

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 80 Department or Agency Department of Agriculture and Industries
Rule No. 80-11-1-.05
Rule Title: Mixed Seed Prohibitions

 New x Amend Repeal Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety Yes

Is there a reasonable relationship between the State's police power and the protection of the public health, safety or welfare? Yes

Is there another less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? No

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed rule have any economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Services Agency.

Signature of certifying officer *John McArthur*

Date: 3/16/2018

(DATE FILED)
(STAMP)

APA-2

ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES
SEED

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Agriculture and Industries

RULE NO. & TITLE: 80-11-1-.05 Mixed Seed Prohibitions

INTENDED ACTION: To Amend


SUBSTANCE OF PROPOSED ACTION: To add "Domestic" to the language, that will allow imported Sunn Hemp seed in a mixture.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Views may be presented in writing to the contact person below or in person on Tuesday, May 8, 2018, at 10:00 a.m., in the Board Room of the Richard Beard Building, 1445 Federal Drive, Montgomery, Alabama, 36117.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: May 8, 2018.

CONTACT PERSON AT AGENCY: Norman Gunter Guy, Jr., Legal Counsel, Department of Agriculture and Industries, 1445 Federal Drive, Montgomery, Alabama 36107-1123, Telephone No. (334) 240-7117.

3/16/2018
Date



John McMillan
Commissioner of Agriculture
and Industries

80-11-1-.05 Mixed Seed Prohibitions.

(1) The following adulterations or mixtures of seed shall not be sold, offered for sale, or distributed in Alabama:

- (a) Common lespedeza containing more than 5% weed seed.
- (b) Carpet grass containing more than 2.5% weed seed.
- (c) Dallis grass containing less than 25% pure live seed.
- (d) Johnson grass containing less than 50% pure live seed.
- (e) Seed peanuts of one variety containing more than 2.5% of another variety; however, seed peanuts containing 2.5% or less of another variety may be sold, provided the percentages of such varieties are stated on the analysis tag attached to each bag, in addition to all other labeling requirements now, or in the future, in effect.
- (f) Rye seed produced in a northern state or having a northern origin. The term "northern origin" shall mean all states north of North Carolina, Tennessee, Arkansas, Oklahoma and north and west of Texas.
- (g) Seed corn, for planting purposes, containing Texas male sterile cytoplasm. Other types of cytoplasm, which are resistant to Race "T" of the Southern corn leaf blight are not banned nor shall the presence of these other types of cytoplasm be required to be shown on the analysis tag.
- (h) Domestic Sunn Hemp (*Crotalaria juncea*) in a mixture.

(2) The following adulterations or mixtures of seed shall not be sold under the name of the dominant seed:

- (a) Oats consisting of mixed varieties, and oats containing a total of 5% or more of other oat varieties shall not be labeled or sold as seed oats. A false wild oat will be considered as any unstable or variant form of a cultivated and wild oat possessing one or more of the distinct characteristics of the wild oats (*Avena fatua*).

The sale of mixed oats shall not be prohibited when they are used as a component part in seed for wildlife mixtures. In order to be used in such a mixture the following criteria must be met:

The mixture must include (3) kinds or more and the oat component must be labeled according to the predominate variety that comprises at least sixty (60) percent of the mixture.

(b) Sorghum consisting of mixed varieties and sorghum containing a total of 5% or more of other sorghum varieties shall not be labeled or sold as sorghum seed.

(c) Cowpeas consisting of mixed varieties shall be labeled as, "mixed." The percent of pure seed shall represent all cowpeas present and the germination test shall be based upon a uniform sample of all of the varieties in the lot.

(3) All whole grain rye sold, offered or exposed for sale in Alabama during the period of time beginning September 1 and ending December 31 of each year shall be labeled as seed rye and must meet all requirements of the Alabama seed law and rules and regulations, except, however, whole grain rye may be mixed with other grain and may be sold during the above prohibitive period, provided such mixture is labeled as commercial feed and shows the percentage of each kind of grain present and shall also comply with all provisions of the Alabama Commercial Feed Law of 1978, Code of Ala. 1975, §§2-21-17 through 2-21-34.
Author: Charles H. Barnes, Patrick B. Moody, Norman Gunter Guy, Jr.

Statutory Authority: Code of Ala. 1975, §2-26-3.

History: Filed April 19, 1982. **Amended:** Filed May 17, 2007; effective June 21, 2007. **Amended:** Filed May 16, 2012; effective June 21, 2012. **Amended:** Filed March 16, 2018.