§ 305.9 Irradiation treatment requirements.

Irradiation, carried out in accordance with the provisions of this section, is approved as a treatment for any imported regulated article (i.e., fruits, vegetables, cut flowers, and foliage); for any regulated article moved interstate from Hawaii, Puerto Rico, the U.S. Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands (referred to collectively, in this section, as Hawaii and U.S. territories); for any berry, fruit, nut, or vegetable listed as a regulated article in § 301.32–2(a) of this chapter; and for any regulated article listed in 301.76–2 of this chapter and intended for consumption, as apparel or as a similar personal accessory, or for decorative use.

(a) Location of facilities. (1) Where certified irradiation facilities are available, an approved irradiation treatment may be conducted for any imported regulated article either prior to shipment to the United States or in the United States. For any regulated article moved interstate from Hawaii or U.S. territories, irradiation treatment may be conducted either prior to movement to the mainland United States or in the mainland United States. For articles that are imported or moved interstate from Hawaii or U.S. territories, irradiation facilities may be located in any State on the mainland.
United States except Alabama, Arizona, California, Florida, Kentucky, Louisiana, Nevada, New Mexico, South Carolina, Tennessee, Texas, and Virginia. In the States of Georgia, Mississippi, and North Carolina, irradiation facilities may only be located at the maritime ports of Gulfport, MS, or Wilmington, NC, or the airport of Atlanta, GA, and only if the following special conditions are met: The articles to be irradiated must be imported or moved interstate packaged in accordance with paragraph (c) of this section; the irradiation facility and APHIS must agree in advance on the route by which shipments are allowed to move between the vessel on which they arrive and the irradiation facility; untreated articles may not be removed from their packaging prior to treatment under any circumstances; blacklight or sticky paper must be used within the irradiation facility, and other trapping methods, including APHIS-approved fruit fly traps, must be used within the 4 square miles surrounding the facility; and the facility must have contingency plans, approved by APHIS, for safely destroying or disposing of regulated articles. Prior to treatment, the fruits and vegetables to be irradiated may not move into or through any of the States listed in this paragraph, except that movement is allowed through Dallas/Fort Worth, TX, as an authorized stop for air cargo, or as a transloading location for shipments that arrive by air but that are subsequently transloaded into trucks for overland movement from Dallas/Fort Worth into an authorized State by the shortest route.

(2) For articles that are moved interstate from areas quarantined for fruit flies, irradiation facilities may be located either within or outside of the quarantined area. If the articles are treated outside the quarantined area, they must be accompanied to the facility by a limited permit issued in accordance with §301.32-5 of this chapter and must be moved in accordance with any safeguards determined to be appropriate by APHIS.

(3) For articles that are moved interstate from areas quarantined only for Asian citrus psyllid and not for citrus greening, irradiation facilities must be located within an area that is not quarantined for citrus greening.

(b) Approved facilities. The irradiation treatment facility must be approved by APHIS. In order to be approved, a facility must fulfill the requirements in paragraphs (c) and (d) of this section.

(c) Compliance agreements. (1) Irradiation facilities treating imported articles. (i) Compliance agreements with importers and facility operators for irradiation in the United States. If irradiation of imported articles is conducted in the United States, both the importer and the operator of the irradiation facility must sign compliance agreements with APHIS. In the facility compliance agreement, the facility operator must agree to comply with any additional requirements found necessary by APHIS to prevent the escape, prior to irradiation, of any pests of concern that may be associated with the articles to be irradiated. In the importer compliance agreement, the importer must agree to comply with any additional requirements found necessary by APHIS to ensure the shipment is not diverted to a destination other than an approved treatment facility and to prevent escape of plant pests from the articles to be irradiated during their transit from the port of first arrival to the irradiation facility in the United States.

(ii) Compliance agreement with irradiation facilities outside the United States. If irradiation of imported articles is conducted outside the United States, the operator of the irradiation facility must sign a compliance agreement with APHIS and the national plant protection organization (NPPO) of the country in which the facility is located. In this agreement, the facility operator must agree to comply with the requirements of this section, and the NPPO of the country in which the facility is located must agree to monitor that compliance and to inform the Administrator of any noncompliance.

(2) Irradiation facilities treating articles moved interstate from Hawaii and U.S. territories. Irradiation facilities treating articles moved interstate from Hawaii and U.S. territories must complete a compliance agreement with APHIS as provided in §318.13-3(d) of this chapter.
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(3) Irradiation facilities treating articles moved interstate from areas quarantined for fruit flies. Irradiation facilities treating articles moved interstate from areas quarantined for fruit flies must complete a compliance agreement with APHIS as provided in §301.32-6 of this chapter.

(4) Irradiation facilities treating articles moved interstate from areas quarantined only for Asian citrus psyllid, and not for citrus greening, must complete a compliance agreement with APHIS as provided in §301.76-8 of this chapter.

(d) Certified facility. The irradiation treatment facility must be certified by APHIS. Recertification is required in the event of an increase in the amount of radioisotope, a decrease in the amount of radioisotope for a reason other than natural decay, a major modification to equipment that affects the delivered dose, or a change in the owner or managing entity of the facility. Recertification also may be required in cases where a significant variance in dose delivery has been measured by the dosimetry system. In order to be certified, a facility must:

(1) Be capable of administering the minimum absorbed ionizing radiation doses specified in the PPQ Treatment Manual or in another treatment schedule approved in accordance with §305.2 to the regulated articles;

(2) Be constructed so as to provide physically separate locations for treated and untreated articles, except that articles traveling by conveyor directly into the irradiation chamber may pass through an area that would otherwise be separated. The locations must be separated by a permanent physical barrier such as a wall or chain link fence 6 or more feet high to prevent transfer of cartons, or some other means approved during certification to prevent reinfestation of articles and spread of pests.

(3) If the facility is to be used to treat imported articles and is located in the United States, the facility will only be certified if APHIS determines that regulated articles will be safely transported to the facility from the port of arrival without significant risk that plant pests will escape in transit or while the regulated articles are at the facility.

(e) Monitoring and interagency agreements. Treatment must be monitored by an inspector. This monitoring will include inspection of treatment records and unannounced inspections of the facility by an inspector, and may include inspection of articles prior to or after irradiation.

(1) Irradiation facilities treating imported articles; irradiation treatment framework equivalency workplan. The NPPO of a country from which articles are to be imported into the United States in accordance with this section must sign a framework equivalency workplan with APHIS. In this plan, both the NPPO and APHIS will specify the following items for their respective countries:

(A) Citations for any requirements that apply to the importation of irradiated fruits and vegetables;

(B) The type and amount of inspection, monitoring, or other activities that will be required in connection with allowing the importation of irradiated fruits and vegetables into that country; and

(C) Any other conditions that must be met to allow the importation of irradiated fruits and vegetables into that country.

(2) Irradiation facilities located in foreign countries. Facilities in foreign countries that carry out irradiation operations must notify the Director of Preclearance, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737-1236, of scheduled operations at least 30 days before operations commence, except where otherwise provided in the facility preclearance workplan. To ensure the appropriate level of monitoring, before articles may be imported in accordance with this section, the following agreements must be signed, in addition to the irradiation treatment framework equivalency workplan required in paragraph (e)(1) of this section:

(i) Facility preclearance workplan. Prior to commencing importation into the United States of articles treated at

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1 The maximum absorbed ionizing radiation dose and the irradiation of food is regulated by the Food and Drug Administration under 21 CFR part 179.
a foreign irradiation facility, APHIS and the NPPO of the country from which articles are to be imported must jointly develop a preclearance workplan that details the activities that APHIS and the foreign NPPO will carry out in connection with each irradiation facility to verify the facility’s compliance with the requirements of this section. Typical activities to be described in this workplan may include frequency of visits to the facility by APHIS and foreign plant protection inspectors, methods for reviewing facility records, and methods for verifying that facilities are in compliance with the requirements for separation of articles, packaging, labeling, and other requirements of this section. This facility preclearance workplan will be reviewed and renewed by APHIS and the foreign NPPO on an annual basis.

(ii) Trust fund agreement. Irradiated articles may be imported into the United States in accordance with this section only if the NPPO of the country in which the irradiation facility is located or a private export group has entered into a trust fund agreement with APHIS. That agreement requires the NPPO or the private export group to pay, in advance of each shipping season, all costs that APHIS estimates it will incur in providing inspection and treatment monitoring services at the irradiation facility during that shipping season. Those costs include administrative expenses and all salaries (including overtime and the Federal share of employee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by APHIS in performing these services. The agreement will describe the general nature and scope of APHIS services provided at irradiation facilities covered by the agreement, such as whether APHIS inspectors will monitor operations continuously or intermittently, and will generally describe the extent of inspections APHIS will perform on articles prior to and after irradiation. The agreement requires the NPPO or private export group to deposit a certified or cashier’s check with APHIS for the amount of those costs, as estimated by APHIS. If the deposit is not sufficient to meet all costs incurred by APHIS, the agreement further requires the NPPO or the private export group to deposit with APHIS a certified or cashier’s check for the amount of the remaining costs, as determined by APHIS, before any more articles irradiated in that country may be imported into the United States. After a final audit at the conclusion of each shipping season, any overpayment of funds would be returned to the NPPO or the private export group or held on account until needed, at the option of the NPPO or the private export group.

(3) Irradiation facilities located within the United States. Facilities located within the United States must notify an inspector at least 24 hours (excluding Saturday, Sunday, and Federal holidays) before scheduled operations. If the facility will be used to treat imported articles, the NPPO of the country from which the articles are to be imported into the United States in accordance with this section must also sign the irradiation treatment framework equivalency workplan required in paragraph (e)(1) of this section.

(f) Packaging. Articles that are irradiated in accordance with this section must be packaged in cartons in the following manner:

(1) Irradiated articles may not be packaged for shipment in a carton with nonirradiated articles.

(2) For all imported articles irradiated prior to arrival in the United States, all articles moved interstate from Hawaii or U.S. territories and irradiated prior to arrival in the mainland United States, and all regulated articles to be moved interstate from an area quarantined for fruit flies or Asian citrus psyllid that are treated within the quarantined area:

(i) The fruits and vegetables must be packaged either:

(A) In insect-proof cartons that have no openings that will allow the entry of the pests of concern. The cartons must be sealed with seals that will visually indicate if the cartons have been opened. The cartons may be constructed of any material that prevents...
entry or oviposition (if applicable) by
the pests of concern into the articles in
the carton;³ or
(B) In noninsect-proof cartons that
are stored immediately after irradia-
tion in a room completely enclosed by
walls or screening that completely pre-
cudes access by the pests of concern. If
stored in noninsect-proof cartons in a
room that precludes access by the pests
of concern, prior to leaving the room,
each pallet of cartons must be com-
pletely enclosed in polyethylene shrink
wrap, or another solid or netting cov-
ering that completely precludes access
to the cartons by the pests of concern.

(i) To preserve the integrity of treat-
ed lots, each pallet-load of cartons con-
taining the fruits and vegetables must
be secured before leaving the irradia-
tion facility in one of the following
ways:
(A) With polyethylene shrink wrap;
(B) With net wrapping; or
(C) With strapping.

(ii) Packaging must be labeled in a
manner that allows an inspector to de-
termine treatment lot numbers, pack-
ing and treatment facility identifica-
tion and location, and dates of packing
and treatment.

(A) For imported articles that are
-treated prior to arrival in the United
States, pallets that remain intact as
one unit until entry into the United
States may have one such label per pal-
let. Pallets that are broken apart into
smaller units prior to or during entry
into the United States, or that will be
broken apart into smaller units after
entry into the United States, or moved
interstate from areas
quarantined for fruit flies or Asian cit-
rus psyllid to be irradiated outside the
quarantined area, the articles must be
packed in cartons that have no open-
ings that will allow the exit of the
pests of concern and that are sealed
with seals that will visually indicate if
the cartons have been opened. They
may be constructed of any material
that prevents the pests of concern from
exiting the carton. Cartons of un-
treated articles must be shipped in
shipping containers sealed prior to
their shipment with seals that will vis-
ually indicate if the shipping con-
tainers have been opened.

(g) Containers or vans. Containers or
vans that will transport treated arti-
cles must be free of pests of concern
prior to loading the treated articles.

(b) Certification of treatment for articles
treated outside the United States. For
each consignment treated in an irra-
diation facility outside the United
States, a phytosanitary certificate,
with the treatment section completed
and issued by the NPPO, must accom-
pany the consignment.

(i) Dosage. The regulated articles
must receive the minimum absorbed
ionizing radiation dose specified in the
PPQ Treatment Manual or in another
approved treatment schedule.

(j) Dosimetry systems at the irradia-
tion facility. (1) Dosimetry must indicate
the doses needed to ensure that all the
articles will receive the minimum dose
prescribed.

(2) The absorbed dose, as measured
using an accurate dosimetry system,
must meet or exceed the absorbed dose
for the pest(s) of concern required by
the PPQ Treatment Manual or by an-
other approved treatment schedule.

(3) When designing the facility’s do-
simetry system and procedures for its
operation, the facility operator must

³ If there is a question as to the adequacy
of a carton, send a request for approval of
the carton, together with a sample carton, to
the Animal and Plant Health Inspection
Service, Plant Protection and Quarantine,
Center for Plant Health Inspection and Tech-
nology, 1730 Varsity Drive, Suite 400, Ra-
leigh, NC 27606-5202.
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address guidance and principles from the International Standards Organization/American Society for Testing and Materials standard or an equivalent standard recognized by APHIS.

(k) Records. An irradiation processor must maintain records of each treated lot for 1 year following the treatment date, and must make these records available for inspection by an inspector during normal business hours (8 a.m. to 4:30 p.m., Monday through Friday, except holidays). These records must include the lot identification, scheduled process, evidence of compliance with the scheduled process, ionizing energy source, source calibration, dosimetry, dose distribution in the product, and the date of irradiation.

(l) Request for initial certification and inspection of facility. Persons requesting initial certification of an irradiation treatment facility must submit the request for approval in writing to the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Center for Plant Health Inspection and Technology, 1730 Varsity Drive, Suite 400, Raleigh, NC 27606-5202. The initial request must identify the owner, location, and radiation source of the facility, and the applicant must supply additional information about the facility construction, treatment protocols, and operations upon request by APHIS if APHIS requires additional information to evaluate the request. Before the Administrator determines whether an irradiation facility is eligible for certification, an inspector will make a personal inspection of the facility to determine whether it complies with the standards of this section.

(m) Denial and withdrawal of certification. (1) The Administrator will withdraw the certification of any irradiation treatment facility upon written request from the irradiation processor.

(2) The Administrator will deny or withdraw certification of an irradiation treatment facility when any provision of this section is not met. Before withdrawing or denying certification, the Administrator will inform the irradiation processor in writing of the reasons for the proposed action and provide the irradiation processor with an opportunity to respond. The Administrator will give the irradiation processor an opportunity for a hearing regarding any dispute of a material fact, in accordance with rules of practice that will be adopted for the proceeding. However, the Administrator will suspend certification pending final determination in the proceeding if he or she determines that suspension is necessary to prevent the spread of any dangerous insect. The suspension will be effective upon oral or written notification, whichever is earlier, to the irradiation processor. In the event of oral notification, written confirmation will be given to the irradiation processor within 10 days of the oral notification. The suspension will continue in effect pending completion of the proceeding and any judicial review of the proceeding.

(n) Department not responsible for damage. This treatment is approved to assure quarantine security against the plant pests listed in the PPQ Treatment Manual or the plant pests for which another treatment schedule is approved in accordance with §305.2. From the literature available, the articles authorized for treatment under this section are believed tolerant to the treatment; however, the facility operator and shipper are responsible for determination of tolerance. The Department of Agriculture and its inspectors assume no responsibility for any loss or damage resulting from any treatment prescribed or monitored. Additionally, the Nuclear Regulatory Commission is responsible for ensuring that irradiation facilities are constructed and operated in a safe manner. Further, the Food and Drug Administration is responsible for ensuring that irradiated foods are safe and wholesome for human consumption.

(o) Substitution of irradiation for other treatments. Treatment of fruits and vegetables that are from foreign localities, from Hawaii, Puerto Rico, and the U.S. Virgin Islands, or from domestic areas under quarantine with irradiation in accordance with this section may be substituted for other approved...
treatments if the target pests of the other approved treatments are approved for treatment with irradiation in the PPQ Treatment Manual or approved for treatment with irradiation in accordance with §305.2.

(Approved by the Office of Management and Budget under control numbers 0579-0155, 0579-0215, and 0579-0198)

§ 318.13–1 Notice of quarantine.
(a) Under the authority of section 412 of the Plant Protection Act, the Secretary of Agriculture may prohibit or restrict the movement in interstate commerce of any plant or plant product if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction into the United States or the dissemination within the United States of a plant pest or noxious weed.
(b) The Secretary has determined that it is necessary to prohibit the interstate movement of cut flowers and fruits and vegetables and plants and portions of plants from Hawaii, Puerto Rico, the U.S. Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands except as provided in this subpart or as provided in “Subpart—Territorial Cotton, Cottonseed, and Cottonseed Products” and “Subpart—Sand, Soil, or Earth, with Plants From Territories and Districts.”

§ 318.30a Administrative instructions authorizing movement from Puerto Rico of certain sweetpotatoes grown under specified conditions.

Subpart—Territorial Cotton, Cottonseed, and Cottonseed Products

§ 318.47 Notice of quarantine.

Subpart—Sand, Soil, or Earth, with Plants From Territories and Districts

§ 318.60 Notice of quarantine.


SOURCE: 24 FR 10777, Dec. 29, 1959, unless otherwise noted.

Subpart—Regulated Articles From Hawaii and the Territories

§ 318.13–1 Notice of quarantine.

(a) Under the authority of section 412 of the Plant Protection Act, the Secretary of Agriculture may prohibit or restrict the movement in interstate commerce of any plant or plant product if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction into the United States or the dissemination within the United States of a plant pest or noxious weed.

(b) The Secretary has determined that it is necessary to prohibit the interstate movement of cut flowers and fruits and vegetables and plants and portions of plants from Hawaii, Puerto Rico, the U.S. Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands except as provided in this subpart or as provided in "Subpart—Territorial Cotton, Cottonseed, and Cottonseed Products" and "Subpart—Sand, Soil, or Earth, with Plants From Territories and Districts.”

§ 318.30 Notice of quarantine.