

Fruit and Vegetable Streamlining Rule

“Establishing a Performance Standard for Authorizing the Importation and Interstate Movement of Fruits and Vegetables”

(7 CFR 318 and 319)





What does this rule do?

APHIS is proposing to expand the Notice Based Process for 7 CFR 318 and 319

This regulation will enable APHIS to use the noticed-based process to approve ALL new fruits and vegetables for importation from foreign countries and interstate movement from Hawaii and U.S. territories.

Under the expanded notice-based process, amendments to the Federal Regulations would no longer be needed, instead approval would be done via the publication of notices in the Federal Register



Why is it necessary?

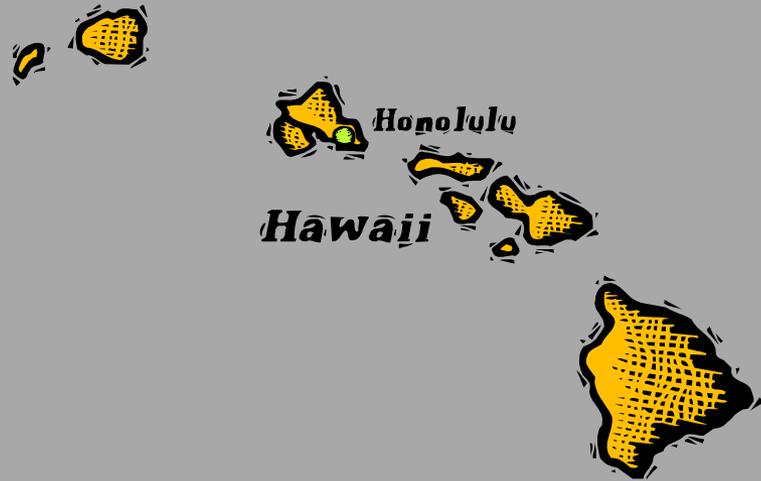
- Currently, import and interstate movement requirements for fruits and vegetables are codified in 7 CFR 319.56 and 318.13
- In order to make changes to the import and movement requirements, changes to the Code of Federal Regulations (CFR) have to be done through rulemaking
- Process is slow; limits our ability to respond quickly to new import requests and to make changes to specific requirements

Previous Streamlining Rule

In 2007, APHIS published a rule that established a notice-based process for approving the importation of fruits or vegetables as long as they met one or more of the following conditions:

- - Inspection at the first port of entry in the United States;
 - Imported from a designated pest free area;
 - Treated under 7 CFR 305;
 - Phytosanitary inspection at the country of origin; or
 - Imported as commercial shipments only.

- In 2009, APHIS expanded the notice-based process to include the quarantine that regulates the interstate movement of fruits and vegetables from Hawaii and U.S. Territories under the same criteria.





Expanded Streamlining Rule

This NEW action will add more categories of performance measures that can be used in the notice-based process.

Fruits and vegetables may be imported or moved from Hawaii and the territories subject to one or more of the following:

1. Phytosanitary treatments, including pest control treatments in the field or growing site, and post-harvest treatments
2. Growing area pest mitigations including detection surveys, trapping requirements, pest exclusionary structures, and field inspections;



3. Safeguarding and movement mitigations including safeguarded transport, box labeling, limited distribution, insect-proof boxes, and commercial consignments only
4. Administrative mitigations including registered fields or orchards, registered growing sites, registered packinghouses, inspection in the country of origin by an authorized inspector (APHIS or NPPO), and monitoring through an operational workplan
5. Any other measures that the Administrator determines are appropriate.



This proposed rule will also remove the commodity specific requirements found in the CFR

- 7 CFR 319.56-13 through 71 (Fruits and Vegetables)
- 7 CFR 318.13-16; 318.13-18 through 22 and 318.13-24 through 26 (Hawaii and the Territories)

Requirements will instead be maintained in PPQ's Fruit and Vegetable Manual, the Fruits and Vegetables Import Requirements (FAVIR) database, and in the Hawaii and Puerto Rico Manual.

In addition to the Federal Register Notices, updates to the manuals will be announced via the PPQ Stakeholder Registry.



Q 56

Title 7: Agriculture
PART 319—FOREIGN QUARANTINE NOTICES

Subpart—Fruits and Vegetables

- §319.56-13 Fruits and vegetables allowed importation subject to specified conditions.
- §§319.56-14–319.56-19 [Reserved]
- §319.56-20 Apples and pears from Australia (including Tasmania) and New Zealand.
- §319.56-21 Okra from certain countries.
- §319.56-22 Apples and pears from certain countries in Europe.
- §319.56-23 Apricots, nectarines, peaches, plumcot, and plums from Chile.
- §319.56-24 Lettuce and peppers from Israel.
- §319.56-25 Papayas from Central America and South America.
- §319.56-26 Melon and watermelon from certain countries in South America.
- §319.56-27 Apples from Japan and the Republic of Korea.
- §319.56-28 Tomatoes from certain countries.
- §319.56-29 Ya variety pears from China.
- §319.56-30 Hass avocados from Michoacan, Mexico.
- §319.56-31 Peppers from Spain.
- §319.56-32 Peppers from New Zealand.
- §319.56-33 Mangoes from the Philippines.
- §319.56-34 Clementines from Spain.
- §319.56-35 Persimmons from the Republic of Korea.
- §319.56-36 Watermelon, squash, cucumber, and oriental melon from the Republic of Korea.
- §319.56-37 Grapes from the Republic of Korea.
- §319.56-38 Citrus from Chile.
- §319.56-39 Fragrant pears from China.
- §319.56-40 Peppers from certain Central American countries.
- §319.56-41 Citrus from Peru.
- §319.56-42 Peppers from the Republic of Korea.
- §319.56-43 Baby corn and baby carrots from Zambia.
- §319.56-44 Untreated grapefruit, sweet oranges, and tangerines from Mexico for processing.

- §319.56-45 Shelled garden peas from Kenya.
- §319.56-46 Mangoes from India.
- §319.56-47 Certain fruits from Thailand.
- §319.56-48 Conditions governing the entry of baby squash and baby courgettes from Zambia.
- §319.56-49 Eggplant from Israel.
- §319.56-50 Hass avocados from Peru.
- §319.56-51 Shepherd's purse with roots from the Republic of Korea.
- §319.56-52 Tomatoes with stems from the Republic of Korea.
- §319.56-53 Fresh baby kiwi from Chile.
- §319.56-54 French beans and runner beans from Kenya.
- §319.56-55 Fresh pitaya from certain Central American countries.
- §319.56-56 Fresh pomegranates from Chile.
- §319.56-57 Sand pears from China.
- §319.56-58 Bananas from the Philippines.
- §319.56-59 Fresh citrus fruit from Uruguay.
- §319.56-60 Mangoes from Australia.
- §319.56-61 Litchi from Australia.
- §319.56-62 Fresh beans, shelled or in pods, from Jordan.
- §319.56-63 Fresh apricots from continental Spain.
- §319.56-64 Avocados from continental Spain.
- §319.56-65 Jackfruit, pineapple, and starfruit from Malaysia.
- §319.56-66 Potatoes from Mexico.
- §319.56-67 Cape gooseberry from Colombia.
- §319.56-68 Female squash flowers from Israel.
- §319.56-69 Fresh blueberries from Morocco.
- §319.56-70 Fresh litchi and longan from Vietnam.
- §319.56-71 Mangoes from Jamaica.

Subpart 318

§318.13-21

Avocados from Hawaii to Alaska.

§318.13-22

Bananas from Hawaii.

§318.13-23

Cut flowers from Hawaii.

§318.13-24

Sweet potatoes from Puerto Rico.

§318.13-25

Sweetpotatoes from Hawaii.

§318.13-26

Breadfruit, jackfruit, fresh pods of cowpea, dragon fruit, mangosteen, melon, and moringa pods from Hawaii.



This action will not alter our science-based process for approval

- APHIS will publish an initial notice and a final notice for each import request.
- The public would have 60 days to provide comments once the initial notice is published in the Federal Register.
- APHIS will respond to comments on the initial notice in the same manner it responds to comments on a proposed rule.
- All substantive comments would be addressed in the final notice, which would be published prior to issuing any import permits for that commodity.
- In addition, if a pest risk assessment (PRA) is conducted, stakeholders will continue to have 30 days to consult on draft pest risk assessments before APHIS initiates the notice-based process.



Benefits of Streamlining

The proposed changes will:

- Allow APHIS be more responsive to evolving pest situations
- Could decrease the amount of time it takes APHIS to approve the importation or interstate movement of fruits and vegetables



Stakeholder Impacts

- The commodity clearance process at U.S. ports of entry will not change
- This rule does not apply to plants for planting, only fruit and vegetable commodities for consumption
- Changes to phytosanitary certificates and operational workplans may be required, if they reference the CFR sections being removed
- APHIS is identifying what information in the CFR, not currently in FAVIR or PPQ manuals, will need to be captured for reference
- ALL requirements necessary to import a commodity into the United States will be listed in FAVIR or the appropriate PPQ manuals



Notice Process vs. Rulemaking

Step		Notice-based process	Rulemaking	Description
1	Request to authorize the import or move interstate a new fruit or vegetable	x	X	APHIS receives a request to authorize the import or interstate movement of a new fruit or vegetable from a national plant protection organization or State/Territorial officials.
2	Pest risk assessment and stakeholder consultation	x	X	APHIS conducts a pest risk assessment. The assessment is posted on the APHIS website for a 30-day stakeholder consultation period.
3	Risk mitigation requirements	x	X	APHIS drafts risk mitigation documents outlining necessary measures.
4	Departmental clearance	x	X	Officials in USDA review
5	OMB review		X	Officials in OMB review a description of each proposed action and determine whether to conduct a formal review of the proposed rule.
	OMB notification	x		APHIS notifies OMB of its intent to publish an initial notice, providing an opportunity for OMB oversight.



Notice Process vs. Rulemaking Cont.

Step		Notice-based process	Rulemaking	Description
6	Economic impact analysis		X	APHIS conducts an economic impact analysis, per the requirements of the Regulatory Flexibility Act.
	Proposed rule		x	APHIS publishes a proposed rule in the Federal Register and solicits public comments for 60 days.
7	Initial notice	x		APHIS publishes an initial notice in the Federal Register and solicits public comments for 60 days.
	Departmental clearance	x	x	Officials in USDA review
9	OMB review		x	Officials in OMB review a description of each final action and determine whether to conduct a formal review of the final rule.
	OMB notification	x		APHIS notifies OMB of its intent to publish a final notice, providing an opportunity for OMB oversight.
10	Final rule		x	APHIS publishes a final rule in the Federal Register to address public comments and authorize the commodity import. Requirements for the commodity are codified in the U.S. Code of Federal Regulations.
	Final notice	x		APHIS publishes a final notice in the Federal Register to address public comments and authorize the commodity import. Requirements for the commodity are posted in the FAVIR database, the Fruit and Vegetable Manual, or the Hawaii and Puerto Rico Manual.



To submit comments:

<http://www.regulations.gov/#!docketDetail;D=APHIS-2010-0082>