

2020 Rule Change Proposal 23

Purpose of Proposal: To clarify the classification of contaminating seeds of species that are not listed in Volume 3 of the AOSA Rules.

Present and Proposed Rule: AOSA Rules Volume 3, Introduction Section, CAUTIONS pages vi-vii

1. *The purpose of this handbook is to clarify the designation of a seed that is an unintended contaminant* in a seed lot, in which case it must be determined if the contaminating seed is a weed or other crop. Pure seed is the species intended to be part of the seed lot and is therefore listed under the pure seed component on the label. All other species found in a seed lot are considered contaminating species and shall be classified based on the chosen “spp. Class” for the pure seed component tested.
2. If the species of the pure seed component is not listed in the classification section of Rules Volume 3, contaminants found in the sample shall be classified as those of a similar pure seed species listed. If the species of the pure seed component is listed as “W” only under the “spp. class,” the species shall be classified according to its intended use. Classification of all contaminating species shall be based on the chosen “spp. class.”
3. If the species of contaminating seed(s) found in a sample is not listed in the classification section of Rules Volume 3, such contaminants shall be classified as ~~those of a similar contaminating species (either as “C” or “W”) under the “spp. class” for the pure seed component tested~~ “W”.
4. When seeds of indistinguishable species are found as contaminants and may be classified either as weed or other crop depending on the species they belong to, they shall be regarded as weeds. For example, the seeds of lettuce, *Lactuca sativa*, cannot always be distinguished from seeds of weedy species of *Lactuca*.
5. Seed lots that move in commerce are subject to the individual seed laws and regulations promulgated by State, Province, or Federal governments. The user of this handbook must be aware that differences occur among these laws and regulations and that the user is responsible for being familiar with these documents. Copies of these documents are available from the seed related sections of each governmental unit.
6. State, Province, or Federal governments may consider certain species to be noxious weeds. For the determination of noxious weed status refer to Appendix C, Noxious Weed Lists. CAUTION: It is the responsibility of the Rules Volume 3 user to keep Appendix C updated. If a species listed as a noxious weed is found as a contaminant in a seed lot that either is in or being sent to one of these government units, the contaminating species should be listed as a weed regardless of its classification under the contaminating species category.
7. There is a dilemma associated with multiple classifications of species under Format for Rules Volume 3, item four (page v) when the pure seed species is classified in two or more groups (e.g., A and R) and the contaminating species is not uniformly classified under the associated groups.

Harmonization and Impact Statement: In 2019 a proposal was passed by a very slim margin which modified the CAUTIONS section of the introduction of AOSA Rules Volume 3, Uniform Classification of Weed and Crop Seeds. A clarification of what to do with contaminating species which are not found in Volume 3 was needed. However, it is felt that the change made in 2019 is actually a cause for concern and will lead to *less* uniformity in the reporting of contaminating species. This section should be further clarified to avoid any doubt when classifying contaminating species not specifically listed in Volume 3. This new proposal will strengthen the administration of the Federal Seed Act by clarifying how to classify contaminants found in seed lots. The Canadian Methods and Procedures rely upon the listing of crop kinds in the Grade Tables for contaminants considered as other crop seeds (exceptions are described in sec. 3.9.3 of the M&P) and contaminating species not found in the Grade Tables are generally classified as weed seeds. The ISTA Rules classify all contaminants under the single category of other seeds.

Supporting Evidence: The wording that was added in 2019:

- 1) Introduces the additional possibility of non-uniformity, as the analyst now would have the option of deciding for themselves whether a contaminant is a crop or a weed. This depends on a lot of things, including the analyst's familiarity with "similar" contaminating species and what the pure seed is being used for. With the new clarification proposed, if a contaminating species is not specifically listed in Volume 3, it would always be considered a weed. There is no question or possibility of different classification if done properly.
- 2) Many "similar" species have different abilities to become invasive. Examples: Johnsongrass and sudangrass; carrot and Queen Anne's lace; soft chess and downy brome. Weeds should be thought of as "guilty until proven innocent." We have a mechanism to add species to Volume 3 and we can make sure that they are properly vetted for invasiveness before we decide it is okay to classify them as crops when found as contaminants.
- 3) As seen below, some state laws have a maximum percent of weeds allowable for seed that is sold within the state. If things that used to be considered weeds are now considered crops, a lot more "weedy" seed lots could be sold without the contaminants being removed or cleaned out. This can have unintentional consequences, with some undesirable seeds being spread around in seed lots that would now be considered legal for sale.

Here is an excerpt from the California Code of Regulations:

"52482. Except as otherwise provided in Section 52486, it is unlawful for any person to ship, deliver, transport, or sell any agricultural or vegetable seed within this state which is within any of the following classes:

....

(e) Contains more than 1 1/2 percent by weight of all **weed** seeds."

In other words, if a contaminant is found in excess of 1.5% in California, it would be legal to sell it if the contaminant was classified as crop, but not if it were considered a weed.

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