



Policy Memorandum

To: Stakeholders and Interested Parties

From: Jennifer Tucker, Deputy Administrator

Subject: Impact of Fumigation and Irradiation Requirements on Organic Imports

Date: July 31, 2018
Updated March 20, 2024

This memo is directed at USDA accredited certifiers, certified organic handlers, and also operations that are exempt from certification, as a reminder of the impact of phytosanitary requirements on organic products. In cooperation with the USDA Animal and Plant Health Inspection Service (APHIS) and other federal agencies, the Agricultural Marketing Service (AMS) enforces the USDA organic regulations for domestic and imported organic agricultural products through the National Organic Program (NOP). APHIS sets requirements for the treatment of imports which could carry exotic pests or diseases. This memo outlines the impact of APHIS regulations on the eligibility of products for import into the United States and further sale as organic.

Certifiers and importers are reminded that fumigation with a prohibited substance renders products ineligible for future sale as organic in the United States – and all known fumigants are prohibited for use under the USDA organic regulations ([7 CFR part 205](#)). Irradiation also renders a product ineligible for sale, labeling, or representation as organic in the U.S.

APHIS' Role

Animal and Plant Health Inspection Service (APHIS), Plant Protection and Quarantine (PPQ) safeguards U.S. agriculture and natural resources against the entry, establishment, and spread of economically and environmentally significant pests into and within the United States, and facilitates the safe trade of agricultural products within the U.S. Pursuant to the statutory authority of the Plant Protection Act, 7 U.S.C. 7001 *et seq.*, APHIS prohibits commodities with phytosanitary risk from entering the U.S., regardless of conventional or organic production. AMS continues to work collaboratively with APHIS PPQ to ensure that organic certifiers are aware of APHIS entry requirements and to ensure that certificates are issued only for those plant and plant products that are allowed entry into the United States in accordance with APHIS regulations.

APHIS Import Requirements



APHIS establishes import requirements for live plants and plant products, such as fruits, vegetables, soil, and seeds, because they could introduce exotic pests and diseases not known to occur in the United States. Certain commodities require treatment as a mandatory condition of entry into the United States. Other shipments of regulated agricultural commodities are inspected for compliance with APHIS regulations by U.S. Customs and Border Protection Agriculture Specialists (CBPAS) at U.S. ports of entry. When a CBPAS intercepts a pest during an agricultural inspection, he or she submits the finding to APHIS for identification and a risk determination. If APHIS determines that the pest poses a threat to the United States, APHIS may require the shipment to be treated, re-exported, or destroyed. APHIS establishes treatment requirements for commodities infested with pests.

Fumigation and Irradiation Notification Process

Prior to treating any product due to a pest detection, CBP will notify the responsible parties about the status of the shipment and provide mitigation options, including re-exporting, treating or destroying the shipment. If the responsible party elects to treat the shipment, treatment may involve fumigation with substances such as methyl bromide or ionizing radiation, both of which are prohibited for use in the handling of organic agricultural products. These treatments affect the organic status of imported agricultural products, when:

1. the product is fumigated using a prohibited substance and *that product comes into contact with the fumigating agent*,¹ or
2. the product, in any instance, undergoes treatment using ionizing radiation.

In both cases, imported food products may not be sold, labeled or represented as having been organically produced or handled. The sale or labeling of treated products as organically produced or handled may result in compliance actions against certified operations, as well as monetary civil penalties for knowing violations by any person. Treatments are documented by APHIS and CBP through phytosanitary certificates, fumigation records, and/or Emergency Action Notifications. NOP also receives notifications for fumigated fruits, vegetables, grains, and oilseeds that may have been declared or labeled as organic and imported from various countries. These include products fumigated as a condition of entry.

Upon receiving a shipment with organic agricultural products, the organic importer must ensure the import is accompanied by accurate NOP Import Certificate data and must verify that the shipment has had no contact with prohibited substances pursuant to § 205.272 or exposure to ionizing radiation pursuant to § 205.105, since export. The organic importer must have a documented organic control system to conduct this verification. (7 CFR 205.273(d))

The NOP will continue to work with APHIS and other federal partners to ensure the integrity of organic products around the world. Our efforts seek to enhance notifications to trade, improve identification of organic imports, and support increased transparency through data analysis.

¹ For example, products whose packaging may be infested with a plant pest but are themselves fully enclosed in a sealed container at the time of fumigation would not come into contact with a fumigant.



References

Organic Foods Productions Act of 1990, as amended

7 U.S.C. 6505 Compliance Requirements

(A) A person may sell or label an agricultural product as organically produced only if such product is produced and handled in accordance with this chapter; and

(B) no person may affix a label to, or provide other market information concerning, an agricultural product if such label or information implies, directly or indirectly, that such product is produced and handled using organic methods, except in accordance with this chapter.

USDA Organic Regulations (7 CFR Part 205)

§ 205.100 What has to be certified.

(c) Any person or responsibly connected person that:

(1) Knowingly sells or labels a product as organic, except in accordance with the Act, shall be subject to a civil penalty of not more than the amount specified in § 3.91(b)(1) of this title per violation.

§ 205.101 Exemptions from certification.

§ 205.105 Allowed and prohibited substances, methods, and ingredients in organic production and handling.

To be sold or labeled as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s)),” the product must be produced and handled without the use of:

(a) Synthetic substances and ingredients, except as provided in § 205.601 or § 205.603.

...

(f) Ionizing radiation, as described in Food and Drug Administration regulation, 21 CFR 179.26.

§ 205.272 Commingling and contact with prohibited substance prevention practice standard.

(a) The handler of an organic handling operation must implement measures necessary to prevent the commingling of organic and nonorganic products and protect organic products from contact with prohibited substances.



(b) The following are prohibited for use in the handling of any organically produced agricultural product or ingredient labeled in accordance with subpart D of this part:

- (1) Packaging materials, and storage containers, or bins that contain a synthetic fungicide, preservative, or fumigant;
- (2) The use or reuse of any bag or container that has been in contact with any substance in such a manner as to compromise the organic integrity of any organically produced product or ingredient placed in those containers, unless such reusable bag or container has been thoroughly cleaned and poses no risk of contact of the organically produced product or ingredient with the substance used.

§ 205.273 Imports to the United States.

(d) Upon receiving a shipment with organic agricultural products, the organic importer must ensure the import is accompanied by accurate NOP Import Certificate data and must verify that the shipment has had no contact with prohibited substances pursuant to § 205.272 or exposure to ionizing radiation pursuant to § 205.105, since export. The organic importer must have a documented organic control system to conduct this verification.

National List of Allowed and Prohibited Substances

The National List of Allowed and Prohibited Substances—a portion of the USDA organic regulations—identifies the synthetic substances that may be used and the nonsynthetic (natural) substances that may not be used in organic crop and livestock production. In addition, it identifies a limited number of non-organic substances that may be used in or on processed organic products.

<https://www.ams.usda.gov/rules-regulations/organic/national-list>

7 U.S.C. 7701 Plant Protection Act

Congress finds that—

- (1) the detection, control, eradication, suppression, prevention, or retardation of the spread of plant pests or noxious weeds is necessary for the protection of the agriculture, environment, and economy of the United States;
- (2) biological control is often a desirable, low-risk means of ridding crops and other plants of plant pests and noxious weeds, and its use should be facilitated by the Department of Agriculture, other Federal agencies, and States whenever feasible;



(3) it is the responsibility of the Secretary to facilitate exports, imports, and interstate commerce in agricultural products and other commodities that pose a risk of harboring plant pests or noxious weeds in ways that will reduce, to the extent practicable, as determined by the Secretary, the risk of dissemination of plant pests or noxious weeds.

APHIS Guidance Documents

Certifiers can determine which plants and plant products are allowed entry into the United States by reviewing various APHIS guidance documents, such as the Agricultural Commodity Import Requirements (ACIR) database and the Plants for Planting Manual:

1. The [Agricultural Commodity Import Requirements \(ACIR\)](#) database provides a simple search interface for finding and displaying import requirements for agricultural commodities.
2. The [Plants for Planting Manual](#) is used for regulating imported material of plants and vegetative parts that are capable of propagation.

Alternatively, certifiers can contact APHIS' Permit Services Call Center for guidance and information about entry requirements by calling toll-free (877) 770-5990. Certifiers can also contact the Call Center by email at plantproducts.permits@usda.gov.