

Questions and Answers on the Quarantine 56 Revision

Q. What are Quarantine 56 regulations?

A. The U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) has the authority to establish regulations to protect the health of U.S. agriculture and to prevent the spread of plant pests and diseases into the United States. Under this authority, APHIS developed regulations that are contained in Title 7 of the Code of Federal Regulations, beginning at section 319.56. As a set, these regulations—commonly referred to as Quarantine 56 or Q56—pertain to the prohibitions and restrictions concerning the importation of fruits and vegetables into the United States.

Q. Why did APHIS revise Q56?

A. APHIS updated these regulations to establish criteria to allow for faster, more efficient approval of certain fruits and vegetables for importation. Specifically, these revisions eliminated the need for formal rulemaking to approve the importation of those fruits and vegetables with risks that can be mitigated by using one or more of five designated phytosanitary measures. The approval for importing all other fruits and vegetables still requires completing the full rule-making process.

In addition, the revised regulations eliminate outdated requirements and redundancies to improve their overall clarity. In fact, many of the revisions to Q56 were to make the regulations easier to understand.

Q. Under the Q56 revisions, how can eligible fruits and vegetables be considered and approved for import?

A. As an alternative to undergoing the formal rulemaking-based process, imports that are eligible can now be approved through a notice-based process. As with the rulemaking-based process, a pest-risk analysis must first be conducted for new fruits or vegetables considered for importation. However, if the risk analysis shows that the commodity's risk can be sufficiently mitigated by one or more of the five designated phytosanitary measures, a notice announcing the availability of the pest-risk analysis is published in the *Federal Register* to allow for public comment for

60 days. Barring substantive comments that disprove the findings of the pest-risk analysis, a notice is then published in the *Federal Register* to announce that APHIS will begin issuing import permits for the commodity.

Q. What are the five designated phytosanitary measures that allow a commodity to be approved under the notice-based process?

A. To be eligible for approval under the notice-based process, a commodity's pest risk must be sufficiently mitigated by one or more of the following five designated phytosanitary measures:

- Port-of-entry inspection;
- Limiting entry to commercial shipments only;
- Use of approved postharvest treatment;
- A phytosanitary certificate accompanying the commodity, attesting that it originated from a pest-free area; or
- A phytosanitary certificate accompanying the commodity, attesting that it is free from a specific pest or pests.

Imports that require more complex risk-mitigation methods continue to be subject to the full rulemaking process.

Q. Did the Q56 revisions make any other substantive changes?

A. Yes. The rule established a framework for a notice-based process for approving pest-free areas in exporting countries. This process, which is similar to the commodity approval process described above, allows the agency to be more responsive in recognizing changes in the pest-free status of foreign areas. In the past, APHIS recognized changes in the pest-free status of countries via rulemaking. The new and more efficient notice-based process will enable APHIS' oversight of imports to better reflect the actual pest status of areas in foreign countries.

Using the notice-based process, APHIS will publish a notice in the *Federal Register* announcing that an exporting country has provided information that meets or exceeds the pest-free criteria listed in 7 CFR 319.56-5, and that APHIS officials have completed an evaluation of the request. The notice will be available for public comment for 60 days. At the time the notice is published, APHIS will also make copies of the supporting information available. Once all comments have been considered, APHIS will, if still warranted, publish a notice in the *Federal Register* stating that the agency is recognizing the areas as free of specified pests.

The rule also makes minor changes to current import regulations for various commodities.

Q. Do the new processes under the revised Q56 regulations compromise the safety of imports?

A. No. All fruit and vegetable imports continue to undergo the same rigorous risk-analysis process as they did under the previous Q56 regulation. The Q56 revisions did not change which fruits and vegetables are approved for importation or alter how the risks associated with those commodities are evaluated or mitigated. The revisions only made the approval process more efficient for those fruits and vegetables that are safe for importation under the notice-based process.

Q. Will APHIS only use the notice-based approval process to review and approve fruits and vegetables for entry?

A. No. Imports that do not meet the criteria for notice-based approval will still be eligible for consideration; however, they must be handled through the rulemaking process. Essentially, any commodity with risks that require complex risk-mitigation measures must undergo full rulemaking. Only commodities that can be imported safely by applying one or more of the five designated phytosanitary measures are allowed to proceed under the notice-based system.

Q. How will the Q56 revisions improve APHIS' operations?

A. The Q56 revisions will simplify and expedite APHIS' process for approving new imports and pest-free areas while continuing to allow for public participation in agency decisionmaking. With the more efficient processes now in place, APHIS officials can redirect substantial resources toward the more complex import issues that must be handled under the rulemaking process.

Q. Will the changes in how APHIS approves new imports and pest-free areas have an effect on exports?

A. APHIS is obligated under an agreement with the World Trade Organization to approve import requests with legitimate phytosanitary controls and procedures "without undue delay." APHIS estimates that it takes a minimum of 18 months to evaluate and approve new import requests under the rulemaking-based system. In reality, the process typically takes 2 to 3 years and longer in some cases.

Unfortunately, some foreign countries viewed the lengthy and cumbersome approval process as a trade barrier and responded by slowing the approval of U.S. exports into foreign markets. Under the Q56 revisions, APHIS' more efficient process for approving imports should help alleviate trade barriers to U.S. exports and give the United States needed leverage to insist that other countries undertake similar innovations.

Q. How can I find out more information on the new Q56 regulations?

A. For more information on the Q56 revision please visit, <<http://www.aphis.usda.gov/ppq/Q56/index.html>>. For information on APHIS permits, please visit <<http://www.aphis.usda.gov/permits>>. APHIS is also in the process of creating a Web site that will allow

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