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

- Aldrin, technical
- Demeton
- Dieldrin
- p-Dimethylaminobenzenediazosulfonate
- 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 and in quantities of 20,000 pounds or more, regardless of the number of lots included, the information required on each container under sections 201 (a), (b), and (i) of the act need not be shown on each container; provided, that: (1) The omission from each container of a label with the required information is with the knowledge and consent of the consignee prior to the transportation or delivery for transportation of such seed in interstate commerce; (2) each container has stenciled upon it or bears a label containing a lot designation; and (3) the invoice or other records accompanying and pertaining to such seed bear the various statements required for the respective seeds.

(b) Seed consigned to a seed cleaning or processing establishment, for cleaning or processing for seeding purposes, need not be labeled to show the information required on each container under sections 201 (a), (b), and (i) of the act if it is in bulk, or in containers and in quantities less than 20,000 pounds and each container bears a label with the words “Seed for processing.” Any such seed is later to be labeled as to origin and/or variety, the origin and/or variety as the case may be, shall be shown on the invoice if the seed is in bulk, otherwise, on a label, at

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§ 201.34 Kind, variety, and type; treatment substances; designation as hybrid.

(a) Indistinguishable seed and treatment substances. Reasonable precautions to insure that the kind, variety, or type of indistinguishable agricultural 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 substance on the seed is that which is shown. Reasonable precautions in labeling rye grass 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 shipment of the seed in interstate commerce, or (2) dormancy of the seeds in the lot, or (3) other circumstances beyond the control of the shipper prevent such action before the shipment is made. Reasonable precautions in labeling rye grass seed as to kind shall also include keeping separate each lot labeled on the basis of a separate grower’s declaration, invoice, or other documents.

(b) Name of kind. The name of each kind of agricultural or vegetable seed is the name listed in §201.2 (h) or (i), respectively, 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 definition 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 accordance with the following considerations:

1. The variety name shall represent a subdivision of a kind, which is characterized 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 originator or discoverer of the variety, except that in the event the originator or discoverer of a new unnamed variety, at the time seed of the variety is first introduced 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 provided 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 variety, in a language using the Roman alphabet.

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, except for hybrid seed corn, shall be considered 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 introduced into commercial channels in the United States for sale on or after October 20, 1951, shall be the name assigned in accordance with paragraphs (d)(1) through (4) of this section.