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eradicate it, or prevent its dissemination. A State or political subdivision of a State also may not impose prohibitions or restrictions upon the movement in interstate commerce of noxious weeds if the Secretary has issued a regulation or order to prevent the dissemination of the noxious weed within the United States. The only exceptions to this are:

(1) If the prohibitions or restrictions issued by the State or political subdivision of a State are consistent with and do not exceed the regulations or orders issued by the Secretary; or

(2) If the State or political subdivision of a State demonstrates to the Secretary and the Secretary finds that there is a special need for additional prohibitions or restrictions based on sound scientific data or a thorough risk assessment.

(b) Therefore, in accordance with section 436 of the Plant Protection Act, the regulations in this part preempt all State and local laws and regulations that are inconsistent with or exceed the regulations in this part unless a special need request has been granted in accordance with the regulations in §§ 301.1 through 301.13 of this chapter.

[74 FR 53400, Oct. 19. 2009. Redesignated at 75 FR 68955, Nov. 10, 2010]

PART 361—IMPORTATION OF SEED AND SCREENINGS UNDER THE FEDERAL SEED ACT

Sec.

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AUTHORITY: 7 U.S.C. 1581–1610; 7 CFR 2.22, 2.80, and 371.3.

SOURCE: 62 FR 48460, Sept. 16, 1997, unless otherwise noted.

§ 361.1 Definitions.

Terms used in the singular form in this part shall be construed as the plural, and vice versa, as the case may demand. The following terms, when used in this part, shall be construed, respectively, to mean:

Administrator. The Administrator of the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or any other individual to whom the Administrator delegates authority to act in his or her stead.

Agricultural seed. The following kinds and varieties of grass, forage, and field crop seed that are used for seeding purposes in the United States:

Agrotricum—x *Agrotriticum* Ciferri and Giacom.
Alfalfa—*Medicago sativa* L.
Alfilaria—*Erodium cicutarium* (L.) L'Her.
Alyceclover—*Alysicarpus vaginalis* (L.) DC.
Bahiagrass—*Paspalum notatum* Fluegge
Barley—*Hordeum vulgare* L.
Barrelclover—*Medicago truncatula* Gaertn.
Bean, adzuki—*Vigna angularis* (Willd.) Ohwi and Ohashi
Bean, field—*Phaseolus vulgaris* L.
Bean, mung—*Vigna radiata* (L.) Wilczek
Beet, field—*Beta vulgaris* L. subsp. *vulgaris*
Beet, sugar—*Beta vulgaris* L. subsp. *vulgaris*
Beggarweed, Florida—*Desmodium tortuosum* (Sw.) DC.
Bentgrass, colonial—*Agrostis capillaris* L.
Bentgrass, creeping—*Agrostis stolonifera* L. var. *palustris* (Huds.) Farw.
Bentgrass, velvet—*Agrostis canina* L.
Bermudagrass—*Cynodon dactylon* (L.) Pers. var. *dactylon*
Bermudagrass, giant—*Cynodon dactylon* (L.) Pers. var. *aridus* Harlan and de Wet
Bluegrass, annual—*Poa annua* L.
Bluegrass, bulbous—*Poa bulbosa* L.
Bluegrass, Canada—*Poa compressa* L.
Bluegrass, glaucantha—*Poa glauca* Vahl
Bluegrass, Kentucky—*Poa pratensis* L.
Bluegrass, Nevada—*Poa secunda* J.S. Presl
Bluegrass, rough—*Poa trivialis* L.
Bluegrass, Texas—*Poa arachnifera* Torr.
Bluegrass, wood—*Poa nemoralis* L.
Bluejoint—*Calamagrostis canadensis* (Michx.) P. Beauv.
Bluestem, big—*Andropogon gerardii* Vitm. var. gerardii
Bluestem, little—*Schizachyrium scoparium* (Michx.) Nash
Bluestem, sand—*Andropogon hallii* Hack.
Bluestem, yellow—*Bothriochloa ischaemum* (L.) Keng
Bottlebrush-squirreltail—*Elymus elymoides* (Raf.) Swezey
Brome, field—*Bromus arvensis* L.
Brome, meadow—*Bromus biebersteinii* Roem. and Schult.

Brome, mountain—*Bromus marginatus* Steud.
Brome, smooth—*Bromus inermis* Leyss.
Broomcorn—*Sorghum bicolor* (L.) Moench
Buckwheat—*Fagopyrum esculentum* Moench
Buffalograss—*Buchloe dactyloides* (Nutt.) Engelm.
Buffelgrass—*Cenchrus ciliaris* L.
Burclover, California—*Medicago polymorpha* L.
Burclover, spotted—*Medicago arabica* (L.) Huds.
Burnet, little—*Sanguisorba minor* Scop.
Buttonclover—*Medicago orbicularis* (L.) Bartal.
Canarygrass—*Phalaris canariensis* L.
Canarygrass, reed—*Phalaris arundinacea* L.
Carpetgrass—*Axonopus fissifolius* (Raddi) Kuhlm.
Castorbean—*Ricinus communis* L.
Chess, soft—*Bromus hordeaceus* L.
Chickpea—*Cicer arietinum* L.
Clover, alsike—*Trifolium hybridum* L.
Clover, arrowleaf—*Trifolium vesiculosum* Savi
Clover, berseem—*Trifolium alexandrinum* L.
Clover, cluster—*Trifolium glomeratum* L.
Clover, crimson—*Trifolium incarnatum* L.
Clover, Kenya—*Trifolium semipilosum* Fresen.
Clover, ladino—*Trifolium repens* L.
Clover, lappa—*Trifolium lappaceum* L.
Clover, large hop—*Trifolium campestre* Schreb.
Clover, Persian—*Trifolium resupinatum* L.
Clover, red or
Red clover, mammoth—*Trifolium pratense* L.
Red clover, medium—*Trifolium pratense* L.
Clover, rose—*Trifolium hirtum* All.
Clover, small hop or suckling—*Trifolium dubium* Sibth.
Clover, strawberry—*Trifolium fragiferum* L.
Clover, sub or subterranean—*Trifolium subterraneum* L.
Clover, white—*Trifolium repens* L. (also see Clover, ladino)
Clover—(also see Alyceclover, Burclover, Buttonclover, Sourclover,
Sweetclover)
Corn, field—*Zea mays* L.
Corn, pop—*Zea mays* L.
Cotton—*Gossypium* spp.
Cowpea—*Vigna unguiculata* (L.) Walp. subsp. *unguiculata*
Crambe—*Crambe abyssinica* R.E. Fries
Crested dogtail—*Cynosurus cristatus* L.
Crotalaria, lance—*Crotalaria lanceolata* E. Mey.
Crotalaria, showy—*Crotalaria spectabilis* Roth
Crotalaria, slenderleaf—*Crotalaria brevidens* Benth. var. *intermedia* (Kotschy) Polh.
Crotalaria, striped or smooth—*Crotalaria pallida* Ait.
Crotalaria, sunn—*Crotalaria juncea* L.
Crownvetch—*Coronilla varia* L.
Dallisgrass—*Paspalum dilatatum* Poir.
Dichondra—*Dichondra repens* Forst. and Forst. f.
Dropseed, sand—*Sporobolus cryptandrus* (Torr.) A. Gray
Emmer—*Triticum dicoccon* Schrank
Fescue, chewings—*Festuca rubra* L. subsp. *commutata* Gaud.
Fescue, hair—*Festuca tenuifolia* Sibth.
Fescue, hard—*Festuca brevipila* Tracey
Fescue, meadow—*Festuca pratensis* Huds.
Fescue, red—*Festuca rubra* L. subsp. *rubra*
Fescue, sheep—*Festuca ovina* L. var. *ovina*
Fescue, tall—*Festuca arundinacea* Schreb.
Flax—*Linum usitatissimum* L.
Galletagrass—*Hilaria jamesii* (Torr.) Benth.
Grama, blue—*Bouteloua gracilis* (Kunth) Steud.
Grama, side-oats—*Bouteloua curtipendula* (Michx.) Torr.
Guar—*Cyamopsis tetragonoloba* (L.) Taub.
Guineagrass—*Panicum maximum* Jacq. var. *maximum*
Hardinggrass—*Phalaris stenoptera* Hack.
Hemp—*Cannabis sativa* L.
Indiangrass, yellow—*Sorghastrum nutans* (L.) Nash
Indigo, hairy—*Indigofera hirsuta* L.
Japanese lawngrass—*Zoysia japonica* Steud.
Johnsongrass—*Sorghum halepense* (L.) Pers.
Kenaf—*Hibiscus cannabinus* L.
Kochia, forage—*Kochia prostrata* (L.) Schrad.
Kudzu—*Pueraria montana* (Lour.) Merr. var. *lobata* (Willd.) Maesen and S. Almeida
Lentil—*Lens culinaris* Medik.
Lespedeza, Korean—*Kummerowia stipulacea* (Maxim.) Makino
Lespedeza, sericea or Chinese—*Lespedeza cuneata* (Dum.-Cours.) G. Don
Lespedeza, Siberian—*Lespedeza juncea* (L. f.) Pers.
Lespedeza, striate—*Kummerowia striata* (Thunb.) Schindler
Lovegrass, sand—*Eragrostis trichodes* (Nutt.) Wood
Lovegrass, weeping—*Eragrostis curvula* (Schrad.) Nees
Lupine, blue—*Lupinus angustifolius* L.
Lupine, white—*Lupinus albus* L.
Lupine, yellow—*Lupinus luteus* L.
Manilagrass—*Zoysia matrella* (L.) Merr.
Meadow foxtail—*Alopecurus pratensis* L.
Medic, black—*Medicago lupulina* L.
Milkvetch or cicer milkvetch—*Astragalus cicer* L.
Millet, browntop—*Brachiaria ramosa* (L.) Stapf
Millet, foxtail—*Setaria italica* (L.) Beauv.
Millet, Japanese—*Echinochloa frumentacea* Link
Millet, pearl—*Pennisetum glaucum* (L.) R. Br.
Millet, proso—*Panicum miliaceum* L.
Molassesgrass—*Melinis minutiflora* Beauv.
Mustard, black—*Brassica nigra* (L.) Koch
Mustard, India—*Brassica juncea* (L.) Czernj. and Coss.
Mustard, white—*Sinapis alba* L.
Napiergrass—*Pennisetum purpureum* Schumach.
Needlegrass, green—*Stipa viridula* Trin.

Oat—*Avena byzantina* C. Koch, *A. sativa* L., *A. nuda* L.
Oatgrass, tall—*Arrhenatherum elatius* (L.) J.S. Presl and K.B. Presl
Orchardgrass—*Dactylis glomerata* L.
Panicgrass, blue—*Panicum antidotale* Retz.
Panicgrass, green—*Panicum maximum* Jacq. var. *trichoglume* Robyns
Pea, field—*Pisum sativum* L.
Peanut—*Arachis hypogaea* L.
Poa trivialis—(see Bluegrass, rough)
Rape, annual—*Brassica napus* L. var. *annua* Koch
Rape, bird—*Brassica rapa* L. subsp. *rapa*
Rape, turnip—*Brassica rapa* L. subsp. *silvestris* (Lam.) Janchen
Rape, winter—*Brassica napus* L. var. *biennis* (Schubl. and Mart.) Reichb.
Redtop—*Agrostis gigantea* Roth
Rescuegrass—*Bromus catharticus* Vahl
Rhodesgrass—*Chloris gayana* Kunth
Rice—*Oryza sativa* L.
Ricegrass, Indian—*Oryzopsis hymenoides* (Roem. and Schult.) Ricker
Roughpea—*Lathyrus hirsutus* L.
Rye—*Secale cereale* L.
Rye, mountain—*Secale strictum* (K.B. Presl) K.B. Presl subsp. *strictum*
Ryegrass, annual or Italian—*Lolium multiflorum* Lam.
Ryegrass, intermediate—*Lolium*×*hybridum* Hausskn.
Ryegrass, perennial—*Lolium perenne* L.
Ryegrass, Wimmera—*Lolium rigidum* Gaud.
Safflower—*Carthamus tinctorius* L.
Sagewort, Louisiana—*Artemisia ludoviciana* Nutt.
Sainfoin—*Onobrychis viciifolia* Scop.
Saltbush, fourwing—*Atriplex canescens* (Pursh) Nutt.
Sesame—*Sesamum indicum* L.
Sesbania—*Sesbania exaltata* (Raf.) A.W. Hill
Smilo—*Piptatherum miliaceum* (L.) Coss.
Sorghum—*Sorghum bicolor* (L.) Moench
Sorghum almum—*Sorghum*×*almum* L. Parodi
Sorghum-sudangrass—*Sorghum*×*drummondii* (Steud.) Millsp. and Chase
Sorgrass—*Rhizomatous* derivatives of a johnsongrass×sorghum cross or a johnsongrass×sudangrass cross
Southernpea—(See Cowpea)
Sourclover—*Melilotus indicus* (L.) All.
Soybean—*Glycine max* (L.) Merr.
Spelt—*Triticum spelta* L.
Sudangrass—*Sorghum*×*drummondii* (Steud.) Millsp. and Chase
Sunflower—*Helianthus annuus* L.
Sweetclover, white—*Melilotus albus* Medik.
Sweetclover, yellow—*Melilotus officinalis* Lam.
Sweet vernalgrass—*Anthoxanthum odoratum* L.
Sweetvetch, northern—*Hedysarum boreale* Nutt.
Switchgrass—*Panicum virgatum* L.
Timothy—*Phleum pratense* L.
Timothy, turf—*Phleum bertolonii* DC.
Tobacco—*Nicotiana tabacum* L.
Trefoil, big—*Lotus uliginosus* Schk.
Trefoil, birdsfoot—*Lotus corniculatus* L.
Triticale—x *Triticosecale* Wittm. (Secale×Triticum)
Vaseygrass—*Paspalum urvillei* Steud.
Veldtgrass—*Ehrharta calycina* J.E. Smith
Velvetbean—*Mucuna pruriens* (L.) DC. var. *utilis* (Wight) Burck
Velvetgrass—*Holcus lanatus* L.
Vetch, common—*Vicia sativa* L. subsp. *sativa*
Vetch, hairy—*Vicia villosa* Roth subsp. *villosa*
Vetch, Hungarian—*Vicia pannonica* Crantz
Vetch, monantha—*Vicia articulata* Hornem.
Vetch, narrowleaf or blackpod—*Vicia sativa* L. subsp. *nigra* (L.) Ehrh.
Vetch, purple—*Vicia benghalensis* L.
Vetch, woollypod or winter—*Vicia villosa* Roth subsp. *varia* (Host) Corb.
Wheat, common—*Triticum aestivum* L.
Wheat, club—*Triticum compactum* Host
Wheat, durum—*Triticum durum* Desf.
Wheat, Polish—*Triticum polonicum* L.
Wheat, poulard—*Triticum turgidum* L.
Wheat×Agrotricum—*Triticum*×*Agrotriticum*
Wheatgrass, beardless—*Pseudoroegneria spicata* (Pursh) A. Love
Wheatgrass, crested or fairway crested—*Agropyron cristatum* (L.) Gaertn.
Wheatgrass, crested or standard crested—*Agropyron desertorum* (Link) Schult.
Wheatgrass, intermediate—*Elytrigia intermedia* (Host) Nevski subsp. *intermedia*
Wheatgrass, pubescent—*Elytrigia intermedia* (Host) Nevski subsp. *intermedia*
Wheatgrass, Siberian—*Agropyron fragile* (Roth) Candargy subsp. *sibiricum* (Willd.) Meld.
Wheatgrass, slender—*Elymus trachycaulus* (Link) Shinn.
Wheatgrass, streambank—*Elymus lanceolatus* (Scribn. and J.G. Smith) Gould subsp. *lanceolatus*
Wheatgrass, tall—*Elytrigia elongata* (Host) Nevski
Wheatgrass, western—*Pascopyrum smithii* (Rydb.) A. Love
Wildrye, basin—*Leymus cinereus* (Scribn. and Merr.) A. Love
Wildrye, Canada—*Elymus canadensis* L.
Wildrye, Russian—*Psathyrostachys juncea* (Fisch.) Nevski
Zoysia japonica—(see Japanese lawngrass)
Zoysia matrella—(see Manilagrass)

Animal and Plant Health Inspection Service (*APHIS*). The Animal and Plant Health Inspection Service of the U.S. Department of Agriculture.

APHIS inspector. Any employee of the Animal and Plant Health Inspection Service or any other individual authorized by the Administrator to enforce this part.

Coated Seed. Any seed unit covered with any substance that changes the

size, shape, or weight of the original seed. Seeds coated with ingredients such as, but not limited to, rhizobia, dyes, and pesticides are excluded.

Declaration. A written statement of a grower, shipper, processor, dealer, or importer giving for any lot of seed the kind, variety, type, origin, or the use for which the seed is intended.

Hybrid. When applied to kinds or varieties of seed means the first generation seed of a cross produced by controlling the pollination and by combining two or more inbred lines; one inbred or a single cross with an open-pollinated variety; or two selected clones, seed lines, varieties, or species. "Controlling the pollination" means to use a method of hybridization that will produce pure seed that is at least 75 percent hybrid seed. Hybrid designations shall be treated as variety names.

Import/importation. To bring into the territorial limits of the United States.

Kind. One or more related species or subspecies that singly or collectively is known by one common name, e.g., soybean, flax, or carrot.

Lot of seed. A definite quantity of seed identified by a lot number, every portion or bag of which is uniform, within permitted tolerances, for the factors that appear in the labeling.

Mixture. Seeds consisting of more than one kind or variety, each present in excess of 5 percent of the whole.

Official seed laboratory. An official laboratory member of the Association of Official Seed Analysts.

Pelleted seed. Any seed unit covered with a substance that changes the size, shape, or weight of the original seed in order to improve the plantability or singulation of the seed.

Person. Any individual, partnership, corporation, company, society, association, receiver, trustee, or other legal entity or organized group.

Port of first arrival. The land area (such as a seaport, airport, or land border station) where a person, or a land, water, or air vehicle, first arrives after entering the territorial limits of the United States, and where inspection of articles is carried out by APHIS inspectors.

Registered seed technologist. A registered member of the Society of Commercial Seed Technologists.

Screenings. Chaff, sterile florets, immature seed, weed seed, inert matter, and any other materials removed in any way from any seeds in any kind of cleaning or processing and which contains less than 25 percent of live agricultural or vegetable seeds.

State. Any State, the District of Columbia, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, the Virgin Islands of the United States, and any other territory or possession of the United States.

United States. All of the States.

Variety. A subdivision of a kind which is characterized by growth, plant, fruit, seed, or other characteristics by which it can be differentiated from other sorts of the same kind.

Vegetable seed. The seed of the following kinds and varieties that are or may be grown in gardens or on truck farms and are or may be generally known and sold under the name of vegetable seed:

Artichoke—*Cynara cardunculus* L. subsp. *cardunculus*
Asparagus—*Asparagus officinalis* Baker
Asparagusbean or yard-long bean—*Vigna unguiculata* (L.) Walp. subsp. *sesquipedalis* (L.) Verdc.
Bean, garden—*Phaseolus vulgaris* L.
Bean, lima—*Phaseolus lunatus* L.
Bean, runner or scarlet runner—*Phaseolus coccineus* L.
Beet—*Beta vulgaris* L. subsp. *vulgaris*
Broadbean—*Vicia faba* L.
Broccoli—*Brassica oleracea* L. var. *botrytis* L.
Brussels sprouts—*Brassica oleracea* L. var. *gemmifera* DC.
Burdock, great—*Arctium lappa* L.
Cabbage—*Brassica oleracea* L. var. *capitata* L.
Cabbage, Chinese—*Brassica rapa* L. subsp. *pekinensis* (Lour.) Hanelt
Cabbage, tronchuda—*Brassica oleracea* L. var. *costata* DC.
Cantaloupe—(see Melon)
Cardoon—*Cynara cardunculus* L. subsp. *cardunculus*
Carrot—*Daucus carota* L. subsp. *sativus* (Hoffm.) Arcang.
Cauliflower—*Brassica oleracea* L. var. *botrytis* L.
Celeriac—*Apium graveolens* L. var. *rapaceum* (Mill.) Gaud.
Celery—*Apium graveolens* L. var. *dulce* (Mill.) Pers.
Chard, Swiss—*Beta vulgaris* L. subsp. *cicla* (L.) Koch
Chicory—*Cichorium intybus* L.
Chives—*Allium schoenoprasum* L.
Citron—*Citrullus lanatus* (Thunb.) Matsum. and Nakai var. *citroides* (Bailey) Mansf.

Collards—*Brassica oleracea* L. var. *acephala* DC.
Corn, sweet—*Zea mays* L.
Cornsalad—*Valerianella locusta* (L.) Laterrade
Cowpea—*Vigna unguiculata* (L.) Walp. subsp. *unguiculata*
Cress, garden—*Lepidium sativum* L.
Cress, upland—*Barbarea verna* (Mill.) Asch.
Cress, water—*Rorippa nasturtium-aquaticum* (L.) Hayek
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) Poiret, 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) Poiret, 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 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
Methoxyclor—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

(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 Administrator may allow the adulterated lots of seed to be mixed for cleaning as provided in paragraph (b)(1)(iii) of this section.

(3) If the labeling of a lot of seed is false or misleading in any respect, the seed will be rejected for entry into the United States. A falsely labeled lot of seed must be:

(i) Exported from the United States;

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

(iii) The seed may be allowed entry into the United States if the labeling is corrected under the monitoring of an APHIS inspector to accurately reflect the character of the lot of seed.

§ 361.5 Sampling of seeds.

(a) *Sample sizes.* As provided in § 361.4(b), samples of seed will be taken from each lot of seed being imported for seeding (planting) purposes to determine whether any seeds of noxious weeds listed in § 361.6(a) are present. The samples shall be drawn in the manner described in paragraphs (b) and (c) of this section. Unused portions of samples of rare or expensive seeds will be returned by APHIS upon request of the importer.

(1) A minimum sample of not less than 1 quart shall be drawn from each lot of agricultural seed; a minimum sample of not less than 1 pint shall be drawn from each lot of vegetable seed, except that a sample of ¼ pint will be sufficient for a vegetable seed importation of 5 pounds or less. The minimum sample shall be divided repeatedly until a working sample of proper weight has been obtained. If a mechanical divider cannot be used or is not available, the sample shall be thoroughly mixed, then placed in a pile; the pile shall be divided repeatedly into halves until a working sample of the proper weight remains. The weights of the working samples for noxious weed examination for each lot of seed are shown in column 1 of table 1 of this section. If the lot of seed is a mixture, the following methods shall be used to determine the weight of the working sample:

(i) If the lot of seed is a mixture consisting of one predominant kind of seed or a group of kinds of similar size, the weight of the working sample shall be the weight shown in column 1 of table 1 of this section for the kind or group of kinds that comprises more than 50 percent of the sample.

(ii) If the lot of seed is a mixture consisting of two or more kinds or groups of kinds of different sizes, none of which comprises over 50 percent of the sample, the weight of the working sample shall be the weighted average (to the nearest half gram) of the weight shown in column 1 of table 1 of this section for each of the kinds that comprise the sample, as determined by the following method:

(A) Multiply the percentage of each component of the mixture (rounded off to the nearest whole number) by the sample sizes shown in column 1 of table 1 of this section;

(B) Add all these products;

(C) Total the percentages of all components of the mixtures; and

(D) Divide the sum in paragraph (a)(1)(ii)(B) of this section by the total in paragraph (a)(1)(ii)(C) of this section.

(2) It is not ordinarily practical to sample and test small lots of seed offered for entry. The maximum sizes of lots of each kind of seed not ordinarily sampled are shown in column 2 of table 1 of this section.

(3) The maximum sizes of lots of each kind of seed allowed entry without sampling for sowing for experimental or breeding purposes as provided in § 361.4(a)(4) are shown in column 3 of table 1 of this section.

TABLE 1

Name of seed	Working weight for noxious weed examination (grams) (1)	Maximum weight of seed lot not ordinarily sampled (pounds) (2)	Maximum weight of seed lot permitted entry for experimental or breeding purposes without sampling (pounds) (3)
VEGETABLE SEED:			
Artichoke	500	25	50
Asparagus	500	25	50
Asparagusbean	500	25	50
Bean		25	200
Garden	500	100	500
Lima	500	25	200
Runner	500	25	200
Beet	300	25	50
Broadbean	500	25	200
Broccoli	50	5	10
Brussels sprouts	50	5	10
Burdock, great	150	10	50
Cabbage	50	5	10
Cabbage, Chinese	50	5	10
Cabbage, tronchuda	100	5	10
Cantaloupe (see Melon).			
Cardoon	500	25	50
Carrot	50	5	10
Cauliflower	50	5	10
Celeriac	25	5	10
Celery	25	5	10
Chard, Swiss	300	25	50
Chicory	50	5	10
Chives	50	5	10
Citron	500	25	50
Collards	50	5	10
Corn, sweet	500	25	200
Cornsalad	50	5	10
Cowpea	500	25	200
Cress, garden	50	5	10
Cress, upland	35	5	10
Cress, water	25	5	10
Cucumber	500	25	50
Dandelion	35	5	10
Dill	50	5	10
Eggplant	50	5	10
Endive	50	5	10
Gherkin, West India	160	25	50
Kale	50	5	10
Kale, Chinese	50	5	10
Kale, Siberian	80	5	10
Kohlrabi	50	5	10
Leek	50	5	10
Lettuce	50	5	10
Melon	500	25	50
Mustard, India	50	25	100
Mustard, spinach	50	5	10
Okra	500	25	50
Onion	50	5	10
Onion, Welsh	50	5	10
Pak-choi	50	5	10
Parsley	50	5	10
Parsnip	50	5	10
Pea	500	25	200
Pepper	150	5	10
.			
Pumpkin	500	25	50
Radish	300	25	50
Rhubarb	300	5	10
Rutabaga	50	5	10
Sage	150	25	50
Salsify	300	25	50
Savory, summer	35	5	10
Sorrel	35	5	10
Soybean	500	25	200

TABLE 1—Continued

Name of seed	Working weight for noxious weed examination (grams) (1)	Maximum weight of seed lot not ordinarily sampled (pounds) (2)	Maximum weight of seed lot permitted entry for experimental or breeding purposes without sampling (pounds) (3)
Spinach	150	25	50
Spinach, New Zealand	500	25	50
Squash	500	25	50
Tomato	50	5	10
Tomato, husk	35	5	10
Turnip	50	5	10
Watermelon	500	25	50
AGRICULTURAL SEED:			
Agrotricum	500	100	500
Alfalfa	50	25	100
Alfilaria	50	25	100
Alyceclover	50	25	100
Bahiagrass	50	25	100
Barrelclover	100	25	100
Barley	500	100	500
Bean, adzuki	500	100	500
Bean, field	500	100	500
Bean, mung	500	100	500
Bean (see Velvetbean).			
Beet, field	500	100	500
Beet, sugar	500	100	1,000
Beggarweed	50	25	100
Bentgrass, colonial	2.5	25	100
Bentgrass, creeping	2.5	25	100
Bentgrass, velvet	2.5	25	100
Bermudagrass	10	25	100
Bermudagrass, giant	10	25	100
Bluegrass, annual	10	25	100
Bluegrass, bulbous	40	25	100
Bluegrass, Canada	5	25	100
Bluegrass, glaucantha	10	25	100
Bluegrass, Kentucky	10	25	100
Bluegrass, Nevada	10	25	100
Bluegrass, rough	5	25	100
Bluegrass, Texas	10	25	100
Bluegrass, wood	5	25	100
Bluejoint	5	25	100
Bluestem, big	70	25	100
Bluestem, little	50	25	100
Bluestem, sand	100	25	100
Bluestem, yellow	10	25	100
Bottlebrush-squirreltail	90	25	100
Brome, field	50	25	100
Brome, meadow	130	25	100
Brome, mountain	200	25	100
Brome, smooth	70	25	100
Broomcorn	400	100	500
Buckwheat	500	100	500
Buffalograss:			
(Burs)	200	25	100
(Caryopses)	30	25	100
Buffelgrass:			
(Fascicles)	66	25	100
(Caryopses)	20	25	100
Burclover, California:			
(In bur)	500	100	500
(Out of bur)	70	25	100
Burclover, spotted:			
(In bur)	500	100	500
(Out of bur)	50	25	100
Burnet, little	250	25	100
Buttonclover	70	25	100
Canarygrass	200	25	100
Canarygrass, reed	20	25	100
Carpetgrass	10	25	100
Castorbean	500	100	500

TABLE 1—Continued

Name of seed	Working weight for noxious weed examination (grams) (1)	Maximum weight of seed lot not ordinarily sampled (pounds) (2)	Maximum weight of seed lot permitted entry for experimental or breeding purposes without sampling (pounds) (3)
Chess, soft	50	25	100
Chickpea	500	100	500
Clover, alsike	20	25	100
Clover, arrowleaf	40	25	100
Clover, berseem	50	25	100
Clover, cluster	10	25	100
Clover, crimson	100	25	100
Clover, Kenya	20	25	100
Clover, Ladino	20	25	100
Clover, Lappa	20	25	100
Clover, large hop	10	25	100
Clover, Persian	20	25	100
Clover, red	50	25	100
Clover, rose	70	25	100
Clover, small hop (suckling)	20	25	100
Clover, strawberry	50	25	100
Clover, sub (subterranean)	250	25	100
Clover, white	20	25	100
Corn, field	500	100	1,000
Corn, pop	500	100	1,000
Cotton	500	100	500
Cowpea	500	100	500
Crambe	250	25	100
Crested dogtail	20	25	100
Crotalaria, lance	70	25	100
Crotalaria, showy	250	25	100
Crotalaria, slenderleaf	100	25	100
Crotalaria, striped	100	25	100
Crotalaria, Sunn	500	25	100
Crownvetch	100	25	100
Dallisgrass	40	25	100
Dichondra	50	25	100
Dropseed, sand	2.5	25	100
Emmer	500	100	500
Fescue, Chewings	30	25	100
Fescue, hair	10	25	100
Fescue, hard	20	25	100
Fescue, meadow	50	25	100
Fescue, red	30	25	100
Fescue, sheep	20	25	100
Fescue, tall	50	25	100
Flax	150	25	100
Galletagrass:			
(Other than caryopses)	100	25	100
(Caryopses)	50	25	100
Grama, blue	20	25	100
Grama, side-oats:			
(Other than caryopses)	60	25	100
(Caryopses)	20	25	100
Guar	500	25	100
Guineagrass	20	25	100
Hardinggrass	30	25	100
Hemp	500	100	500
Indiangrass, yellow	70	25	100
Indigo, hairy	70	25	100
Japanese lawngrass	20	25	100
Johnsongrass	100	25	100
Kenaf	500	100	500
Kochia, forage	20	25	100
Kudzu	250	25	100
Lentil	500	25	100
Lespedeza, Korean	50	25	100
Lespedeza, sericea or Chinese	30	25	100
Lespedeza, Siberian	30	25	100
Lespedeza, striate	50	25	100
Lovegrass, sand	10	25	100

TABLE 1—Continued

Name of seed	Working weight for noxious weed examination (grams) (1)	Maximum weight of seed lot not ordinarily sampled (pounds) (2)	Maximum weight of seed lot permitted entry for experimental or breeding purposes without sampling (pounds) (3)
Lovegrass, weeping	10	25	100
Lupine, blue	500	100	500
Lupine, white	500	100	500
Lupine, yellow	500	100	500
Manilagrass	20	25	100
Meadow foxtail	30	25	100
Medick, black	50	25	100
Milkvetch	90	25	100
Millet, browntop	80	25	100
Millet, foxtail	50	25	100
Millet, Japanese	90	25	100
Millet, pearl	150	25	100
Millet, proso	150	25	100
Molassesgrass	5	25	100
Mustard, black	20	25	100
Mustard, India	50	25	100
Mustard, white	150	25	100
Napiergrass	50	25	100
Needlegrass, green	70	25	100
Oat	500	100	500
Oatgrass, tall	60	25	100
Orchardgrass	30	25	100
Panicgrass, blue	20	25	100
Panicgrass, green	20	25	100
Pea, field	500	100	500
Peanut	500	100	500
Poa trivialis (see bluegrass, rough)			
Rape, annual	70	25	100
Rape, bird	70	25	100
Rape, turnip	50	25	100
Rape, winter	100	25	100
Redtop	2.5	25	100
Rescuegrass	200	25	100
Rhodesgrass	10	25	100
Rice	500	100	500
Ricegrass, Indian	70	25	100
Roughpea	500	100	500
Rye	500	100	500
Rye, mountain	280	25	100
Ryegrass, annual	50	25	100
Ryegrass, intermediate	80	25	100
Ryegrass, perennial	50	25	100
Ryegrass, Wimmera	50	25	100
Safflower	500	100	500
Sagewort, Louisiana	5	25	100
Sainfoin	500	100	500
Saltbush, fourwing	150	25	100
Seasame	70	25	100
Sesbania	250	25	100
Smilo	20	25	100
Sorghum	500	100	1,000
Sorghum almum	150	25	100
Sorghum-sudangrass hybrid	500	100	1,000
Sorgrass	150	25	100
Sourclover	50	25	100
Soybean	500	100	500
Spelt	500	100	500
Sudangrass	250	25	100
Sunflower	500	100	500
Sweetclover, white	50	25	100
Sweetclover, yellow	50	25	100
Sweet vernalgrass	20	25	100
Sweetvetch, northern	190	25	100
Switchgrass	40	25	100
Timothy	10	25	100
Timothy, turf	10	25	100

TABLE 1—Continued

Name of seed	Working weight for noxious weed examination (grams) (1)	Maximum weight of seed lot not ordinarily sampled (pounds) (2)	Maximum weight of seed lot permitted entry for experimental or breeding purposes without sampling (pounds) (3)
Tobacco	5	1	1
Trefoil, big	20	25	100
Trefoil, birdsfoot	30	25	100
Triticale	500	100	500
Vaseygrass	30	25	100
Veldtgrass	40	25	100
Velvetbean	500	100	500
Velvetgrass	10	25	100
Vetch, common	500	100	500
Vetch, hairy	500	100	500
Vetch, Hungarian	500	100	500
Vetch, Monantha	500	100	500
Vetch, narrowleaf	500	100	500
Vetch, purple	500	100	500
Vetch, woolypod	500	100	500
Wheat, common	500	100	500
Wheat, club	500	100	500
Wheat, durum	500	100	500
Wheat, Polish	500	100	500
Wheat, poulard	500	100	500
Wheat×Agrotricum	500	100	500
Wheatgrass, beardless	80	25	100
Wheatgrass, fairway crested	40	25	100
Wheatgrass, standard crested	50	25	100
Wheatgrass, intermediate	150	25	100
Wheatgrass, pubescent	150	25	100
Wheatgrass, Siberian	50	25	100
Wheatgrass, slender	70	25	100
Wheatgrass, streambank	50	25	100
Wheatgrass, tall	150	25	100
Wheatgrass, western	100	25	100
Wildrye, basin	80	25	100
Wild-rye, Canada	110	25	100
Wild-rye, Russian	60	25	100
Zoysia Japonica (see Japanese lawngrass)			
Zoysia matrella (see Manilagrass)			

(b) *Method of sampling.* (1) When an importation consists of more than one lot, each lot shall be sampled separately.

(2) For lots of six or fewer bags, each bag shall be sampled. A total of at least five trierfuls shall be taken from the lot.

(3) For lots of more than six bags, five bags plus at least 10 percent of the number of bags in the lot shall be sampled. (Round off numbers with decimals to the nearest whole number, raising 0.5 to the next whole number.) Regardless of the lot size, it is not necessary to sample more than 30 bags.

(4) When the lot of seed to be sampled is comprised of seed in small containers that cannot practically be sampled as described in paragraph (b)(2) or (b)(3) of this section, entire unopened containers may be taken in sufficient number to supply a sample that meets the minimum size requirements of paragraph (a)(1) of this section.

(c) *Drawing samples.* Samples will not be drawn unless each container is labeled to show the lot designation and the name of the kind and variety of each agricultural seed, or kind and variety of each vegetable seed, appearing on the invoice and other entry papers, and a declaration has been filed by the importer as required under § 361.2(a). In order to secure a representative sample, an APHIS inspector will draw equal portions from evenly distributed parts of the quantity of seed to be sampled; the APHIS inspector, therefore,

must be given access to all parts of that quantity.

(1) For free-flowing seed in bags or in bulk, a probe or trier shall be used. For small free-flowing seed in bags, a probe or trier long enough to sample all portions of the bag shall be used. When drawing more than one trierful of seed from a bag, a different path through the seed shall be used when drawing each sample.

(2) For non-free-flowing seed in bags or bulk that may be difficult to sample with a probe or trier, samples shall be obtained by thrusting one's hand into the seed and withdrawing representative portions. The hand shall be inserted in an open position with the fingers held closely together while the hand is being inserted and the portion withdrawn. When more than one handful is taken from a bag, the handfuls shall be taken from well-separated points.

(3) When more than one sample is drawn from a single lot, the samples may be combined into a composite sample unless it appears that the quantity of seed represented as a lot is not of uniform quality, in which case the separate samples shall be forwarded together, but without being combined into a composite sample.

(d) In most cases, samples will be drawn and examined by an APHIS inspector at the port of first arrival. The APHIS inspector may release a shipment if no contaminants are found and the labeling is sufficient. If contaminants are found or the labeling of the seed is insufficient, the APHIS inspector may forward the sample to the USDA Seed Examination Facility (SEF), Beltsville, MD, for analysis, testing, or examination. APHIS will notify the owner or consignee of the seed that samples have been drawn and forwarded to the SEF and that the shipment must be held intact pending a decision by APHIS as to whether the seed is within the noxious weed seed tolerances of §361.6 and is accurately labeled. If the decision pending is with regard to the noxious weed seed content of the seed and the seed has been determined to be accurately labeled, the seed may be released for delivery to the owner or consignee under the following conditions:

(1) The owner or consignee executes with Customs either a Customs single-entry bond or a Customs term bond, as appropriate, in such amount as is prescribed by applicable Customs regulations;

(2) The bond must contain a condition for the redelivery of the seed or any part thereof upon demand of the Port Director of Customs at any time;

(3) Until the seed is approved for entry upon completion of APHIS' examination, the seed must be kept intact and not tampered with in any way, or removed from the containers except under the monitoring of an APHIS inspector; and

(4) The owner or consignee must keep APHIS informed as to the location of the seed until it is finally entered into the commerce of the United States.

§ 361.6 Noxious weed seeds.

(a) Seeds of the plants listed in paragraphs (a)(1) and (a)(2) of this section shall be considered noxious weed seeds.

(1) Seeds with no tolerances applicable to their introduction:

Acacia nilotica (Linnaeus) Wildenow ex Delile
Aeginetia spp.
Ageratina adenophora (Sprengel) King & Robinson
Ageratina riparia (Regel) R.M. King and H. Robinson
Alectra spp.
Alternanthera sessilis (L.) R. Brown ex de Candolle
Arctotheca calendula (Linnaeus) Levyns
Asphodelus fistulosus L.
Avena sterilis L. (including *Avena ludoviciana* Durieu)
Azolla pinnata R. Brown
Carthamus oxyacantha M. Bieberstein
Chrysopogon aciculatus (Retzius) Trinius
Commelina benghalensis L.
Crupina vulgaris Cassini
Cuscuta spp.
Digitaria abyssinica (Hochstetter ex A. Richard) Stapf
Digitaria velutina (Forsskal) Palisot de Beauvois
Drymaria arenariodes Humboldt & Bonpland ex J.A. Schultes
Eichhornia azurea (Swartz) Kunth
Emex australis Steinheil
Emex spinosa (L.) Campdera
Euphorbia terracina Linnaeus
Galega officinalis L.
Heracleum mantegazzianum Sommier & Levier
Hydrilla verticillata (Linnaeus f.) Royle
Hygrophila polysperma T. Anderson
Imperata brasiliensis Trinius

Imperata cylindrica (Linnaeus) Palisot de Beauvois
Inula britannica Linnaeus
Ipomoea aquatica Forsskal
Ischaemum rugosum Salisbury
Lagarosiphon major (Ridley) Moss
Leptochloa chinensis (L.) Nees
Limnophila sessiliflora (Vahl) Blume
Lycium ferocissimum Miers
Lygodium flexuosum (Linnaeus) Swartz (maidenhair creeper)
Lygodium microphyllum (Cavanilles) R. Brown (Old World climbing fern)
Melaleuca quinquenervia (Cav.) Blake
Melastoma malabathricum L.
Mikania cordata (Burman f.) B. L. Robinson
Mikania micrantha Kunth
Mimosa diplotricha C. Wright
Mimosa pigra L. var. *pigra*
Monochoria hastata (L.) Solms-Laubach
Monochoria vaginalis (Burman f.) C. Presl
Moraea collina Thunberg
Moraea flaccida (Sweet) Steudel
Moraea miniata Andrews
Moraea ochroleuca (Salisbury) Drapiez
Moraea pallida (Baker) Goldblatt
Nassella trichotoma (Nees) Hackel ex Arechavaleta
Onopordum acaulon Linnaeus
Onopordum illyricum Linnaeus
Opuntia aurantiaca Lindley
Orobanche spp.
Oryza longistaminata A. Chevalier & Roehrich
Oryza punctata Kotschy ex Steudel
Oryza rufipogon Griffith
Ottelia alismoides (L.) Pers.
Paspalum scrobiculatum L.
Pennisetum clandestinum Hochstetter ex Chiovenda
Pennisetum macrourum Trinius
Pennisetum pedicellatum Trinius
Pennisetum polystachion (L.) Schultes
Prosopis alapataco R. A. Philippi
Prosopis argentina Burkart
Prosopis articulata S. Watson
Prosopis burkartii Munoz
Prosopis caldenia Burkart
Prosopis calingastana Burkart
Prosopis campestris Grisebach
Prosopis castellanosii Burkart
Prosopis denudans Bentham
Prosopis elata (Burkart) Burkart
Prosopis farcta (Banks & Solander) J.F. Macbride
Prosopis ferox Grisebach
Prosopis fiebrigii Harms
Prosopis hassleri Harms
Prosopis humilis Gillies ex Hooker & Arnott
Prosopis kuntzei Harms
Prosopis pallida (Humboldt & Bonpland ex Willdenow) Kunth
Prosopis palmeri S. Watson
Prosopis reptans Bentham var. *reptans*
Prosopis rojasiana Burkart
Prosopis ruizlealii Burkart
Prosopis ruscifolia Grisebach
Prosopis sericantha Gillies ex Hooker & Arnott
Prosopis strombulifera (Lamarck) Bentham
Prosopis torquata (Cavanilles ex Lagasca y Segura) de Candolle
Rottboellia cochinchinensis (Lour.) W. Clayon
Rubus fruticosus L. (complex)
Rubus moluccanus L.
Saccharum spontaneum L.
Sagittaria sagittifolia L.
Salsola vermiculata L.
Salvinia auriculata Aublet
Salvinia biloba Raddi
Salvinia herzogii de la Sota
Salvinia molesta D.S. Mitchell
Senecio inaequidens DC.
Senecio madagascariensis Poir.
Setaria pumila (Poir.) Roem. & Schult. subsp. *pallidefusca* (Schumach.) B.K. Simon
Solanum tampicense Dunal (wetland nightshade)
Solanum torvum Swartz
Solanum viarum Dunal
Sparganium erectum L.
Spermacoce alata Aublet
Striga spp.
Tridax procumbens L.
Urochloa panicoides Beauvois

(2) Seeds with tolerances applicable to their introduction:

Acroptilon repens (L.) DC. (=*Centaurea repens* L.) (=*Centaurea picris*)
Cardaria draba (L.) Desv.
Cardaria pubescens (C. A. Mey.) Jarmol.
Convolvulus arvensis L.
Cirsium arvense (L.) Scop.
Elytrigia repens (L.) Desv. (=*Agropyron repens* (L.) Beauv.)
Euphorbia esula L.
Sonchus arvensis L.
Sorghum halepense (L.) Pers.

(b) The tolerance applicable to the prohibition of the noxious weed seeds listed in paragraph (a)(2) of this section shall be two seeds in the minimum amount required to be examined as shown in column 1 of table 1 of § 361.5. If fewer than two seeds are found in an initial examination, the shipment from which the sample was drawn may be entered. If two seeds are found in an initial examination, a second sample must be examined. If two or fewer seeds are found in the second examination, the shipment from which the samples were drawn may be entered. If three or more seeds are found in the second examination, the shipment from which the samples were drawn may not be entered. If three or more seeds are found in an initial examination, the

shipment from which the sample was drawn may not be entered.

(c) Any seed of any noxious weed that can be determined by visual inspection (including the use of transmitted light or dissection) to be within one of the following categories shall be considered inert matter and not counted as a weed seed:

(1) Damaged seed (other than grasses) with over one half of the embryo missing;

(2) Grass florets and caryopses classed as inert:

(i) Glumes and empty florets of weedy grasses;

(ii) Damaged caryopses, including free caryopses, with over one-half the root-shoot axis missing (the scutellum excluded);

(iii) Immature free caryopses devoid of embryo or endosperm;

(iv) Free caryopses of quackgrass (*Elytrigia repens*) that are 2 mm or less in length; or

(v) Immature florets of quackgrass (*Elytrigia repens*) in which the caryopses are less than one-third the length of the palea. The caryopsis is measured from the base of the rachilla.

(3) Seeds of legumes (*Fabaceae*) with the seed coats entirely removed.

(4) Immature seed units, devoid of both embryo and endosperm, such as occur in (but not limited to) the following plant families: buckwheat (*Polygonaceae*), morning glory (*Convolvulaceae*), nightshade (*Solanaceae*), and sunflower (*Asteraceae*).

(5) Dodder (*Cuscuta* spp.) seeds devoid of embryos and seeds that are ashy gray to creamy white in color are inert matter. Dodder seeds should be sectioned when necessary to determine if an embryo is present, as when the seeds have a normal color but are slightly swollen, dimpled, or have minute holes.

[62 FR 48460, Sept. 16, 1997, as amended at 64 FR 12884, Mar. 16, 1999; 65 FR 33743, May 25, 2000; 71 FR 35381, June 20, 2006; 74 FR 53400, Oct. 19, 2009; 75 FR 68956, Nov. 10, 2010]

§ 361.7 Special provisions for Canadian-origin seed and screenings.

(a) In addition to meeting the declaration and labeling requirements of § 361.2 and all other applicable provisions of this part, all Canadian-origin agricultural seed and Canadian-origin vegetable seed imported into the United States from Canada for seeding (planting) purposes or cleaning must be accompanied by a certificate of analysis issued by the Canadian Food Inspection Agency or by a private seed laboratory accredited by the Canadian Food Inspection Agency. Samples of seed shall be drawn using sampling methods comparable to those detailed in § 361.5 of this part. The seed analyst who examines the seed at the laboratory must be accredited to analyze the kind of seed covered by the certificate.

(1) If the seed is being imported for seeding (planting) purposes, the certificate of analysis must verify that the seed meets the noxious weed seed tolerances of § 361.6. Such seed will not be subject to the sampling requirements of § 361.3(b).

(2) If the seed is being imported for cleaning, the certificate of analysis must name the kinds of noxious weed seeds that are to be removed from the lot of seed. Seed being imported for cleaning must be consigned to a facility operated in accordance with § 361.8(a).

(b) Coated or pelleted agricultural seed and coated or pelleted vegetable seed of Canadian origin may be imported into the United States if the seed was analyzed prior to being coated or pelleted and is accompanied by a certificate of analysis issued in accordance with paragraph (a) of this section.

(c) Screenings otherwise prohibited under this part may be imported from Canada if the screenings are imported for processing or manufacture and are consigned to a facility operating under a compliance agreement as provided by § 361.8(b).

(Approved by the Office of Management and Budget under control number 0579–0124)

§ 361.8 Cleaning of imported seed and processing of certain Canadian-origin screenings.

(a) Imported seed that is found to contain noxious weed seeds at a level higher than the tolerances set forth in § 361.6(b) may be cleaned under the monitoring of an APHIS inspector. The cleaning will be at the expense of the owner or consignee.

(1) At the location where the seed is being cleaned, the identity of the seed must be maintained at all times to the satisfaction of the Administrator. The refuse from the cleaning must be placed in containers and securely sealed and identified. Upon completion of the cleaning, a representative sample of the seed will be analyzed by a registered seed technologist, an official seed laboratory, or by APHIS; if the seed is found to be within the noxious weed tolerances set forth in § 361.6(b), the seed may be allowed entry into the United States;

(2) The refuse from the cleaning must be destroyed under the monitoring of an APHIS inspector at the expense of the owner or consignee of the seed.

(3) Any person engaged in the business of cleaning imported seed may enter into a compliance agreement under paragraph (c) of this section to facilitate the cleaning of seed imported into the United States under this part.

(b) Any person engaged in the business of processing screenings who wishes to process screenings imported from Canada under § 361.7(c) that are otherwise prohibited under this part must enter into a compliance agreement under paragraph (c) of this section.

(c) A compliance agreement for the cleaning of imported seed or processing of otherwise prohibited screenings from Canada shall be a written agreement[1] between a person engaged in such a business, the State in which the business operates, and APHIS, wherein the person agrees to comply with the provisions of this part and any conditions imposed pursuant thereto. Any compliance agreement may be canceled orally or in writing by the APHIS inspector who is monitoring its enforcement whenever the inspector finds that the person who entered into the compliance agreement has failed to comply with the provisions of this part or any conditions imposed pursuant thereto. If the cancellation is oral, the decision and the reasons for the decision shall be confirmed in writing, as promptly as circumstances permit. Any person whose compliance agreement has been canceled may appeal the decision to the Administrator, in writing, within 10 days after receiving written notification of the cancellation. The appeal shall state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully canceled. The Administrator shall grant or deny the appeal, in writing, stating the reasons for such decision, as promptly as circumstances permit. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict. Rules of practice concerning such a hearing will be adopted by the Administrator.

[1] Compliance Agreement forms are available without charge from Permit Unit, PPQ, APHIS, 4700 River Road Unit 136, Riverdale, MD 20737–1236, and from local offices of the Plant Protection and Quarantine. (Local offices are listed in telephone directories).

§ 361.9 Recordkeeping.

(a) Each person importing agricultural seed or vegetable seed under this part must maintain a complete record, including copies of the declaration and labeling required under this part and a sample of seed, for each lot of seed imported. Except for the seed sample, which may be discarded 1 year after the entire lot represented by the sample has been disposed of by the person who imported the seed, the records must be maintained for 3 years following the importation.

(b) Each sample of vegetable seed and each sample of agricultural seed must be at least equal in weight to the sample size prescribed for noxious weed seed examination in table 1 of § 361.5.

(c) An APHIS inspector shall, during normal business hours, be allowed to inspect and copy the records.

(Approved by the Office of Management and Budget under control number 0579–0124)

§ 361.10 Costs and charges.

Unless a user fee is payable under § 354.3 of this chapter, the services of an APHIS inspector during regularly assigned hours of duty and at the usual places of duty will be furnished without cost. The U.S. Department of Agriculture's provisions relating to overtime charges for an APHIS inspector's services are set forth in part 354 of this chapter. The U.S. Department of Agriculture will not be responsible for any costs or charges incident to inspections or compliance with this part, other

than for the services of the APHIS inspector during regularly assigned hours of duty and at the usual places of duty. All expenses incurred by the U.S. Department of Agriculture (including travel, per diem or subsistence, and salaries of officers or employees of the Department) in connection with the monitoring of cleaning, labeling, other reconditioning, or destruction of seed, screenings, or refuse under this part shall be reimbursed by the owner or consignee of the seed or screenings.

PART 370—FREEDOM OF INFORMATION

Sec.
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AUTHORITY: 5 U.S.C. 552.

SOURCE: 40 FR 43223, Sept. 19, 1975, unless otherwise noted.

§ 370.1 Scope and purpose.

These regulations are issued pursuant to the Freedom of Information Act, as amended (5 U.S.C. 552), and in accordance with the requirements of the Department of Agriculture regulations in part 1, subpart A of this title. The availability of records of the Animal and Plant Health Inspection Service (APHIS), and the procedures by which the public may obtain such information, shall be governed by the Department regulations as implemented by the regulations in this part. It is the policy of APHIS to be an open agency and to promptly make available for public inspection any records or information which are required to be released under the Act. Material which is exempt from disclosure will also be promptly made available when the Agency in its discretion determines that release of such material is in the public interest.

§ 370.2 Published materials.

Rules and regulations of APHIS relating to its regulatory responsibilities are continuously published in the FEDERAL REGISTER, and codified in this chapter III, title 7, and in 9 CFR chapter I. APHIS issues publications explaining animal and plant health programs and the laws and regulations, including quarantines, under which the programs are conducted. These publications are, for the most part available free from the Office of Governmental and Public Affairs, USDA, Washington, DC 20250; or, in some cases from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, at established rates.

[44 FR 53490, Sept. 14, 1979]

§ 370.3 Index.

Pursuant to the regulations in §1.4(b) of this title, APHIS will maintain and make available for public inspection and copying a current index providing identifying information regarding the materials required to be published or made available under the Freedom of Information Act (5 U.S.C. 552(a)(2)). Notice is hereby given that publication of this index is unnecessary and impracticable, since the material is voluminous and does not change often enough to justify the expense of publication.

§ 370.4 Facilities for inspection and copying.

Facilities for public inspection and copying of the index and materials required to be made available under 5 U.S.C. 552(c)(2) will be provided by APHIS, on business days between 8 a.m. and 4:30 p.m. Requests for this information should be made to the FOIA Coordinator at the following address:

Freedom of Information Act Coordinator, Animal and Plant Health Inspection Service, Legislative and Public Affairs, Freedom of Information, 4700 River Road, Unit 50, Riverdale, Maryland 20737–1231.

Copies of such material may be obtained in person or by mail. Applicable fees for copies will be charged in accordance with the regulations prescribed by the Office of Operations and Finance, USDA, pursuant to §2.75 of this title. See §1.10 and appendix A—Fee Schedule in part 1, subtitle A of this title.

[44 FR 53490, Sept. 14, 1979, as amended at 51 FR 30836, Aug. 29, 1986; 59 FR 67611, Dec. 30, 1994]