



Policy Memorandum

To: Stakeholders and Interested Parties

From: Jennifer Tucker, Deputy Administrator

Subject: Impact of Prohibited Grain Seed Regulations on Organic Imports

Date: July 31, 2018

This memo is directed at USDA accredited certifiers and importers of organic products, including certified organic handlers and other operations that are excluded from certification (e.g., brokers), as a reminder of the impact of phytosanitary requirements on imported 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 prohibits certain commodities from other countries from entering the United States because they could carry harmful plant pests or diseases that could devastate U.S. agriculture and natural resources. 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 certain grains and seeds from specific countries are prohibited entry into the United States due to phytosanitary risks, as described below.

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. U.S. Customs and Border Protection Agriculture Specialists (CBPAS) at U.S. ports of entry inspect regulated agriculture shipments for compliance with APHIS regulations.

Prohibited Entry of Certain Grains and Seeds

APHIS prohibits entry into the United States of certain grains and seeds, such as corn and wheat seed from Kazakhstan, Russia, and Ukraine in Eastern Europe. Certifiers are responsible for verifying the admissibility of commodities exported by the foreign operations they certify. Certifiers should not issue transaction certificates for commodities that are prohibited entry into the United States. Prohibited commodities may be re-exported or destroyed upon arrival in the United States by U.S. Customs authorities.

If a country would like to export a currently prohibited commodity to the United States, the National Plant Protection Organization of that country must contact APHIS to initiate the commodity import approval process. That organization should send a written request to: Phytosanitary Issues Management, Plant Protection and Quarantine, USDA APHIS, 4700 River Road, Unit 140, Riverdale, MD 20737-1236.

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.

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)

7 CFR § 205.100 What has to be certified.



(c) Any operation 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.

7 CFR §205.101 Exemptions and exclusions from certification.

(b) Exclusions.

(1) A handling operation or portion of a handling operation is excluded from the requirements of this part, except for the requirements for the prevention of commingling and contact with prohibited substances as set forth in §205.272 with respect to any organically produced products, if such operation or portion of the operation only sells organic agricultural products labeled as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s))” that:

(i) Are packaged or otherwise enclosed in a container prior to being received or acquired by the operation; and

(ii) Remain in the same package or container and are not otherwise processed while in the control of the handling operation.

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 Miscellaneous and Processed Products Manual, Plants for Planting Manual, and Seeds Not for Planting Manual.

Below is a link to each guidance document and a general description of the information each contains.

1. The [Miscellaneous and Processed Products Import Manual](#) is used for regulating imported items that are processed and are not intended for propagation. To search this manual, click on the “search” icon on the left of the screen and enter the name of the commodity in the search box. Hits on the search appear in the box below the search box. Click on each hit to locate pages in the Miscellaneous and Processed Products Import Manual where this commodity is referenced. Review each page corresponding to each hit for import guidance.
2. The [Plants for Planting Manual](#) is used for regulating imported items that are intended for propagation. To search this manual, click on the “search” icon on the left of the screen and enter the name of the commodity in the search box. Hits on the search appear in the box below the search box. Click on each hit to locate pages in the Plants for Planting Manual where this commodity is referenced. Review each page corresponding to each hit for import guidance.
3. The [Seeds Not for Planting Manual](#) is used for regulating importations of unprocessed seeds that are imported for consumption and are not intended for planting. To search this manual, click on the “search” icon on the left of the screen and enter the name of the commodity in the search box. Hits on the search appear in the box below the search box. Click on each hit to locate pages in the Seeds not for Planting Manual where this commodity is referenced. Review each page corresponding to each hit for import guidance.

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 fax at (301) 734-5786 or by email at plantproducts.permits@aphis.usda.gov.

USDA Phytosanitary Regulations (7 CFR Part 319)

7 CFR § 319.24 Corn Diseases

- (c) Except as otherwise provided in this subpart, the importation into the United States of raw or unmanufactured corn seed and all other portions of Indian corn or maize and



related plants, including all species of teosinte (*Euchlaena*), jobs-tears (*Coix*), *Polytoca*, *Chionachne*, and *Sclerachne*, from southeastern Asia (including India, Indochina, and the People's Republic of China), Malayan Archipelago, Australia, New Zealand, Oceania, Philippine Islands, Manchuria, Japan, and adjacent islands is prohibited. However, this prohibition does not apply to importations of such items for experimental, therapeutic, or developmental purposes under the conditions specified in a controlled import permit issued in accordance with §319.6.

7 CFR § 319.41 Indian Corn or Maize, Broomcorn, and Related Plants

(a) ... Dangerous plant pests, including the so-called European corn borer (*Ostrinia nubilalis* Hubn.), and also other dangerous insects, as well as plant diseases not heretofore widely prevalent or distributed within and throughout the United States, exist, as to one or more of such pests, in Europe, Asia, Africa, Dominion of Canada, Mexico, Central and South America, and other foreign countries and localities, and may be introduced into this country through importations of the stalks or other parts of Indian corn or maize, broomcorn, and related plants.

(b) To prevent the introduction of these plant pests, the following articles may not be imported into the United States except in accordance with this subpart: The raw or unmanufactured stalk and all other parts of Indian corn or maize (*Zea mays* L.), broomcorn (*Andropogon sorghum* var. *technicus*), sweet sorghums (*Andropogon sorghum*), grain sorghums (*Andropogon sorghum*), Sudan grass (*Andropogon sorghum sudanensis*), Johnson grass (*Andropogon halepensis*), sugarcane (*Saccharum officinarum*), including Japanese varieties, pearl millet (*Pennisetum glaucum*), napier grass (*Pennisetum purpureum*), teosinte (*Euchlaena luxurians*), and jobs-tears (*Coix lachryma-Jobi*).

7 CFR § 319.59 Wheat Diseases

The articles listed in paragraph (a) of this section from the countries and localities listed in paragraph (b) of this section are prohibited from being imported or offered for entry into the United States, except as provided in §319.59-2(b), pending the completion of an evaluation by APHIS of the potential pest risks associated with the articles. The national plant protection organization of any listed country or locality may contact APHIS to initiate the preparation of a risk evaluation. If supported by the results of the risk evaluation, APHIS will take action to remove that country or locality from the list in paragraph (b) of this section.

(a) The following articles of *Triticum* spp. (wheat) or of *Aegilops* spp. (barb goatgrass, goatgrass): Straw (other than straw, with or without heads, which has been processed or manufactured for use indoors, such as for decorative purposes or for use in toys); chaff; and products of the milling process (i.e., bran, shorts, thistle sharps, and pollards) other than flour.



(b) Afghanistan, Algeria, Armenia, Australia, Azerbaijan, Bangladesh, Belarus, Bulgaria, Chile, China, Cyprus, Egypt, Estonia, Falkland Islands, Georgia, Greece, Guatemala, Hungary, India, Iran, Iraq, Israel, Italy, Japan, Kazakhstan, Kyrgyzstan, Latvia, Libya, Lithuania, Moldova, Morocco, Nepal, North Korea, Oman, Pakistan, Portugal, Romania, Russia, Spain, Tajikistan, Tanzania, Tunisia, Turkey, Turkmenistan, South Africa, South Korea, Ukraine, Uzbekistan, and Venezuela.