(2) Mercurials and similarly toxic substances (Environmental Protection Agency Toxicity Category I) include the following:

- Aldrin, technical
- Demeton
- Dieldrin
- p-Dimethylaminobenzenediazo sodium sulfonate
- Endrin
- Ethion
- Heptachlor
- Mercurials, all types
- Parathion
- Phorate
- Toxaphene
- O-Diethyl-O-(isopropyl-4-methyl-6-pyrimidyl) thiophosphate
- O, O-Diethyl-S-2-(ethylthio) ethyl phosphorodithioate

Any amount of such substances remaining with the seed is considered harmful within the meaning of this section.

(d) Other harmful substances. If a substance, other than one which would be classified as a mercurial or similarly toxic substance under paragraph (c) of this section, is used in the treatment of seed, and the amount remaining with the seed is harmful to humans or other vertebrate animals, the seed shall be labeled with an appropriate caution statement in type no smaller than 8 point worded substantially as follows: “Do not use for food,” “Do not use for feed,” “Do not use for oil purposes,” or “Do not use for food, feed, or oil purposes.” Any amount of any substance, not within paragraph (c) of this section, used in the treatment of the seed, which remains with the seed is considered harmful within the meaning of this section when the seed is in containers of more than 4 ounces, except that the following substances shall not be deemed harmful when present at a rate less than the number of parts per million indicated:

- Allethrin—2 p.p.m.
- Malathion—8 p.p.m.
- Methoxychlor—2 p.p.m.
- Pyreonyl butoxide—8 p.p.m. on oat and sorghum and 20 p.p.m. on all other seeds.
- Pyrethrins—1 p.p.m. on oat and sorghum and 3 p.p.m. on all other seeds.

the time of transportation to such establishment, except that if it is
covered by a declaration of origin and/or variety it will be sufficient if the lot
designation appearing in the declaration is placed on the invoice if the seed
is in bulk, or on a label if the seed is in containers, regardless of the quantity.
[24 FR 3953, May 15, 1959]

§ 201.34 Kind, variety, and type; treatment substances; designation as hy-
brid.

(a) Indistinguishable seed and treatment substances. Reasonable pre-
cautions to insure that the kind, variety, or type of indistinguishable agricul-
tural or vegetable seeds and names of any treatment substance are properly
stated shall include the maintaining of the records described in §201.7 or
§201.7a. The examination of the seed and any pertinent facts may be taken
into consideration in determining whether reasonable precautions have
been taken to insure the kind, variety, or type of seed or any treatment sub-
stance on the seed is that which is shown. Reasonable precautions in la-
beling ryegrass seed as to kind shall include making or obtaining the results
of a fluorescence test unless (1) the shortness of the time interval between
receipt of the seed lot and the ship-
ment of the seed in interstate com-
merce, or (2) dormancy of the seeds in
the lot, or (3) other circumstances be-
yond the control of the shipper prevent
such action before the shipment is
made. Reasonable precautions in lab-
eling ryegrass seed as to kind shall also
include keeping separate each lot la-
beled on the basis of a separate grow-
er’s declaration, invoice, or other docu-
ments.

(b) Name of kind. The name of each
kind of agricultural or vegetable seed
is the name listed in §201.2 (h) or (i), re-
spectively, except that a name which
has become synonymous through broad
general usage may be substituted therefor, provided the name does not
apply to more than one kind and is not
misleading.

(c) Hybrid designation. Seed shall not
be designated in labeling as “hybrid”
seed unless it comes within the defini-
tion of “hybrid” in §201.2(y).

(d) Name of variety. The name of each
variety of agricultural or vegetable
seed is the name determined in accord-
ance with the following considerations:

(1) The variety name shall represent
a subdivision of a kind, which is char-
acterized by growth, plant, fruit, seed,
or other characters by which it can be
differentiated from other sorts of the
same kind.

(2) Except as otherwise provided in
this section, the name of a new variety
shall be the name given by the origin-
ator or discoverer of the variety, ex-
cept that in the event the originator or
discoverer of a new unnamed variety,
at the time of the variety is first intro-
duced into channels of commerce of
the United States for sale to the
public, cannot or chooses not to name
the variety, the name of the variety
shall be the first name under which the
seed is introduced into such commerce.
However, if the variety name so pro-
vided is in a language not using the
Roman alphabet, the variety shall be
given a name by the person authorized
under this paragraph to name the vari-
ety, in a language using the Roman al-
phabet.

(3) The variety name shall not be
misleading. The same variety name
shall not be assigned to more than one
variety of the same kind of seed.

(4) The status under the Federal Seed
Act of a variety name is not modified
by the registration of such name as a
trademark.

(5) Names of varieties which through
broad general usage prior to July 28,
1956 were recognized variety names, ex-
cept for hybrid seed corn, shall be con-
sidered variety names without regard
to the principles stated in paragraph
(d)(2) of this section.

(6) The variety name for any variety
of hybrid seed corn first introduced
into commercial channels in the
United States for sale prior to October
20, 1951, shall be any name used for
such variety in such channels prior to
that date. The variety name for any
variety of hybrid seed corn first intro-
duced into commercial channels in the
United States for sale on or after Octo-
ber 20, 1951, shall be the name assigned
in accordance with paragraphs (d)(1)
through (4) of this section.