will be interpreted that vegetable seeds must meet or exceed the minimum germination established by Section 10, germination standards for vegetable seeds.

[21.18.4.1 NMAC - Rp, 21.18.4.1 NMAC, 10/7/2025]

**21.18.4.13 FEE SCHEDULE FOR SEED TESTING:**

A. The following fees shall be charged to persons bringing seed into the laboratory for testing:

	Complete Test	Purity Only	Germ Only	Weed Only
grass seed	\$45.00	\$24.00	\$24.00	\$16.00
seed other than grass	\$25.00	\$15.00	\$15.00	\$16.00

B. Special charges.

Tetrazolium test for viability	\$30.00
Vigor/cold test	\$25.00

C. Hourly charges. Whenever the seed to be tested is unusually dirty or poses other problems so as not to be routine in its testing, the state seed analyst may elect to charge for the testing at the rate of \$45 per hour for the time involved in testing for purity and/or conducting the germination test, but not to include the time in the germinator. Special testing requests not listed charged at the hourly rate.

[21.18.4.1 NMAC - Rp, 21.18.4.1 NMAC, 10/7/2025]

**21.18.4.14 SEED CERTIFICATION AGENCY:** New Mexico state university seed certification is hereby designated to be the seed certification agency for the state.

[21.18.4.1 NMAC - Rp, 21.18.4.1 NMAC, 10/7/2025]

#### HISTORY OF 21.18.4 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

NMDA Rule 67-3, Seed Law Regulations, Regulatory Order No. 1, filed 12/5/67.

NMDA Rule 67-3 Amendment No. 1, Seed Lab Fees, Regulatory Order No. 1, Regulation No. 6, filed 5/19/1971.

NMDA Rule 67-3 Amendment No. 2, Seed Lab Fees, Regulatory Order No. 3, filed 9/28/1976.

NMDA Rule 67-6, Seed Certifying Committee, Resolution No. 1, filed 12/26/1967.

NMDA Rule 72-3, Regulatory Order No. 2, Seed Corn Labeling, filed 9/19/1972.

NMDA Rule 86-1, Seed Standards and Classifications, filed 5/14/1986.

NMDA Rule 86-2, Fees for Seed Tests, filed 7/9/1986.

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**History of Repealed Material:**

21.18.4 NMAC – Seed Standards and Classifications, filed 7/1/1997, was repealed and replaced by 21.18.4 NMAC – Seed Standards and Classifications, effective 10/7/2025.

1 21.18.4 NMAC SEED STANDARDS AND CLASSIFICATIONS RULE  
2 RULEMAKING HEARING  
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7 Moderated by Les Owen  
8 Tuesday, July 29, 2025  
9 10:00 a.m.  
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12 Gerald Thomas Hall Auditorium, New Mexico State  
13 University  
14 940 College Drive (Room 194)  
15 Las Cruces, NM 88003  
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21 Reported by: Ryan Auten

22 JOB NO: 7452797  
23  
24  
25



<p>1           A P P E A R A N C E S</p> <p>2 List of Attendees:</p> <p>3 Les Owen, Deputy Director NMDA</p> <p>4 Katie Laney, Assistant Division Director NMDA</p> <p>5 Katie Crayton, NMDA Healthy Soil Program via Zoom</p> <p>6 Vanessa Fisher, Host</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 2</p>	<p>1 940 College Drive, Las Cruces, New Mexico. This is</p> <p>2 the published date, time, and location for this</p> <p>3 hearing.</p> <p>4           This hearing is being recorded, and</p> <p>5 either a transcript of today's hearing or the</p> <p>6 recording will be available from the department's</p> <p>7 webpage.</p> <p>8           Following a summary of the proposed</p> <p>9 primary amendments, the public will be provided an</p> <p>10 opportunity to provide testimony regarding the</p> <p>11 proposed amendments.</p> <p>12           Ms. Laney will now provide a summary of</p> <p>13 the -- of the public notices, primary proposed</p> <p>14 amendments to the Seed Standards and Classifications</p> <p>15 Rule, and any related information.</p> <p>16           MS. LANEY: Good morning. I'm Katie</p> <p>17 Laney, an Assistant Division Director with New Mexico</p> <p>18 Department of Agriculture.</p> <p>19           The Seed Standards and Classification</p> <p>20 Rule was promulgated under the authority of the New</p> <p>21 Mexico Seed Law to establish a list of prohibited and</p> <p>22 restricted noxious weed seeds, set germination</p> <p>23 standards for vegetable seeds, set tolerances for seed</p> <p>24 testing of seeds, set guidelines for sampling and</p> <p>25 testing of seeds, and set fees to be charged for seed</p> <p style="text-align: right;">Page 4</p>
<p>1           P R O C E E D I N G S</p> <p>2           MR. OWEN: Good morning. At this time,</p> <p>3 we'll start the hearing that addresses the proposed</p> <p>4 repeal and replacement of the Seed Standards and</p> <p>5 Classifications Rule, Title 21, Chapter 18, Part 4 of</p> <p>6 the New Mexico Administrative Code.</p> <p>7           My name is Les Owen, and I am Deputy</p> <p>8 Director with the New Mexico Department of</p> <p>9 Agriculture. Today, I will be officiating this</p> <p>10 hearing.</p> <p>11           Please make sure that you have signed</p> <p>12 in for the record and that your cell phone is off or</p> <p>13 silenced. Thank you.</p> <p>14           Copies of the proposed amendments to</p> <p>15 the Seed Standards and Classifications Rule were made</p> <p>16 available in strikethrough version and in include copy</p> <p>17 form as you walked in.</p> <p>18           If you require a copy, please hold up</p> <p>19 your hand and one will be provided to you. For our</p> <p>20 virtual participants, electronic copies are available</p> <p>21 on the department's website at nmdeptag.nmsu.edu.</p> <p>22           The day and date is Tuesday, July 29,</p> <p>23 2025, and the time is 10:00 a.m. This hearing is</p> <p>24 being held in person and virtually in New Mexico State</p> <p>25 University's Gerald Thomas Hall Auditorium, located at</p> <p style="text-align: right;">Page 3</p>	<p>1 testing when done at the request or for the benefit of</p> <p>2 a person, firm, or individual.</p> <p>3           Public notices for this hearing were</p> <p>4 published as following and in accordance with state</p> <p>5 laws: June 24, 2025, in the New Mexico Registrar; June</p> <p>6 24, 2025, in the Albuquerque Journal; June 24, 2025,</p> <p>7 in the New Mexico -- pardon, in the Santa Fe New</p> <p>8 Mexican in Spanish and English; and June 25, 2025, in</p> <p>9 the Las Cruces Sun News.</p> <p>10           Hearing notices were also posted on the</p> <p>11 New Mexico Sunshine Portal at the New Mexico</p> <p>12 Department of Agriculture District Station in</p> <p>13 Albuquerque and on the New Mexico Department of</p> <p>14 Agriculture website in Spanish and English.</p> <p>15           Copies of the proposed rule were made</p> <p>16 available at the New Mexico Department of</p> <p>17 Agriculture's Las Cruces main office and laboratory</p> <p>18 building, the New Mexico Department of Agriculture</p> <p>19 Veterinary Diagnostic Service Laboratory in</p> <p>20 Albuquerque, the New Mexico Department of Agriculture</p> <p>21 Peanut Grading Station in Portales, and on the</p> <p>22 department's website.</p> <p>23           Notification and the proposed rule were</p> <p>24 sent to the New Mexico Economic Development Small</p> <p>25 Business Regulatory Advisory Commission and to the</p> <p style="text-align: right;">Page 5</p>

2 (Pages 2 - 5)

1 Legislative Council Service.  
2 As of today, New Mexico Department of  
3 Agriculture has not received findings from either.  
4 Notice of public hearing was sent to past seed lab  
5 customers.  
6 Although the amendments are relatively  
7 few, the age of the Seed Classifications and Standard  
8 Rule requires a repeal and replacement process to  
9 address updates, styles, and format in conjunction  
10 with New Mexico Department of Agriculture's proposed  
11 amendments.  
12 The primary proposed amendments to the  
13 Seed Standards and Classifications Rules include  
14 removing the table in section 21.18.4.10 Germination  
15 Standards for Vegetable Seeds, and replacing with a  
16 reference to the Federal Seed Act; updating section  
17 21.18.4.11 Methods of Sampling, to include reference  
18 to the Federal Seed Act and the association of  
19 official seed analysts; updating 21.18.4.13 Fee  
20 Schedules for Seed Testing, to help offset increased  
21 costs of service due to inflation and mandatory  
22 adjustments for staff salary.  
23 The last fee adjustment to the section  
24 21.18.4.13 Fee Schedule for Seed Testing was made in  
25 1986.

Page 6

1 Please begin by stating your name and affiliation for  
2 the record. Please raise your hand and wait until I  
3 call on you.  
4 At this time, we will begin accepting  
5 comments. Please restrict your comments to the  
6 proposed content of the rule.  
7 We will now accept comments from  
8 virtual participants. Please use the raise your hand  
9 function and I will call on you. Please remember to  
10 state your name and affiliation for the record.  
11 Is there anyone else wishing to  
12 comment? Seeing none, we will close the public oral  
13 comment period for this hearing.  
14 Written comments will be accepted until  
15 5:00 p.m., Thursday, July 31, 2025. All public  
16 comments will be presented to the Secretary/Director  
17 of New Mexico Department of Agriculture, Mr. Jeff  
18 Witte, and will be submitted for consideration to the  
19 New Mexico State University Board of Regents.  
20 Submitted comments, and either a  
21 transcript of today's hearing and/or the recording  
22 will be available from the New Mexico Department of  
23 Agriculture's webpage.  
24 Thank you for participating. We will  
25 close the hearing at 10:08 a.m.

Page 8

1 Proposed seed testing fee increases are  
2 as following: for grass seed complete test was at \$20  
3 to \$45, purity only \$12 to \$24, germination only \$12  
4 to \$24, weed seed testing only \$6 to \$16; for seed  
5 other than grass seed complete test \$10 to \$25, purity  
6 only \$6 to \$15, germination only \$6 to \$15, weed only  
7 \$6 to \$16; tetrazolium testing for viability \$20 to  
8 \$30; add vigor-cold testing fee for \$25; and hourly  
9 charges for unusual samples from 10 to \$45.  
10 The expected budget revenue for  
11 updating 21.18.4.13 NMAC is approximately \$42,000  
12 annually as opposed to the annual receipt of  
13 approximately \$21,000 under the current fee structure.  
14 We compared the cost of five state  
15 laboratories including Colorado, Idaho, Nevada, Texas,  
16 and Utah. The proposed fees are still below the  
17 average of these states but provide budgetary  
18 assistance for the seed laboratory operations.  
19 MR. OWEN: Thank you, Ms. Laney.  
20 New Mexico Department of Agriculture  
21 has not received any written comments from the public  
22 prior to this hearing. However, staff identified that  
23 tetrazolium was misspelled in the proposed rule and  
24 will be corrected.  
25 We'll now open the floor for comments.


Page 7


1 (Whereupon, the meeting concluded at  
2 10:08 a.m.)  
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Page 9

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<p>1 CERTIFICATE</p> <p>2 I, RYAN AUTEN, the officer before whom the</p> <p>3 foregoing proceedings were taken, do hereby certify</p> <p>4 that any witness(es) in the foregoing proceedings,</p> <p>5 prior to testifying, were duly sworn; that the</p> <p>6 proceedings were recorded by me and thereafter reduced</p> <p>7 to typewriting by a qualified transcriptionist; that</p> <p>8 said digital audio recording of said proceedings are a</p> <p>9 true and accurate record to the best of my knowledge,</p> <p>10 skills, and ability; that I am neither counsel for,</p> <p>11 related to, nor employed by any of the parties to the</p> <p>12 action in which this was taken; and, further, that I</p> <p>13 am not a relative or employee of any counsel or</p> <p>14 attorney employed by the parties hereto, nor</p> <p>15 financially or otherwise interested in the outcome of</p> <p>16 this action.</p> <p>17  RYAN AUTEN</p> <p>18 Notary Public in and for the</p> <p>19 State of New Mexico</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>Page 10</p>	
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<p>1 CERTIFICATE OF TRANSCRIBER</p> <p>2 I, VENUS COLE, do hereby certify that this</p> <p>3 transcript was prepared from the digital audio</p> <p>4 recording of the foregoing proceeding, that said</p> <p>5 transcript is a true and accurate record of the</p> <p>6 proceedings to the best of my knowledge, skills, and</p> <p>7 ability; that I am neither counsel for, related to,</p> <p>8 nor employed by any of the parties to the action in</p> <p>9 which this was taken; and, further, that I am not a</p> <p>10 relative or employee of any counsel or attorney</p> <p>11 employed by the parties hereto, nor financially or</p> <p>12 otherwise interested in the outcome of this action.</p> <p>13 </p> <p>14</p> <p>15 VENUS COLE</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>Page 11</p>	
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[10 - college]

<b>1</b>	<b>5</b>	<b>advisory</b> 5:25	<b>available</b> 3:16
<b>10</b> 7:5,9	<b>5:00</b> 8:15	<b>affiliation</b> 8:1	3:20 4:6 5:16
<b>10:00</b> 1:9 3:23	<b>6</b>	8:10	8:22
<b>10:08</b> 8:25 9:2	<b>6</b> 7:4,6,6,7	<b>age</b> 6:7	<b>average</b> 7:17
<b>12</b> 7:3,3	<b>7</b>	<b>agriculture</b> 3:9	<b>b</b>
<b>15</b> 7:6,6	<b>7452797</b> 1:22	4:18 5:12,14	<b>benefit</b> 5:1
<b>16</b> 7:4,7	<b>8</b>	5:18,20 6:3	<b>best</b> 10:9 11:6
<b>18</b> 3:5	<b>88003</b> 1:15	7:20 8:17	<b>board</b> 8:19
<b>194</b> 1:14	<b>9</b>	<b>agriculture's</b>	<b>budget</b> 7:10
<b>1986</b> 6:25	<b>940</b> 1:14 4:1	5:17 6:10 8:23	<b>budgetary</b> 7:17
<b>2</b>	<b>a</b>	<b>albuquerque</b>	<b>building</b> 5:18
<b>20</b> 7:2,7	<b>a.m.</b> 1:9 3:23	5:6,13,20	<b>business</b> 5:25
<b>2025</b> 1:8 3:23	8:25 9:2	<b>amendments</b>	<b>c</b>
5:5,6,6,8 8:15	<b>ability</b> 10:10	3:14 4:9,11,14	<b>c</b> 2:1 3:1
<b>21</b> 3:5	11:7	6:6,11,12	<b>call</b> 8:3,9
<b>21,000</b> 7:13	<b>accept</b> 8:7	<b>analysts</b> 6:19	<b>cell</b> 3:12
<b>21.18.4</b> 1:1	<b>accepted</b> 8:14	<b>annual</b> 7:12	<b>certificate</b> 10:1
<b>21.18.4.10</b> 6:14	<b>accepting</b> 8:4	<b>annually</b> 7:12	11:1
<b>21.18.4.11</b> 6:17	<b>accordance</b> 5:4	<b>approximately</b>	<b>certify</b> 10:3
<b>21.18.4.13</b> 6:19	<b>accurate</b> 10:9	7:11,13	11:2
6:24 7:11	<b>act</b> 6:16,18	<b>assistance</b> 7:18	<b>chapter</b> 3:5
<b>24</b> 5:5,6,6 7:3,4	<b>action</b> 10:12,16	<b>assistant</b> 2:4	<b>charged</b> 4:25
<b>25</b> 5:8 7:5,8	11:5	4:17	<b>charges</b> 7:9
<b>29</b> 1:8 3:22	<b>add</b> 7:8	<b>association</b>	<b>classification</b>
<b>3</b>	<b>address</b> 6:9	6:18	4:19
<b>30</b> 7:8	<b>addresses</b> 3:3	<b>attendees</b> 2:2	<b>classifications</b>
<b>31</b> 8:15	<b>adjustment</b>	<b>attorney</b> 10:14	1:1 3:5,15 4:14
<b>34885</b> 10:16	6:23	11:10	6:7,13
<b>34940</b> 11:13	<b>adjustments</b>	<b>audio</b> 10:8 11:3	<b>close</b> 8:12,25
<b>4</b>	6:22	<b>auditorium</b>	<b>code</b> 3:6
<b>4</b> 3:5	<b>administrative</b>	1:12 3:25	<b>cold</b> 7:8
<b>42,000</b> 7:11	3:6	<b>auten</b> 1:21 10:2	<b>cole</b> 11:2,15
<b>45</b> 7:3,9		10:17	<b>college</b> 1:14 4:1
		<b>authority</b> 4:20	



[colorado - job]

<b>colorado</b> 7:15 <b>comment</b> 8:12 8:13 <b>comments</b> 7:21 7:25 8:5,5,7,14 8:16,20 <b>commission</b> 5:25 <b>compared</b> 7:14 <b>complete</b> 7:2,5 <b>concluded</b> 9:1 <b>conjunction</b> 6:9 <b>consideration</b> 8:18 <b>content</b> 8:6 <b>copies</b> 3:14,20 5:15 <b>copy</b> 3:16,18 <b>corrected</b> 7:24 <b>cost</b> 7:14 <b>costs</b> 6:21 <b>council</b> 6:1 <b>counsel</b> 10:10 10:13 11:7,10 <b>crayton</b> 2:5 <b>cruces</b> 1:15 4:1 5:9,17 <b>current</b> 7:13 <b>customers</b> 6:5	<b>department</b> 3:8 4:18 5:12,13 5:16,18,20 6:2 6:10 7:20 8:17 8:22 <b>department's</b> 3:21 4:6 5:22 <b>deputy</b> 2:3 3:7 <b>development</b> 5:24 <b>diagnostic</b> 5:19 <b>digital</b> 10:8 11:3 <b>director</b> 2:3,4 3:8 4:17 8:16 <b>district</b> 5:12 <b>division</b> 2:4 4:17 <b>drive</b> 1:14 4:1 <b>due</b> 6:21 <b>duly</b> 10:5	<b>establish</b> 4:21 <b>expected</b> 7:10	<b>guidelines</b> 4:24
			<b>h</b>
<b>d</b>	<b>e</b>	<b>f</b>	<b>hall</b> 1:12 3:25 <b>hand</b> 3:19 8:2,8 <b>healthy</b> 2:5 <b>hearing</b> 1:2 3:3 3:10,23 4:3,4,5 5:3,10 6:4 7:22 8:13,21,25 <b>held</b> 3:24 <b>help</b> 6:20 <b>hereto</b> 10:14 11:11 <b>hold</b> 3:18 <b>host</b> 2:6 <b>hourly</b> 7:8
			<b>i</b>
<b>d</b>	<b>e</b>	<b>g</b>	<b>idaho</b> 7:15 <b>identified</b> 7:22 <b>include</b> 3:16 6:13,17 <b>including</b> 7:15 <b>increased</b> 6:20 <b>increases</b> 7:1 <b>individual</b> 5:2 <b>inflation</b> 6:21 <b>information</b> 4:15 <b>interested</b> 10:15 11:12
			<b>j</b>
<b>d</b> 3:1 <b>date</b> 3:22 4:2 <b>day</b> 3:22	<b>e</b> 2:1,1 3:1,1 <b>economic</b> 5:24 <b>either</b> 4:5 6:3 8:20 <b>electronic</b> 3:20 <b>employed</b> 10:11,14 11:8 11:11 <b>employee</b> 10:13 11:10 <b>english</b> 5:8,14 <b>es</b> 10:4	<b>fe</b> 5:7 <b>federal</b> 6:16,18 <b>fee</b> 6:19,23,24 7:1,8,13 <b>fees</b> 4:25 7:16 <b>financially</b> 10:15 11:11 <b>findings</b> 6:3 <b>firm</b> 5:2 <b>fisher</b> 2:6 <b>five</b> 7:14 <b>floor</b> 7:25 <b>following</b> 4:8 5:4 7:2 <b>foregoing</b> 10:3 10:4 11:4 <b>form</b> 3:17 <b>format</b> 6:9 <b>function</b> 8:9 <b>further</b> 10:12 11:9	<b>jeff</b> 8:17 <b>job</b> 1:22

<b>journal</b> 5:6	<b>methods</b> 6:17	<b>notice</b> 6:4	<b>past</b> 6:4
<b>july</b> 1:8 3:22	<b>mexican</b> 5:8	<b>notices</b> 4:13 5:3	<b>peanut</b> 5:21
8:15	<b>mexico</b> 1:12 3:6	5:10	<b>period</b> 8:13
<b>june</b> 5:5,5,6,8	3:8,24 4:1,17	<b>notification</b>	<b>person</b> 3:24 5:2
<b>k</b>	4:21 5:5,7,11	5:23	<b>phone</b> 3:12
<b>katie</b> 2:4,5 4:16	5:11,13,16,18	<b>noxious</b> 4:22	<b>please</b> 3:11,18
<b>knowledge</b>	5:20,24 6:2,10	<b>o</b>	8:1,2,5,8,9
10:9 11:6	7:20 8:17,19	<b>o</b> 3:1	<b>portal</b> 5:11
<b>l</b>	8:22 10:19	<b>office</b> 5:17	<b>portales</b> 5:21
<b>lab</b> 6:4	<b>misspelled</b> 7:23	<b>officer</b> 10:2	<b>posted</b> 5:10
<b>laboratories</b>	<b>moderated</b> 1:7	<b>official</b> 6:19	<b>prepared</b> 11:3
7:15	<b>morning</b> 3:2	<b>officiating</b> 3:9	<b>presented</b> 8:16
<b>laboratory</b>	4:16	<b>offset</b> 6:20	<b>primary</b> 4:9,13
5:17,19 7:18	<b>n</b>	<b>open</b> 7:25	6:12
<b>laney</b> 2:4 4:12	<b>n</b> 2:1 3:1	<b>operations</b> 7:18	<b>prior</b> 7:22 10:5
4:16,17 7:19	<b>name</b> 3:7 8:1	<b>opportunity</b>	<b>proceeding</b>
<b>las</b> 1:15 4:1 5:9	8:10	4:10	11:4
5:17	<b>neither</b> 10:10	<b>opposed</b> 7:12	<b>proceedings</b>
<b>law</b> 4:21	11:7	<b>oral</b> 8:12	10:3,4,6,8 11:6
<b>laws</b> 5:5	<b>nevada</b> 7:15	<b>outcome</b> 10:15	<b>process</b> 6:8
<b>legislative</b> 6:1	<b>new</b> 1:12 3:6,8	11:12	<b>program</b> 2:5
<b>les</b> 1:7 2:3 3:7	3:24 4:1,17,20	<b>owen</b> 1:7 2:3	<b>prohibited</b> 4:21
<b>list</b> 2:2 4:21	5:5,7,7,11,11	3:2,7 7:19	<b>promulgated</b>
<b>located</b> 3:25	5:13,16,18,20	<b>p</b>	4:20
<b>location</b> 4:2	5:24 6:2,10	<b>p</b> 2:1,1 3:1	<b>proposed</b> 3:3
<b>m</b>	7:20 8:17,19	<b>p.m.</b> 8:15	3:14 4:8,11,13
<b>made</b> 3:15 5:15	8:22 10:19	<b>pardon</b> 5:7	5:15,23 6:10
6:24	<b>news</b> 5:9	<b>part</b> 3:5	6:12 7:1,16,23
<b>main</b> 5:17	<b>nm</b> 1:15	<b>participants</b>	8:6
<b>make</b> 3:11	<b>nmac</b> 1:1 7:11	3:20 8:8	<b>provide</b> 4:10,12
<b>mandatory</b>	<b>nmda</b> 2:3,4,5	<b>participating</b>	7:17
6:21	<b>nmdeptag.nm...</b>	8:24	<b>provided</b> 3:19
<b>meeting</b> 9:1	3:21	<b>parties</b> 10:11	4:9
	<b>notary</b> 10:18	10:14 11:8,11	<b>public</b> 4:9,13
			5:3 6:4 7:21

[public - tolerances]

8:12,15 10:18 <b>published</b> 4:2 5:4 <b>purity</b> 7:3,5	<b>replacement</b> 3:4 6:8 <b>replacing</b> 6:15 <b>reported</b> 1:21 <b>request</b> 5:1 <b>require</b> 3:18 <b>requires</b> 6:8 <b>restrict</b> 8:5 <b>restricted</b> 4:22 <b>revenue</b> 7:10 <b>room</b> 1:14 <b>rule</b> 1:1 3:5,15 4:15,20 5:15 5:23 6:8 7:23 8:6 <b>rulemaking</b> 1:2 <b>rules</b> 6:13 <b>ryan</b> 1:21 10:2 10:17	6:24 7:1,2,4,4,5 7:18 <b>seeds</b> 4:22,23 4:24,25 6:15 <b>seeing</b> 8:12 <b>sent</b> 5:24 6:4 <b>service</b> 5:19 6:1 6:21 <b>set</b> 4:22,23,24 4:25 <b>signature</b> 10:16 11:13 <b>signed</b> 3:11 <b>silenced</b> 3:13 <b>skills</b> 10:10 11:6 <b>small</b> 5:24 <b>soil</b> 2:5 <b>spanish</b> 5:8,14 <b>staff</b> 6:22 7:22 <b>standard</b> 6:7 <b>standards</b> 1:1 3:4,15 4:14,19 4:23 6:13,15 <b>start</b> 3:3 <b>state</b> 1:12 3:24 5:4 7:14 8:10 8:19 10:19 <b>states</b> 7:17 <b>stating</b> 8:1 <b>station</b> 5:12,21 <b>striketrough</b> 3:16 <b>structure</b> 7:13	<b>styles</b> 6:9 <b>submitted</b> 8:18 8:20 <b>summary</b> 4:8 4:12 <b>sun</b> 5:9 <b>sunshine</b> 5:11 <b>sure</b> 3:11 <b>sworn</b> 10:5
<b>q</b>			<b>t</b>
<b>qualified</b> 10:7			<b>table</b> 6:14 <b>taken</b> 10:3,12 11:9 <b>test</b> 7:2,5 <b>testifying</b> 10:5 <b>testimony</b> 4:10 <b>testing</b> 4:24,25 5:1 6:20,24 7:1 7:4,7,8 <b>tetrazolium</b> 7:7 7:23 <b>texas</b> 7:15 <b>thank</b> 3:13 7:19 8:24 <b>thomas</b> 1:12 3:25 <b>thursday</b> 8:15 <b>time</b> 3:2,23 4:2 8:4 <b>title</b> 3:5 <b>today</b> 3:9 6:2 <b>today's</b> 4:5 8:21 <b>tolerances</b> 4:23
<b>r</b>	<b>s</b>		
<b>r</b> 2:1 3:1 <b>raise</b> 8:2,8 <b>receipt</b> 7:12 <b>received</b> 6:3 7:21 <b>record</b> 3:12 8:2 8:10 10:9 11:5 <b>recorded</b> 4:4 10:6 <b>recording</b> 4:6 8:21 10:8 11:4 <b>reduced</b> 10:6 <b>reference</b> 6:16 6:17 <b>regarding</b> 4:10 <b>regents</b> 8:19 <b>registrar</b> 5:5 <b>regulatory</b> 5:25 <b>related</b> 4:15 10:11 11:7 <b>relative</b> 10:13 11:10 <b>relatively</b> 6:6 <b>remember</b> 8:9 <b>removing</b> 6:14 <b>repeal</b> 3:4 6:8	<b>s</b> 2:1 3:1 <b>salary</b> 6:22 <b>samples</b> 7:9 <b>sampling</b> 4:24 6:17 <b>santa</b> 5:7 <b>schedule</b> 6:24 <b>schedules</b> 6:20 <b>secretary</b> 8:16 <b>section</b> 6:14,16 6:23 <b>seed</b> 1:1 3:4,15 4:14,19,21,23 4:25 6:4,7,13 6:16,18,19,20		

**[transcriber - zoom]**

<b>transcriber</b> 11:1	<b>virtual</b> 3:20 8:8 <b>virtually</b> 3:24
<b>transcript</b> 4:5 8:21 11:3,5	<b>w</b>
<b>transcriptionist</b> 10:7	<b>wait</b> 8:2 <b>walked</b> 3:17 <b>webpage</b> 4:7 8:23 <b>website</b> 3:21 5:14,22 <b>weed</b> 4:22 7:4,6 <b>wishing</b> 8:11 <b>witness</b> 10:4 <b>witte</b> 8:18 <b>written</b> 7:21 8:14
<b>true</b> 10:9 11:5 <b>tuesday</b> 1:8 3:22 <b>typewriting</b> 10:7	<b>z</b>
<b>u</b>	<b>zoom</b> 2:5
<b>under</b> 4:20 7:13 <b>university</b> 1:13 8:19 <b>university's</b> 3:25 <b>unusual</b> 7:9 <b>updates</b> 6:9 <b>updating</b> 6:16 6:19 7:11 <b>use</b> 8:8 <b>utah</b> 7:16	
<b>v</b>	
<b>vanessa</b> 2:6 <b>vegetable</b> 4:23 6:15 <b>venus</b> 11:2,15 <b>version</b> 3:16 <b>veterinary</b> 5:19 <b>viability</b> 7:7 <b>vigor</b> 7:8	

1 New Mexico Department of Agriculture  
2 Seed Standards and Classifications Rule Rulemaking  
3 Hearing  
4  
5

6 Moderated by Les Owen, Deputy Director

7 Thursday, July 31, 2025

8 9:59 a.m.  
9

10  
11 Central New Mexico Community College Workforce  
12 Training Center

13 5600 Eagle Rock Avenue Northeast

14 Albuquerque, NM 87113  
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20 Reported by: James Cogswell

21 JOB NO: 7452800  
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A P P E A R A N C E S

List of Attendees:

Les Owen, Deputy Director, New Mexico Department of  
Agriculture

Katie Laney, Assistant Division Director, New Mexico  
Department of Agriculture

Uriel Fuentes, Assistant Division Director, New Mexico  
Department of Agriculture

Steve Baca, Assistant Division Director, New Mexico  
Department of Agriculture

Candie Sweetser, New Mexico Department of Agriculture

Vanessa Fisher, New Mexico Department of Agriculture

Bradley Lewis, New Mexico Department of Agriculture



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P R O C E E D I N G S

MR. OWEN: Good morning. At this time, we will start the hearing that addresses the proposed repeal and replacement of the Seed Standards and Classifications rule, Title 21, Chapter 18, Part 4 of the New Mexico Administrative Code..

My name is Les Owen, and I am deputy director with the New Mexico Department of Agriculture. Today I will be officiating this hearing. Please make sure that you have signed in for the record and that your cell phone is off or silenced. Thank you.

Copies of the proposed amendments to the Seed Standards and Classifications rule were made available in strikethrough version and in clean copy form as you walked in. If you require a copy, please hold up your hand and one will be provided to you.

The day and date is Thursday, July 31, 2025, and the time is 10 a.m. This hearing is being held in person at the Central New Mexico Community College Workforce Training Center in Albuquerque, New Mexico, 5600 Eagle Rock Avenue Northeast. This is the published date, time, and location for this hearing.

A transcript of today's hearing will be available from the department's webpage.. Following a

1 summary of the proposed primary amendments, the public  
2 will be provided an opportunity to provide testimony  
3 regarding the proposed amendments.

4 Ms. Laney will now provide a summary of  
5 the public notices, primary proposed amendments to the  
6 Seed Standards and the Classifications rule, and any  
7 related information.

8 MS. LANEY: Good morning. I'm Katie  
9 Laney, an assistant division director with New Mexico  
10 Department of Agriculture. The Seed Standards and  
11 Classification rule was promulgated under the  
12 authority of the New Mexico Seed Law to establish a  
13 list of prohibited and restricted noxious weed seeds,  
14 set germination standards for vegetable seeds, set  
15 tolerances for seed -- sorry -- set tolerances for  
16 testing of seed, set guidelines for the sampling and  
17 testing of seeds, and set fees to be charged for seed  
18 testing when done at the request or the benefit of a  
19 person, firm, or individual.

20 Public notices for this hearing were  
21 established as follows and in accordance with state  
22 law: June 24, 2025, in the New Mexico Register;  
23 June 24, 2025, in the Albuquerque Journal; June 24,  
24 2025, in New Mexico, Santa Fe -- I'm sorry -- in the  
25 Santa Fe New Mexican in Spanish and English; and



1 June 25, 2025, in the Las Cruces Sun News.

2 Hearing notices were also posted on New  
3 Mexico Sunshine Portal, at the New Mexico Department  
4 of Agriculture District Station Office in Albuquerque,  
5 and on New Mexico Department of Agriculture's website  
6 in Spanish and English.

7 Copies of the proposed rule were made  
8 available at New Mexico Department of Agriculture Las  
9 Cruces main office and laboratory building, New Mexico  
10 Department of Agriculture Veterinary Diagnostic  
11 Service Laboratory in Albuquerque, New Mexico  
12 Department of Agriculture Peanut Grading Station in  
13 Portales, and on the department's webpage.

14 Notification and the proposed rule were  
15 sent to the New Mexico Economic Development's Small  
16 Business Regulatory Advisory Commission and to the  
17 Legislative Council Service. As of today, New Mexico  
18 Department of Agriculture has not received findings  
19 from either. Notice of public hearing was sent to  
20 past seed lab customers.

21 Although the amendments are relatively  
22 few, the age of the Seed Certification and Standards  
23 rule requires a repeal and replacement process to  
24 address updates to standard -- to style and format in  
25 conjunction with New Mexico Department of

1 Agriculture's proposed amendments.

2 Primary proposed amendments to the Seed  
3 Standards and Classification rule include removing the  
4 table in Section 21.18.4.10, Germination Standards for  
5 Vegetable Seeds, and replacing with reference to the  
6 Federal Seed Act; updating Section 21.18.4.11, Methods  
7 of Sampling, to include reference to the Federal Seed  
8 Act and the Association of Official Seed Analysts;  
9 updating 21.18.4.13, Fee Schedules for Seed Testing,  
10 to help offset the increased cost of services due to  
11 inflation and mandatory adjustments to staff salary.

12 The last fee adjustment to Section  
13 21.18.4.13, Fee Schedule for Seed Testing, was made in  
14 1986. Proposed seed testing fee increases are for  
15 grass seed: complete test, \$20 to \$45; purity only,  
16 \$12 to \$24; germination only, \$12 to \$24; weed only,  
17 \$6 to \$16. For seed other than grass: complete test,  
18 \$10 to 25; purity only, \$6 to \$15; germination only,  
19 \$6 to \$15; weed only, \$6 to \$16; tetrazolium test for  
20 viability, \$20 to \$30; add vigor-cold test fee for  
21 25 -- of \$25; and hourly charges for unusual samples  
22 from \$10 to \$45.

23 The expected budget revenue for  
24 updating 21.18.4.13 NMAC is approximately \$42,000  
25 annually as opposed to the annual receipt of



1 approximately \$21,000 under the current fee structure.  
2 We compared the cost in five state laboratories  
3 including Colorado, Idaho, Nevada, Texas, and Utah.  
4 The proposed fees are still below the average of these  
5 states, but provide budgetary assistance for the seed  
6 laboratory operations.

7 MR. OWEN: Thank you, Ms. Laney.

8 New Mexico Department of Agriculture  
9 has not received any written comments from the public  
10 prior to this hearing. However, staff identified that  
11 tetrazolium was misspelled in the proposed rule and  
12 this will be corrected.

13 We will now open the floor for  
14 comments. Please begin by stating your name and  
15 affiliation for the record. Please raise your hand  
16 and I will call on you. At this time, I will begin  
17 accepting comments. Please restrict your comments to  
18 the proposed content of the rule.

19 Is there anyone wishing to comment?  
20 Seeing none, we will close the public oral comment  
21 period for this hearing. Written comments will be  
22 accepted until 5 p.m. Thursday, July 31, 2025. All  
23 public comments will be presented to the  
24 secretary/director of New Mexico Department of  
25 Agriculture, Mr. Jeff Witte, and will be submitted for

1 consideration to the New Mexico State University Board  
2 of Regents.

3 Submitted comments and either a  
4 transcript of today's hearing and/or the recording  
5 will be available from the New Mexico Department of  
6 Agriculture's webpage.

7 Thank you for participating. We are  
8 closing this hearing at 10:06 a.m.

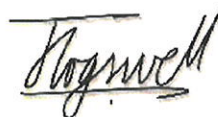
9 (Whereupon, at 10:06 a.m., the  
10 proceeding was concluded.)  
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CERTIFICATE

I, JAMES COGSWELL, the officer before whom the foregoing proceedings were taken, do hereby certify that any witness(es) in the foregoing proceedings, prior to testifying, were duly sworn; that the proceedings were recorded by me and thereafter reduced to typewriting by a qualified transcriptionist; that said digital audio recording of said proceedings are a true and accurate record to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

August 14, 2025



JAMES COGSWELL

Notary Public in and for the  
State of New Mexico

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CERTIFICATE OF TRANSCRIBER

I, RACHEL HUFF, do hereby certify that this transcript was prepared from the digital audio recording of the foregoing proceeding, that said transcript is a true and accurate record of the proceedings to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

August 14, 2025

A handwritten signature in black ink that reads "Rachel L. Huff". The signature is written in a cursive, flowing style.

RACHEL HUFF



[10 - certify]

<b>1</b>	<b>4</b>	<b>addresses</b> 3:3	<b>audio</b> 9:8 10:3
<b>10</b> 3:19 6:18,22	<b>4</b> 3:5	<b>adjustment</b>	<b>august</b> 9:17
<b>10:06</b> 8:8,9	<b>42,000</b> 6:24	6:12	10:13
<b>12</b> 6:16,16	<b>45</b> 6:15,22	<b>adjustments</b>	<b>authority</b> 4:12
<b>14</b> 9:17 10:13	<b>5</b>	6:11	<b>available</b> 3:15
<b>15</b> 6:18,19	<b>5</b> 7:22	<b>administrative</b>	3:25 5:8 8:5
<b>16</b> 6:17,19	<b>5600</b> 1:13 3:22	3:6	<b>avenue</b> 1:13
<b>18</b> 3:5	<b>6</b>	<b>advisory</b> 5:16	3:22
<b>1986</b> 6:14	<b>6</b> 6:17,18,19,19	<b>affiliation</b> 7:15	<b>average</b> 7:4
<b>2</b>	<b>7</b>	<b>age</b> 5:22	<b>b</b>
<b>20</b> 6:15,20	<b>7452800</b> 1:21	<b>agriculture</b> 1:1	<b>baca</b> 2:9
<b>2025</b> 1:7 3:19	<b>8</b>	2:4,6,8,10,11	<b>benefit</b> 4:18
4:22,23,24 5:1	<b>87113</b> 1:14	2:12,13 3:9	<b>best</b> 9:10 10:6
7:22 9:17	<b>9</b>	4:10 5:4,8,10	<b>board</b> 8:1
10:13	<b>9:59</b> 1:8	5:12,18 7:8,25	<b>bradley</b> 2:13
<b>21</b> 3:5	<b>a</b>	<b>agriculture's</b>	<b>budget</b> 6:23
<b>21,000</b> 7:1	<b>a.m.</b> 1:8 3:19	5:5 6:1 8:6	<b>budgetary</b> 7:5
<b>21.18.4.10</b> 6:4	8:8,9	<b>albuquerque</b>	<b>building</b> 5:9
<b>21.18.4.11</b> 6:6	<b>ability</b> 9:10	1:14 3:21 4:23	<b>business</b> 5:16
<b>21.18.4.13</b> 6:9	10:7	5:4,11	<b>c</b>
6:13,24	<b>accepted</b> 7:22	<b>amendments</b>	<b>c</b> 2:1 3:1
<b>24</b> 4:22,23,23	<b>accepting</b> 7:17	3:13 4:1,3,5	<b>call</b> 7:16
6:16,16	<b>accordance</b>	5:21 6:1,2	<b>candie</b> 2:11
<b>25</b> 5:1 6:18,21	4:21	<b>analyst</b> 6:8	<b>cell</b> 3:11
6:21	<b>accurate</b> 9:9	<b>annual</b> 6:25	<b>center</b> 1:12
<b>3</b>	10:5	<b>annually</b> 6:25	3:21
<b>30</b> 6:20	<b>act</b> 6:6,8	<b>approximately</b>	<b>central</b> 1:11
<b>30318</b> 10:14	<b>action</b> 9:12,16	6:24 7:1	3:20
<b>31</b> 1:7 3:18	10:8,12	<b>assistance</b> 7:5	<b>certificate</b> 9:1
7:22	<b>add</b> 6:20	<b>assistant</b> 2:5,7	10:1
<b>32311</b> 9:18	<b>address</b> 5:24	2:9 4:9	<b>certification</b>
		<b>association</b> 6:8	5:22
		<b>attendees</b> 2:2	<b>certify</b> 9:4 10:2
		<b>attorney</b> 9:14	
		10:10	

[chapter - including]

<b>chapter</b> 3:5 <b>charged</b> 4:17 <b>charges</b> 6:21 <b>classification</b> 4:11 6:3 <b>classifications</b> 1:2 3:5,14 4:6 <b>clean</b> 3:15 <b>close</b> 7:20 <b>closing</b> 8:8 <b>code</b> 3:6 <b>cogswell</b> 1:20 9:2,19 <b>cold</b> 6:20 <b>college</b> 1:11 3:21 <b>colorado</b> 7:3 <b>comment</b> 7:19 7:20 <b>comments</b> 7:9 7:14,17,17,21 7:23 8:3 <b>commission</b> 5:16 <b>community</b> 1:11 3:20 <b>compared</b> 7:2 <b>complete</b> 6:15 6:17 <b>concluded</b> 8:10 <b>conjunction</b> 5:25 <b>consideration</b> 8:1	<b>content</b> 7:18 <b>copies</b> 3:13 5:7 <b>copy</b> 3:15,16 <b>corrected</b> 7:12 <b>cost</b> 6:10 7:2 <b>council</b> 5:17 <b>counsel</b> 9:11,14 10:7,10 <b>cruces</b> 5:1,9 <b>current</b> 7:1 <b>customers</b> 5:20	<b>due</b> 6:10 <b>duly</b> 9:5	<b>foregoing</b> 9:3,4 10:4	
	<b>d</b> 3:1 <b>date</b> 3:18,23 <b>day</b> 3:18 <b>department</b> 1:1 2:3,6,8,10,11 2:12,13 3:8 4:10 5:3,5,8,10 5:12,18,25 7:8 7:24 8:5 <b>department's</b> 3:25 5:13 <b>deputy</b> 1:6 2:3 3:7 <b>development's</b> 5:15 <b>diagnostic</b> 5:10 <b>digital</b> 9:8 10:3 <b>director</b> 1:6 2:3 2:5,7,9 3:8 4:9 7:24 <b>district</b> 5:4 <b>division</b> 2:5,7,9 4:9	<b>e</b> <b>e</b> 2:1,1 3:1,1 <b>eagle</b> 1:13 3:22 <b>economic</b> 5:15 <b>either</b> 5:19 8:3 <b>employed</b> 9:11 9:14 10:8,11 <b>employee</b> 9:13 10:10 <b>english</b> 4:25 5:6 <b>es</b> 9:4 <b>establish</b> 4:12 <b>established</b> 4:21 <b>expected</b> 6:23	<b>e</b>	<b>form</b> 3:16 <b>format</b> 5:24 <b>fuentes</b> 2:7 <b>further</b> 9:13 10:9
			<b>f</b> <b>fe</b> 4:24,25 <b>federal</b> 6:6,7 <b>fee</b> 6:9,12,13,14 6:20 7:1 <b>fees</b> 4:17 7:4 <b>financially</b> 9:15 10:11 <b>findings</b> 5:18 <b>firm</b> 4:19 <b>fisher</b> 2:12 <b>five</b> 7:2 <b>floor</b> 7:13 <b>following</b> 3:25 <b>follows</b> 4:21	<b>g</b> <b>g</b> 3:1 <b>germination</b> 4:14 6:4,16,18 <b>good</b> 3:2 4:8 <b>grading</b> 5:12 <b>grass</b> 6:15,17 <b>guidelines</b> 4:16
				<b>h</b> <b>hand</b> 3:17 7:15 <b>hearing</b> 1:3 3:3 3:10,19,23,24 4:20 5:2,19 7:10,21 8:4,8 <b>held</b> 3:20 <b>help</b> 6:10 <b>hereto</b> 9:15 10:11 <b>hold</b> 3:17 <b>hourly</b> 6:21 <b>huff</b> 10:2,15
			<b>i</b> <b>idaho</b> 7:3 <b>identified</b> 7:10 <b>include</b> 6:3,7 <b>including</b> 7:3	



[increased - proposed]

<b>increased</b> 6:10 <b>increases</b> 6:14 <b>individual</b> 4:19 <b>inflation</b> 6:11 <b>information</b> 4:7 <b>interested</b> 9:15 10:12	<b>les</b> 1:6 2:3 3:7 <b>lewis</b> 2:13 <b>list</b> 2:2 4:13 <b>location</b> 3:23	3:21 4:9,12,22 4:24,25 5:2,3,5 5:8,9,11,15,17 5:25 7:8,24 8:1 8:5 9:21 <b>news</b> 5:1 <b>nm</b> 1:14 <b>nmac</b> 6:24 <b>northeast</b> 1:13 3:22 <b>notary</b> 9:20 <b>notice</b> 5:19 <b>notices</b> 4:5,20 5:2 <b>notification</b> 5:14 <b>noxious</b> 4:13	<b>p</b> <b>p</b> 2:1,1 3:1 <b>p.m.</b> 7:22 <b>part</b> 3:5 <b>participating</b> 8:7 <b>parties</b> 9:12,14 10:8,11 <b>past</b> 5:20 <b>peanut</b> 5:12 <b>period</b> 7:21 <b>person</b> 3:20 4:19 <b>phone</b> 3:11 <b>please</b> 3:10,16 7:14,15,17 <b>portal</b> 5:3 <b>portales</b> 5:13 <b>posted</b> 5:2 <b>prepared</b> 10:3 <b>presented</b> 7:23 <b>primary</b> 4:1,5 6:2 <b>prior</b> 7:10 9:5 <b>proceeding</b> 8:10 10:4 <b>proceedings</b> 9:3,5,6,9 10:6 <b>process</b> 5:23 <b>prohibited</b> 4:13 <b>promulgated</b> 4:11 <b>proposed</b> 3:3 3:13 4:1,3,5 5:7,14 6:1,2,14
<b>j</b>	<b>m</b>	<b>o</b>	
<b>james</b> 1:20 9:2 9:19 <b>jeff</b> 7:25 <b>job</b> 1:21 <b>journal</b> 4:23 <b>july</b> 1:7 3:18 7:22 <b>june</b> 4:22,23,23 5:1	<b>made</b> 3:14 5:7 6:13 <b>main</b> 5:9 <b>make</b> 3:10 <b>mandatory</b> 6:11 <b>methods</b> 6:6 <b>mexican</b> 4:25 <b>mexico</b> 1:1,11 2:3,5,7,9,11,12 2:13 3:6,8,20 3:22 4:9,12,22 4:24 5:3,3,5,8,9 5:11,15,17,25 7:8,24 8:1,5 9:21 <b>misspelled</b> 7:11 <b>moderated</b> 1:6 <b>morning</b> 3:2 4:8	<b>office</b> 5:4,9 <b>officer</b> 9:2 <b>official</b> 6:8 <b>officiating</b> 3:9 <b>offset</b> 6:10 <b>open</b> 7:13 <b>operations</b> 7:6 <b>opportunity</b> 4:2 <b>opposed</b> 6:25 <b>oral</b> 7:20 <b>outcome</b> 9:16 10:12 <b>owen</b> 1:6 2:3 3:2,7 7:7	
<b>k</b>	<b>n</b>		
<b>katie</b> 2:5 4:8 <b>knowledge</b> 9:10 10:6	<b>n</b>		
<b>l</b>	<b>n</b>		
<b>lab</b> 5:20 <b>laboratories</b> 7:2 <b>laboratory</b> 5:9 5:11 7:6 <b>laney</b> 2:5 4:4,8 4:9 7:7 <b>las</b> 5:1,8 <b>law</b> 4:12,22 <b>legislative</b> 5:17	<b>n</b> 2:1 3:1 <b>name</b> 3:7 7:14 <b>neither</b> 9:11 10:7 <b>nevada</b> 7:3 <b>new</b> 1:1,11 2:3 2:5,7,9,11,12 2:13 3:6,8,20		

[proposed - transcriber]

7:4,11,18 <b>provide</b> 4:2,4 7:5 <b>provided</b> 3:17 4:2 <b>public</b> 4:1,5,20 5:19 7:9,20,23 9:20 <b>published</b> 3:23 <b>purity</b> 6:15,18	<b>relatively</b> 5:21 <b>removing</b> 6:3 <b>repeal</b> 3:4 5:23 <b>replacement</b> 3:4 5:23 <b>replacing</b> 6:5 <b>reported</b> 1:20 <b>request</b> 4:18 <b>require</b> 3:16 <b>requires</b> 5:23 <b>restrict</b> 7:17 <b>restricted</b> 4:13 <b>revenue</b> 6:23 <b>rock</b> 1:13 3:22 <b>rule</b> 1:2 3:5,14 4:6,11 5:7,14 5:23 6:3 7:11 7:18 <b>rulemaking</b> 1:2	<b>seeds</b> 4:13,14 4:17 6:5 <b>seeing</b> 7:20 <b>sent</b> 5:15,19 <b>service</b> 5:11,17 <b>services</b> 6:10 <b>set</b> 4:14,14,15 4:16,17 <b>signature</b> 9:18 10:14 <b>signed</b> 3:10 <b>silenced</b> 3:12 <b>skills</b> 9:10 10:6 <b>small</b> 5:15 <b>sorry</b> 4:15,24 <b>spanish</b> 4:25 5:6 <b>staff</b> 6:11 7:10 <b>standard</b> 5:24 <b>standards</b> 1:2 3:4,14 4:6,10 4:14 5:22 6:3,4 <b>start</b> 3:3 <b>state</b> 4:21 7:2 8:1 9:21 <b>states</b> 7:5 <b>stating</b> 7:14 <b>station</b> 5:4,12 <b>steve</b> 2:9 <b>striketrough</b> 3:15 <b>structure</b> 7:1 <b>style</b> 5:24 <b>submitted</b> 7:25 8:3	<b>summary</b> 4:1,4 <b>sun</b> 5:1 <b>sunshine</b> 5:3 <b>sure</b> 3:10 <b>sweetser</b> 2:11 <b>sworn</b> 9:5
<b>q</b>	<b>s</b>	<b>t</b>	
<b>qualified</b> 9:7			
<b>r</b>			
<b>r</b> 2:1 3:1 <b>rachel</b> 10:2,15 <b>raise</b> 7:15 <b>receipt</b> 6:25 <b>received</b> 5:18 7:9 <b>record</b> 3:11 7:15 9:9 10:5 <b>recorded</b> 9:6 <b>recording</b> 8:4 9:8 10:4 <b>reduced</b> 9:7 <b>reference</b> 6:5,7 <b>regarding</b> 4:3 <b>regents</b> 8:2 <b>register</b> 4:22 <b>regulatory</b> 5:16 <b>related</b> 4:7 9:11 10:7 <b>relative</b> 9:13 10:10	<b>s</b> 2:1 3:1 <b>salary</b> 6:11 <b>samples</b> 6:21 <b>sampling</b> 4:16 6:7 <b>santa</b> 4:24,25 <b>schedule</b> 6:13 <b>schedules</b> 6:9 <b>secretary</b> 7:24 <b>section</b> 6:4,6,12 <b>seed</b> 1:2 3:4,14 4:6,10,12,15,16 4:17 5:20,22 6:2,6,7,8,9,13 6:14,15,17 7:5	<b>seeds</b> 4:13,14 4:17 6:5 <b>seeing</b> 7:20 <b>sent</b> 5:15,19 <b>service</b> 5:11,17 <b>services</b> 6:10 <b>set</b> 4:14,14,15 4:16,17 <b>signature</b> 9:18 10:14 <b>signed</b> 3:10 <b>silenced</b> 3:12 <b>skills</b> 9:10 10:6 <b>small</b> 5:15 <b>sorry</b> 4:15,24 <b>spanish</b> 4:25 5:6 <b>staff</b> 6:11 7:10 <b>standard</b> 5:24 <b>standards</b> 1:2 3:4,14 4:6,10 4:14 5:22 6:3,4 <b>start</b> 3:3 <b>state</b> 4:21 7:2 8:1 9:21 <b>states</b> 7:5 <b>stating</b> 7:14 <b>station</b> 5:4,12 <b>steve</b> 2:9 <b>striketrough</b> 3:15 <b>structure</b> 7:1 <b>style</b> 5:24 <b>submitted</b> 7:25 8:3	<b>summary</b> 4:1,4 <b>sun</b> 5:1 <b>sunshine</b> 5:3 <b>sure</b> 3:10 <b>sweetser</b> 2:11 <b>sworn</b> 9:5 <b>table</b> 6:4 <b>taken</b> 9:3,12 10:9 <b>test</b> 6:15,17,19 6:20 <b>testifying</b> 9:5 <b>testimony</b> 4:2 <b>testing</b> 4:16,17 4:18 6:9,13,14 <b>tetrazolium</b> 6:19 7:11 <b>texas</b> 7:3 <b>thank</b> 3:12 7:7 8:7 <b>thursday</b> 1:7 3:18 7:22 <b>time</b> 3:2,19,23 7:16 <b>title</b> 3:5 <b>today</b> 3:9 5:17 <b>today's</b> 3:24 8:4 <b>tolerances</b> 4:15 4:15 <b>training</b> 1:12 3:21 <b>transcriber</b> 10:1

**[transcript - written]**

<b>transcript</b> 3:24 8:4 10:3,5 <b>transcriptionist</b> 9:8 <b>true</b> 9:9 10:5 <b>typewriting</b> 9:7	<b>workforce</b> 1:11 3:21 <b>written</b> 7:9,21
<b>u</b>	
<b>under</b> 4:11 7:1 <b>university</b> 8:1 <b>unusual</b> 6:21 <b>updates</b> 5:24 <b>updating</b> 6:6,9 6:24 <b>uriel</b> 2:7 <b>utah</b> 7:3	
<b>v</b>	
<b>vanessa</b> 2:12 <b>vegetable</b> 4:14 6:5 <b>version</b> 3:15 <b>veterinary</b> 5:10 <b>viability</b> 6:20 <b>vigor</b> 6:20	
<b>w</b>	
<b>walked</b> 3:16 <b>webpage</b> 3:25 5:13 8:6 <b>website</b> 5:5 <b>weed</b> 4:13 6:16 6:19 <b>wishing</b> 7:19 <b>witness</b> 9:4 <b>witte</b> 7:25	

SEED STANDARDS

-----THERE WERE NO COMMENTS-----

**TITLE 21      AGRICULTURE AND RANCHING**  
**CHAPTER 18   SEEDS, FEEDS, AND FERTILIZERS**  
**PART 4        SEED STANDARDS AND CLASSIFICATIONS**

**21.18.4.1      ISSUING AGENCY:** New Mexico State University, New Mexico Department of Agriculture  
 [MSC 3189, Box 30005, Las Cruces, New Mexico 88003-8005, Telephone No. (575) 646-3007]  
 [21.18.4.1 NMAC - Rp, 21.18.4.1 NMAC, 10/27/2025]

**21.18.4.2      SCOPE:** Part 4 shall apply to any person selling commercial seeds in New Mexico.  
 [21.18.4.1 NMAC - Rp, 21.18.4.1 NMAC, 10/27/2025]

**21.18.4.3      STATUTORY AUTHORITY:** Granted to the board of regents of New Mexico state university  
 under the New Mexico Seed Law, Chapter 76, Article 10, Sections 11 through 22, New Mexico Statutes Annotated  
 1978 Compilation.  
 [21.18.4.1 NMAC - Rp, 21.18.4.1 NMAC, 10/27/2025]

**21.18.4.4      DURATION:** Permanent.  
 [21.18.4.1 NMAC - Rp, 21.18.4.1 NMAC, 10/27/2025]

**21.18.4.5      EFFECTIVE DATE:** July 1, 1997, unless a later date is cited at the end of the history note at the  
 end of a section.  
 [21.18.4.1 NMAC - Rp, 21.18.4.1 NMAC, 10/27/2025]

**21.18.4.6      OBJECTIVE:** The objective of Part 4 of Chapter 18 is to establish a list of prohibited and  
 restricted noxious weed seeds, set germination standards for vegetable seeds, set tolerances for the testing of seeds,  
 set guidelines for the sampling and testing of seeds, and set fees to be charged for seed testing when done at the  
 request of or for the benefit of persons, firms or individuals, and designate the seed certification agency for New  
 Mexico.  
 [21.18.4.1 NMAC - Rp, 21.18.4.1 NMAC, 10/27/2025]

**21.18.4.7      DEFINITIONS: [RESERVED]**

**21.18.4.8      PROHIBITED NOXIOUS WEED SEEDS:** The following weed seeds are declared to be  
 prohibited noxious weed seeds. Seeds containing any of the weed seeds listed herein shall not be sold in New  
 Mexico.

- A. Field Bindweed (*Convolvulus arvensis*)
- B. Camelthorn (*Alhagi camelorum*)
- C. Halogeton (*Halogeton glomeratus*)
- D. Nutgrass, Purple Nutgrass (*Cyperus esculentus*, *C. rotundus*)
- E. Poverty Weed (*Ambrosia tomentosa*)
- F. Quackgrass (*Elymus repens*)
- G. Russian Knapweed (*Rhaponticum repens*)
- H. Thistle, Canada (*Cirsium arvense*)
- I. Whitetop (*Cardaria draba*)

[21.18.4.1 NMAC - Rp, 21.18.4.1 NMAC, 10/27/2025]

**21.18.4.9      RESTRICTED NOXIOUS WEED SEEDS:** The following weed seeds are declared to be  
 restricted noxious weed seeds. Seeds containing any of the weed seeds listed herein shall not be sold in New Mexico  
 if the number of restricted noxious weed seeds exceeds those established in this section.

	Maximum allowed per pound
dodder ( <i>Cuscuta</i> spp.)	45
goatgrass ( <i>Aegilops</i> spp.)	1
Johnsongrass ( <i>Sorghum halepense</i> ) and other perennial sorghums	45



morning glory ( <i>Ipomoea</i> spp.)	45
Texas blueweed ( <i>Helianthus ciliaris</i> )	45
white horenettle (Bullnettle) ( <i>Solanum elaeagnifolium</i> )	90
wild oat ( <i>Avena fatua</i> )	90

[21.18.4.1 NMAC - Rp, 21.18.4.1 NMAC, 10/27/2025]

**21.18.4.10 GERMINATION STANDARDS FOR VEGETABLE SEEDS:** The germination standards for vegetable seeds shall be as found in 7 CFR 201.31.

[21.18.4.1 NMAC - Rp, 21.18.4.1 NMAC, 10/27/2025]

**21.18.4.11 METHODS OF SAMPLING AND TESTING:** The methods of sampling, inspecting, analyzing, testing, and examining agricultural and vegetable seed shall be the methods adopted by the Federal Seed Act 7 CFR Part 201. Methods of testing seeds for which the Federal Seed Act 7 CFR Part has not adopted methods of testing shall be determined by the state seed analyst or methods adopted by the association of official seed analysts.

[21.18.4.1 NMAC - Rp, 21.18.4.1 NMAC, 10/27/2025]

**21.18.4.12 TOLERANCES:** Tolerances shall be the applicable tolerances established by the Federal Seed Act 7 CFR Part 201. In the case of prohibited noxious weed seeds, the tolerance shall be based on declaration of "none". In the case of vegetable seed in amounts of one pound or less not labeled as to actual germination, it will be interpreted that vegetable seeds must meet or exceed the minimum germination established by Section 10, germination standards for vegetable seeds.

[21.18.4.1 NMAC - Rp, 21.18.4.1 NMAC, 10/27/2025]

**21.18.4.13 FEE SCHEDULE FOR SEED TESTING:**

A. The following fees shall be charged to persons bringing seed into the laboratory for testing:

	Complete Test	Purity Only	Germ Only	Weed Only
grass seed	\$45.00	\$24.00	\$24.00	\$16.00
seed other than grass	\$25.00	\$15.00	\$15.00	\$16.00

B. Special charges.

Tetrazoleum test for viability	\$30.00
Vigor/cold test	\$25.00

C. Hourly charges. Whenever the seed to be tested is unusually dirty or poses other problems so as not to be routine in its testing, the state seed analyst may elect to charge for the testing at the rate of \$45 per hour for the time involved in testing for purity and/or conducting the germination test, but not to include the time in the germinator. Special testing requests not listed charged at the hourly rate.

[21.18.4.1 NMAC - Rp, 21.18.4.1 NMAC, 10/27/2025]

**21.18.4.14 SEED CERTIFICATION AGENCY:** New Mexico state university seed certification is hereby designated to be the seed certification agency for the state.

[21.18.4.1 NMAC - Rp, 21.18.4.1 NMAC, 10/27/2025]

#### **HISTORY OF 21.18.4 NMAC:**

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

NMDA Rule 67-3, Seed Law Regulations, Regulatory Order No. 1, filed 12/5/67.

NMDA Rule 67-3 Amendment No. 1, Seed Lab Fees, Regulatory Order No. 1, Regulation No. 6, filed 5/19/1971.

NMDA Rule 67-3 Amendment No. 2, Seed Lab Fees, Regulatory Order No. 3, filed 9/28/1976.

NMDA Rule 67-6, Seed Certifying Committee, Resolution No. 1, filed 12/26/1967.

NMDA Rule 72-3, Regulatory Order No. 2, Seed Corn Labeling, filed 9/19/1972.

NMDA Rule 86-1, Seed Standards and Classifications, filed 5/14/1986.

NMDA Rule 86-2, Fees for Seed Tests, filed 7/9/1986.

**History of Repealed Material: [RESERVED]**

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2025 SEP 23 AM 9:13

**TITLE 21 AGRICULTURE AND RANCHING**  
**CHAPTER 18 SEEDS, FEEDS, AND FERTILIZERS**  
**PART 4 SEED STANDARDS AND CLASSIFICATIONS**

**21.18.4.1 ISSUING AGENCY:** New Mexico State University, New Mexico Department of Agriculture  
 [MSC 3189, Box 30005, Las Cruces, New Mexico 88003-8005, Telephone No. (575) 646-3007]  
 [21.18.4.1 NMAC - Rp, 21.18.4.1 NMAC, 10/7/2025]

**21.18.4.2 SCOPE:** Part 4 shall apply to any person selling commercial seeds in New Mexico.  
 [21.18.4.1 NMAC - Rp, 21.18.4.1 NMAC, 10/7/2025]

**21.18.4.3 STATUTORY AUTHORITY:** Granted to the board of regents of New Mexico state university under the New Mexico Seed Law, Chapter 76, Article 10, Sections 11 through 22, New Mexico Statutes Annotated 1978 Compilation.  
 [21.18.4.1 NMAC - Rp, 21.18.4.1 NMAC, 10/7/2025]

**21.18.4.4 DURATION:** Permanent.  
 [21.18.4.1 NMAC - Rp, 21.18.4.1 NMAC, 10/7/2025]

**21.18.4.5 EFFECTIVE DATE:** October 7, 2025, unless a later date is cited at the end of the history note at the end of a section.  
 [21.18.4.1 NMAC - Rp, 21.18.4.1 NMAC, 10/7/2025]

**21.18.4.6 OBJECTIVE:** The objective of Part 4 of Chapter 18 is to establish a list of prohibited and restricted noxious weed seeds, set germination standards for vegetable seeds, set tolerances for the testing of seeds, set guidelines for the sampling and testing of seeds, and set fees to be charged for seed testing when done at the request of or for the benefit of persons, firms or individuals, and designate the seed certification agency for New Mexico.  
 [21.18.4.1 NMAC - Rp, 21.18.4.1 NMAC, 10/7/2025]

**21.18.4.7 DEFINITIONS:** [RESERVED]

**21.18.4.8 PROHIBITED NOXIOUS WEED SEEDS:** The following weed seeds are declared to be prohibited noxious weed seeds. Seeds containing any of the weed seeds listed herein shall not be sold in New Mexico.

- A. Field Bindweed (*Convolvulus arvensis*)
- B. Camelthorn (*Alhagi camelorum*)
- C. Halogeton (*Halogeton glomeratus*)
- D. Nutgrass, Purple Nutgrass (*Cyperus esculentus*, *C. rotundus*)
- E. Poverty Weed (*Ambrosia tomentosa*)
- F. Quackgrass (*Elymus repens*)
- G. Russian Knapweed (*Rhaponticum repens*)
- H. Thistle, Canada (*Cirsium arvense*)
- I. Whitetop (*Cardaria draba*)

[21.18.4.1 NMAC - Rp, 21.18.4.1 NMAC, 10/7/2025]

**21.18.4.9 RESTRICTED NOXIOUS WEED SEEDS:** The following weed seeds are declared to be restricted noxious weed seeds. Seeds containing any of the weed seeds listed herein shall not be sold in New Mexico if the number of restricted noxious weed seeds exceeds those established in this section.

	Maximum allowed per pound
dodder ( <i>Cuscuta</i> spp.)	45
goatgrass ( <i>Aegilops</i> spp.)	1
Johnsongrass ( <i>Sorghum halepense</i> ) and other perennial sorghums	45



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2025 SEP 23 AM 9:13

morning glory ( <i>Ipomoea</i> spp.)	45
Texas blueweed ( <i>Helianthus ciliaris</i> )	45
white horse nettle (Bullnettle) ( <i>Solanum elaeagnifolium</i> )	90
wild oat ( <i>Avena fatua</i> )	90

[21.18.4.1 NMAC - Rp, 21.18.4.1 NMAC, 10/7/2025]

**21.18.4.10 GERMINATION STANDARDS FOR VEGETABLE SEEDS:** The germination standards for vegetable seeds shall be as found in 7 CFR 201.31.

[21.18.4.1 NMAC - Rp, 21.18.4.1 NMAC, 10/7/2025]

**21.18.4.11 METHODS OF SAMPLING AND TESTING:** The methods of sampling, inspecting, analyzing, testing, and examining agricultural and vegetable seed shall be the methods adopted by the Federal Seed Act 7 CFR Part 201. Methods of testing seeds for which the Federal Seed Act 7 CFR Part has not adopted methods of testing shall be determined by the state seed analyst or methods adopted by the association of official seed analysts.

[21.18.4.1 NMAC - Rp, 21.18.4.1 NMAC, 10/7/2025]

**21.18.4.12 TOLERANCES:** Tolerances shall be the applicable tolerances established by the Federal Seed Act 7 CFR Part 201. In the case of prohibited noxious weed seeds, the tolerance shall be based on declaration of "none". In the case of vegetable seed in amounts of one pound or less not labeled as to actual germination, it will be interpreted that vegetable seeds must meet or exceed the minimum germination established by Section 10, germination standards for vegetable seeds.

[21.18.4.1 NMAC - Rp, 21.18.4.1 NMAC, 10/7/2025]

**21.18.4.13 FEE SCHEDULE FOR SEED TESTING:**

A. The following fees shall be charged to persons bringing seed into the laboratory for testing:

	Complete Test	Purity Only	Germ Only	Weed Only
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B. Special charges.

Tetrazolium test for viability	\$30.00
Vigor/cold test	\$25.00

C. Hourly charges. Whenever the seed to be tested is unusually dirty or poses other problems so as not to be routine in its testing, the state seed analyst may elect to charge for the testing at the rate of \$45 per hour for the time involved in testing for purity and/or conducting the germination test, but not to include the time in the germinator. Special testing requests not listed charged at the hourly rate.

[21.18.4.1 NMAC - Rp, 21.18.4.1 NMAC, 10/7/2025]

**21.18.4.14 SEED CERTIFICATION AGENCY:** New Mexico state university seed certification is hereby designated to be the seed certification agency for the state.

[21.18.4.1 NMAC - Rp, 21.18.4.1 NMAC, 10/7/2025]

#### HISTORY OF 21.18.4 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

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NMDA Rule 67-3 Amendment No. 1, Seed Lab Fees, Regulatory Order No. 1, Regulation No. 6, filed 5/19/1971.

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NMDA Rule 72-3, Regulatory Order No. 2, Seed Corn Labeling, filed 9/19/1972.

NMDA Rule 86-1, Seed Standards and Classifications, filed 5/14/1986.

NMDA Rule 86-2, Fees for Seed Tests, filed 7/9/1986.

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**History of Repealed Material:**

21.18.4 NMAC – Seed Standards and Classifications, filed 7/1/1997, was repealed and replaced by 21.18.4 NMAC – Seed Standards and Classifications, effective 10/7/2025.