

November 2008

Supporting Statement
Implementation of Revised Lacey Act Provisions
OMB No. 0579-XXXX

A. Justification

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.

The Lacey Act, first enacted in 1900 and significantly amended in 1988, is the United States' oldest Wildlife Protection Statute. The Act combats trafficking in "illegal" wildlife, fish, or plants. The Food, Conservation and Energy Act of 2008, which took effect May 22, 2008, amended the Lacey Act by expanding its protection to a broader range of plants and plant products (Section 8204. Prevention of Illegal Logging Practices). As of May 22, 2008, the Lacey Act made it unlawful to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any plant, with some limited exceptions, taken, possessed, transported or sold in violation of the laws of the United States, a State, an Indian tribe, or any foreign law that protects plants. The Lacey Act now also makes it unlawful to make or submit any false record, account or label for, or any false identification of, any plant covered by the Act.

Under the amended Lacey Act, Section 3 of the Lacey Act, as amended (16 U.S.C. 3372), beginning December 15, 2008, importers are required to submit a declaration for certain plants and plant products. The declaration must contain, among other things, the scientific name of the plant, value of the importation, quantity of the plant, and name of the country from which the plant was harvested. For paper and paperboard products with recycled plant content, the importer will not be required to specify the species or country of harvest with respect to the recycled plant product component, but will be required to provide the average percent recycled content. If the product also contains non-recycled plant materials, the basic declaration requirements still apply to that component of the product imported.

APHIS is asking OMB to approve the use of this information collection activity associated with its efforts to prevent the spread of plant diseases and plant pests from entering into the United States.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

Plant Import Declaration – Importers will have to submit a declaration for all plants containing the scientific name of the plant, value of the importation, quantity of the plant, and name of country from which the plant was harvested. For paper and paperboard products with recycled content, the importer will not be required to specify the species or country of harvest, but will be required to provide the average percent recycled content. If species varies or is unknown, importers will have to declare the name of each species that may have been used to produce the product.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

APHIS is requesting OMB's permission to post this form on the web. APHIS has not determined where this form will be posted at this time.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purpose described in item 2 above.

The information APHIS collects is exclusive to its mission by expanding its protection to a broader range of plants and plant products within the United States and is not available from any other source.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

The information APHIS collects is the minimum needed to protect the United States from destructive plant pests while strengthening its safeguarding system domestically. APHIS has determined that approximately 60 percent of the respondents in this information collection are small entities.

6. Describe the consequences to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

Failing to collect this information would cause significant losses for importers of plants and plant products resulting in serious economic consequences to the U.S. industries.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with the general information collection guidelines in 5 CFR 1320.5.

This information collection is conducted in a manner consistent with the guidelines established in 5 CFR 1320.5.

8. Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting form, and on the data elements to be recorded, disclosed, or reported. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, soliciting comments on the information collection prior to submission to OMB.

APHIS has been engaged in productive consultations with the following individuals in 2008:

Michael J. Ford
BDP International Global Logistics
(215) 629-8924
mford@bdpnet.com

Mary Jo Muoio
BARTHCO
(973) 402-8300
m.muioio@barthco.com

Tim Perry
American President Line
(202) 496-2482

On Wednesday, October 8, 2008, pages 58925-58927, APHIS published in the Federal Register a 60-day notice seeking public comments on the Lacey Act amendment that will require importers to submit a declaration for certain plants and plant products beginning December 15, 2008. APHIS is currently seeking Office of Management and Budget emergency approval to collect this information as a paper form that may be used for declarations. The emergency approval will be valid for 6 months and will allow APHIS to collect the information and make the paper form available for immediate use. Once APHIS has this emergency approval, it will publish a notice in the **Federal Register** announcing the availability of the paper form and solicit comments from the public (as well as affected agencies) on this information collection requirement and stating its intention to request an extension of the 6-month approval.

9. Explain any decision to provide any payment or gift to respondents, other than reenumeration of contractors or grantees.

This information collection activity involves no payments or gifts to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

No additional assurance of confidentiality is provided with this information collection. However, the confidentiality of information is protected under 5 U.S.C. 552a.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and others that are considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

This information collection activity asks no questions of a personal or sensitive nature.

12. Provide estimates of the hour burden of the collection of information. Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated.

- **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.**

See APHIS Form 71 for hour burden estimates.

- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories.**

The annualized cost to respondents is \$120,448,477.80. APHIS arrived at this figure by multiplying the total hours (5,029,164) by the estimated average hourly wage of the above respondents (\$23.95).

$$5,029,164 \times \$23.95 = \$120,448,477.80$$

The hourly rate is derived from the U.S. Department of Labor, Bureau of Labor Statistics June 2005 Report – National Compensation Survey: Occupational Wages in the United States, August 2006. See <http://www.bls.gov/ncs/ocs/sp/ncb10832.pdf>

13. Provide estimates of the total annual cost burden to respondents or recordkeepers resulting from the collection of information, (do not include the cost of any hour burden shown in items 12 and 14). The cost estimates should be split into two components: (a) a total capital and start-up cost component annualized over its expected useful life; and (b) a total operation and maintenance and purchase of services component.

There is zero annual cost burden associated with capital and start-up costs, maintenance costs, and purchase of services in connection with this program.

14. Provide estimates of annualized cost to the Federal government. Provide a description of the method used to estimate cost and any other expense that would not have been incurred without this collection of information.

The estimated cost to the Federal Government is \$58,580,573.99. See APHIS Form 79.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-1.

This is a new program. Under the revised Lacey Act, importers will have to submit a declaration for all plants containing the scientific name of the plant and plant product, value of the importation, quantity of the plant, and name of country from which the plant was harvested.

16. For collections of information whose results are planned to be published, outline plans for tabulation and publication.

APHIS has no plans to tabulate or publish the information collected.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

If forms were to be discarded because of an outdated OMB expiration date, but were otherwise usable, higher printing costs would be incurred by the Federal Government. Therefore, APHIS is seeking approval to not display the OMB expiration date on its forms.

18. Explain each exception to the certification statement identified in the “Certification for Paperwork Reduction Act.”

APHIS is able to certify compliance with all the provisions under the Act.

B. Collections of Information Employing Statistical Methods.

Statistical methods are not used in this information collection.