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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be inserted in an open position with the fingers held closely together while the hand is being inserted and the portion withdrawn.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
Alcea spp.
Alternanthera sessilis (L.) R. Brown ex de Candolle
Archètheu calendulae (Linnaeus) Levyns
Asphodelus fistulosus L.
Avena sterilis (L. (including Avena ludoviciana Durieu)
Azolla pinnata R. Brown
Carpenteria oxypus (M. Bieberstein) Chrysogonum aciculatum (Retzius) Trinian
Commelina benghalensis L.
Craspida vulgaris Cassini
Cuscuta spp.
Digitaria abyssinica (Hochetetter ex A. Richard) Stapf
Digitaria verticilloides (Forsskål) Palisot de Beauvois
Drymaria arenariodes Humboldt & Bonpland ex J.A. Schultes
Eichhornia azuare (Dwartz) Kunth
Enem australis Steinheil
Enem spinosa (L.) Campdena
Euphorbia terracina Linnaeus
Gaioa officinalis L.
Heracleum mantegazzianum Sommier & Leveil
Hydrilla verticillata (Linnaeus f.) Royle
Hygrophila polysperma T. Anderson
Imperata brasiliensis Trinian
Imperata cyldrica (Linnaeus) Palisot de Beauvois
Insula britannica Linnaeus
Ipomea aquatica Forsskal
Ischaemum rugosum Salsbury
Lagarosiphon major (Ridley) Moss
Leptochloa chinensis (L.) Nees
Linnophila sessiliflora (Vahl) Blume
Lycium ferocissimum Miers
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 colina Thunberg
Moraea lucida (Sweet) Steudel
Moraea miniata Andrews
Moraea ochroleuca (Salsbury) Drapiez
Moraea pallida (Baker) Goldblatt
Nassella trichotoma (Nees) Hackel ex Arechavalea
Onopodium ascenens Linnaeus
Onopodium ilicium Linnaeus
Opuntia aurantiaca Lindley
Orobanche spp.
Orzga longistaminata A. Chevalier & Roehrich
Orzga punctata Kotchy ex Steudel
Orzga rufipogon Griffith
Ottelia alismoides (L.) Pers.
Paspalum scrobiculatum L.
Pennisetum clandestinum Hochetetter ex Chiovenda
Pennisetum macraum Trinian
Pennisetum pedicellatum Trinian
Pennisetum polystachion (L.) Schultes
Prosopea alapatux R. A. Philippi
Prosopis argentinus Burkart
Prosopis articulata S. Watson
Prosopis burkarti Munoz
Prosopis caldenia Burkart
Prosopis calingustanzo Burkart
Prosopis campestris Gresebanch
Prosopis castellanii Burkart
Prosopis denudans Bentham
Prosopis elata (Burkart) Burkart
Prosopis faceta (Banks & Solander) J.F. Macbride
Prosopis ferox Gresebanch
Prosopis fiebrigii Harms
Prosopis hassleri Harms
Prosopis humilis Gillies ex Hooker & Arnott
Prosopis kantzei Harms
Prosopis pallida (Humboldt & Bonpland ex Willdenow) Kunth
Prosopis palmeri S. Watson
Prosopis terebraent Bentham var. retractor
Prosopis rojasiana Burkart
Prosopis ruizlealii Burkart
Prosopis rusciolus Grisebanch
Prosopis sieracantha Gillies ex Hooker & Arnott
Prosopis strombulifera (Lamarck) Bentham
Prosopis torquata (Cavanilles ex Lagasca y Segura) de Candolle
Rottbella cochinichinensis (Lour.) W. Clayton
Rubus fruticosus L. (complex)
Rubus moluccanus L.
Sachararum spontaneum L.
Sedgaria sagittifolia L.
Salacca vermiculata L.
Salvina auriculata Aublet
Salvina biloba Raddi
Salvina herzogii de la Sota
Salvina molesta D.S. Mitchell
Seneio inaequidens DC.
Seneio madagascarnensis Poir.
Setaria pumila (Poir.) Roem. & Schult. subsp.
pallidefusca (Schumach.) B.K. Simon
Solanum tampsence Dunal (wetland nightshade)
Solanum terebrum Swartz
Solanum viarum Dunal
Spartium erectum L
Spargacoe 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 plicata)
Cardaria draba (L.) Degy.
Cardaria pubescens (C. A. Mey.) Jarmol.
§ 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) 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 (Elymus repens) that are 2 mm or less in length; or
   (v) Immature florets of quackgrass (Elymus 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.