

**Agricultural Marketing Service, USDA**

**§ 201.36c**

**§ 201.35 Blank spaces.**

Blank spaces on the label shall be deemed to imply the word "None," when such interpretation is reasonable.

[5 FR 32, Jan. 4, 1940]

**§ 201.36 The words "free" and "none."**

The words "free" and "none" shall be construed to mean that none were found in a test complying with the methods set forth in §§ 201.45–201.52.

[5 FR 32, Jan. 4, 1940]

MODIFYING STATEMENTS

**§ 201.36a Disclaimers and nonwarranties.**

A disclaimer, nonwarranty, or limited warranty used in any invoice or other labeling, or advertisement shall not directly or indirectly deny or modify any information required by the act or the regulations in this part.

[15 FR 2394, Apr. 28, 1950]

ADVERTISING

**§ 201.36b Name of kind and variety; designation as hybrid.**

(a) The representation of the name of a kind or kind and variety of seed in any advertisement subject to the act shall be confined to the name of the kind or kind and variety determined in accordance with § 201.34. The name shall not have associated therewith words or terms that create a misleading impression as to the history or characteristics of the kind or kind and variety. Descriptive terms and firm names may be used in kind or variety names provided the descriptive terms or firm names are a part of the name or variety of seed; for example, Stringless Green Pod, Detroit Dark Red, Black Seeded Simpson and Henderson Bush Lima. Seed shall not be designated as hybrid seed in any advertisement subject to the act unless it comes within the definition of "hybrid" in § 201.2(y).

(b) Terms descriptive as to color, shape, size, habit of growth, disease-resistance, or other characteristics of the kind or variety may be associated with the name of the kind or variety provided it is done in a manner which clearly indicates the descriptive term is not a part of the name of the kind or

variety; for example, Oshkosh pepper (yellow), Copenhagen Market (round head) cabbage, and Kentucky Wonder (pole) garden bean.

(c) Terms descriptive of quality or origin and terms descriptive of the basis for representations made may be associated with the name of the kind or variety: *Provided*, That the terms are clearly identified as being other than part of the name of the kind or variety; for example, Fancy quality redtop, Idaho origin alfalfa, and Grower's affidavit of variety Atlas sorghum.

(d) Terms descriptive of the manner or method of production or processing the seed (for example, certified, registered, delinted, scarified, treated, and hulled), may be associated with the name of the kind or variety of seed, providing such terms are not misleading.

(e) Brand names and terms taken from trademarks may be associated with the name of the kind or variety of seed as an indication of source: *Provided*, That the terms are clearly identified as being other than a part of the name of the kind or variety; for example, Ox Brand Golden Cross sweet corn. Seed shall not be advertised under a trademark or brand name in any manner that may create the impression that the trademark or brand name is a variety name. If seed advertised under a trademark or brand name is a mixture of varieties and if the variety names are not stated in the advertising, a description similar to a varietal description or a comparison with a named variety shall not be used if it creates the impression that the seed is of a single variety.

[21 FR 4652, June 27, 1956, as amended at 32 FR 12780, Sept. 6, 1967; 59 FR 64491, Dec. 14, 1994]

**§ 201.36c Hermetically-sealed containers.**

The 5-month limitation on the date of test in §§ 201.22 and 201.30a shall not apply when the following conditions have been met:

(a) The seed was packaged within 9 months after harvest;

(b) The container used does not allow water vapor penetration through any wall, including the seals, greater than 0.05 grams of water per 24 hours per 100