

## § 361.2

Cucumber—*Cucumis sativus* L.  
Dandelion—*Taraxacum officinale* Wigg.  
Dill—*Anethum graveolens* L.  
Eggplant—*Solanum melongena* L.  
Endive—*Cichorium endivia* L.  
Gherkin, West India—*Cucumis anguria* L.  
Kale—*Brassica oleracea* L. var. *acephala* DC.  
Kale, Chinese—*Brassica oleracea* L. var. *alboglabra* (Bailey) Musil  
Kale, Siberian—*Brassica napus* L. var. *pabularia* (DC.) Reichb.  
Kohlrabi—*Brassica oleracea* L. var. *gongylodes* L.  
Leek—*Allium porrum* L.  
Lettuce—*Lactuca sativa* L.  
Melon—*Cucumis melo* L.  
Muskmelon—(see Melon).  
Mustard, India—*Brassica juncea* (L.) Czernj. and Coss.  
Mustard, spinach—*Brassica perviridis* (Bailey) Bailey  
Okra—*Abelmoschus esculentus* (L.) Moench  
Onion—*Allium cepa* L.  
Onion, Welsh—*Allium fistulosum* L.  
Pak-choi—*Brassica rapa* L. subsp. *chinensis* (L.) Hanelt  
Parsley—*Petroselinum crispum* (Mill.) A.W. Hill  
Parsnip—*Pastinaca sativa* L.  
Pea—*Pisum sativum* L.  
Pepper—*Capsicum* spp.  
Pe-tsai—(see Chinese cabbage).  
Pumpkin—*Cucurbita pepo* L., *C. moschata* (Duchesne) Poirer, and *C. maxima* Duchesne  
Radish—*Raphanus sativus* L.  
Rhubarb—*Rheum rhabarbarum* L.  
Rutabaga—*Brassica napus* L. var. *napobrassica* (L.) Reichb.  
Sage—*Salvia officinalis* L.  
Salsify—*Tragopogon porrifolius* L.  
Savory, summer—*Satureja hortensis* L.  
Sorrel—*Rumex acetosa* L.  
Southernpea—(see Cowpea).  
Soybean—*Glycine max* (L.) Merr.  
Spinach—*Spinacia oleracea* L.  
Spinach, New Zealand—*Tetragonia tetragonioides* (Pall.) Ktze.  
Squash—*Cucurbita pepo* L., *C. moschata* (Duchesne) Poirer, and *C. maxima* Duchesne  
Tomato—*Lycopersicon esculentum* Mill.  
Tomato, husk—*Physalis pubescens* L.  
Turnip—*Brassica rapa* L. subsp. *rapa*  
Watermelon—*Citrullus lanatus* (Thunb.) Matsum. and Nakai var. *lanatus*

### § 361.2 Preemption of State and local laws; general restrictions on the importation of seed and screenings.

(a) The regulations in this part preempt State and local laws regarding seed and screenings imported into the United States while the seed and screenings are in foreign commerce. Seed and screenings imported for immediate distribution and sale to the consuming public remain in foreign

## 7 CFR Ch. III (1–1–10 Edition)

commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be considered on a case-by-case basis.

(b) No person shall import any agricultural seed, vegetable seed, or screenings into the United States unless the importation is in compliance with this part.

(c) Any agricultural seed, vegetable seed, or screenings imported into the United States not in compliance with this part shall be subject to exportation, destruction, disposal, or any remedial measures that the Administrator determines are necessary to prevent the dissemination into the United States of noxious weeds.

(d) Except as provided in § 361.7(b), coated or pelleted seed may enter the United States only if each lot of seed is accompanied by an officially drawn and sealed sample of seed drawn from the lot before the seed was coated or pelleted. The sample must be drawn in a manner consistent with that described in § 361.5 of this part.

(e) Except as provided in §§ 361.4(a)(3) and 361.7(c), screenings of all agricultural seed and vegetable seed are prohibited entry into the United States.

[62 FR 48460, Sept. 16, 1997, as amended at 74 FR 53400, Oct. 19, 2009]

### § 361.3 Declarations and labeling.

(a) All lots of agricultural seed, vegetable seed, and screenings imported into the United States must be accompanied by a declaration from the importer of the seed or screenings. The declaration must state the kind, variety, and origin of each lot of seed or screenings and the use for which the seed or screenings are being imported.

(b) Each container of agricultural seed and vegetable seed imported into the United States for seeding (planting) purposes must be labeled to indicate the identification code or designation for the lot of seed; the name of each kind or kind and variety of agricultural seed or the name of each kind and variety of vegetable seed present in the lot in excess of 5 percent of the whole; and the designation “hybrid” when the lot contains hybrid seed. Kind and variety names used on the

label shall conform to the kind and variety names used in the definitions of "agricultural seed" and "vegetable seed" in § 361.1. If any seed in the lot has been treated, each container must be further labeled, in type no smaller than 8 point, as follows:

(1) The label must indicate that the seed has been treated and provide the name of the substance or process used to treat the seed. Substance names used on the label shall be the commonly accepted coined, chemical (generic), or abbreviated chemical name.

(i) Commonly accepted coined names are commonly recognized as names of particular substances, e.g., thiram, captan, lindane, and dichlone.

(ii) Examples of commonly accepted chemical (generic) names are bluestone, calcium carbonate, cuprous oxide, zinc hydroxide, hexachlorobenzene, and ethyl mercury acetate. The terms "mercury" or "mercurial" may be used in labeling all types of mercurials.

(iii) Examples of commonly accepted abbreviated chemical names are BHC (1,2,3,4,5,6-Hexachlorocyclohexane) and DDT (dichloro diphenyl trichloroethane).

(2) If the seed has been treated with a mercurial or similarly toxic substance harmful to humans and vertebrate animals, the label must include a representation of a skull and crossbones and a statement indicating that the seed has been treated with poison. The skull and crossbones must be at least twice the size of the type used for the information provided on the label, and the poison warning statement must be written in red letters on a background of distinctly contrasting color. Mercurials and similarly toxic substances include the following:

- Aldrin, technical
- Demeton
- Dieldrin
- p-Dimethylaminobenzenediazo sodium sulfonate
- Endrin
- Ethion
- Heptachlor
- Mercurials, all types
- Parathion
- Phorate
- Toxaphene

- O-O-Diethyl-O-(isopropyl-4-methyl-6-pyrimidyl) thiophosphate
- O,O-Diethyl-S-2-(ethylthio) ethyl phosphorodithioate

(3) If the seed has been treated with a substance other than one classified as a mercurial or similarly toxic substance under paragraph (b)(2) of this section, and the amount remaining with the seed is harmful to humans or other vertebrate animals, the label must indicate that the seed is not to be used for food, feed, or oil purposes. Any amount of any substance used to treat the seed that remains with the seed will be considered harmful when the seed is in containers of more than 4 ounces, except that the following substances will not be deemed harmful when present at a rate less than the number of parts per million (p/m) indicated:

- Allethrin—2 p/m
- Malathion—8 p/m
- Methoxychlor—2 p/m
- Piperonyl butoxide—20 p/m (8 p/m on oat and sorghum)
- Pyrethrins—3 p/m (1 p/m on oat and sorghum)

(c) In the case of seed in bulk, the information required under paragraph (b) of this section shall appear in the invoice or other records accompanying and pertaining to such seed. If the seed is in containers and in quantities of 20,000 pounds or more, regardless of the number of lots included, the information required on each container under paragraph (b) of this section need not be shown on each container if each container has stenciled upon it or bears a label containing a lot designation and the invoice or other records accompanying and pertaining to such seed bear the various statements required for the respective seeds.

(d) Each container of agricultural seed and vegetable seed imported into the United States for cleaning need not be labeled to show the information required under paragraph (b) of this section if:

- (1) The seed is in bulk;
- (2) The seed is in containers and in quantities of 20,000 pounds or more, regardless of the number of lots involved, and the invoice or other records accompanying and pertaining to the seed show that the seed is for cleaning; or

## § 361.4

## 7 CFR Ch. III (1–1–10 Edition)

(3) The seed is in containers and in quantities of less than 20,000 pounds, and each container carries a label that bears the words “Seed for cleaning.”

### § 361.4 Inspection at the port of first arrival.

(a) All agricultural seed, vegetable seed, and screenings imported into the United States shall be made available for examination by an APHIS inspector at the port of first arrival and shall remain at the port of first arrival until released by an APHIS inspector. Lots of agricultural seed, vegetable seed, or screenings may enter the United States without meeting the sampling requirements of paragraph (b) of this section if the lot is:

(1) Seed that is not being imported for seeding (planting) purposes and the declaration required by § 361.3(a) states the purpose for which the seed is being imported;

(2) Seed that is being shipped in bond through the United States;

(3) Screenings from seeds of wheat, oats, barley, rye, buckwheat, field corn, sorghum, broomcorn, flax, millet, proso, soybeans, cowpeas, field peas, or field beans that are not being imported for seeding (planting) purposes and the declaration accompanying the screenings as required under § 361.2(a) indicates that the screenings are being imported for processing or manufacturing purposes;

(4) Seed that is being imported for sowing for experimental or breeding purposes, is not for sale, is limited in quantity to the amount indicated in column 3 of table 1 of § 361.5, and is accompanied by a declaration stating the purpose for which it is being imported (seed imported for increase purposes only will not be considered as being imported for experimental or breeding purposes); or

(5) Seed that was grown in the United States, exported, and is now returning to the United States, provided that the person importing the seed into the United States furnishes APHIS with the following documentation:

(i) Export documents indicating the quantity of seed and number of containers, the date of exportation from the United States, the distinguishing marks on the containers at the time of

exportation, and the name and address of the United States exporter;

(ii) A document issued by a Customs or other government official of the country to which the seed was exported indicating that the seed was not admitted into the commerce of that country; and

(iii) A document issued by a Customs or other government official of the country to which the seed was exported indicating that the seed was not commingled with other seed after being exported to that country.

(b) Except as provided in §§ 361.5(a)(2) and 361.7, samples will be taken from all agricultural seed and vegetable seed imported into the United States for seeding (planting) purposes prior to being released into the commerce of the United States.

(1) Samples of seed will be taken from each lot of seed in accordance with § 361.5 to determine whether any seeds of noxious weeds listed in § 361.6(a) are present. If seeds of noxious weeds are present at a level higher than the tolerances set forth in § 361.6(b), the lot of seed will be deemed to be adulterated and will be rejected for entry into the United States for seeding (planting) purposes. Once deemed adulterated, the lot of seed must be:

(i) Exported from the United States;

(ii) Destroyed under the monitoring of an APHIS inspector;

(iii) Cleaned under APHIS monitoring at a seed-cleaning facility that is operated in accordance with § 361.8(a); or

(iv) If the lot of seed is adulterated with the seeds of a noxious weed listed in § 361.6(a)(2), the seed may be allowed entry into the United States for feeding or manufacturing purposes, provided the importer withdraws the original declaration and files a new declaration stating that the seed is being imported for feeding or manufacturing purposes and that no part of the seed will be used for seeding (planting) purposes.

(2) Seed deemed adulterated may not be mixed with any other seed unless the Administrator determines that two or more lots of seed deemed adulterated are of substantially the same quality and origin. In such cases, the