

June 2008

**Supporting Statement
Revision of Hawaii and the Territories Fruits
and Vegetables Regulations
Docket No. APHIS 2007-0052**

A. Justification

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

The United States Department of Agriculture (USDA) is responsible for preventing plant diseases or insect pests from entering the United States, preventing the spread of pests and noxious weeds not widely distributed in the United States, and eradicating those imported pests when eradication is feasible. The Plant Protection Act authorizes the Department to carry out this mission.

Under the Plant Protection Act (7 U.S.C. 7701 *et seq.*), the Secretary of Agriculture is authorized to prohibit or restrict the importation, entry, or movement of plants and plant pests to prevent the introduction of plant pests into the United States or their dissemination within the United States.

Under the Hawaii and territorial fruits, vegetables, and flowers regulations (7 CFR 318.13 through 318.13-17, 318.58 through 318.16, and 318.82 through 318.82-3, referred to as the regulations), the Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture (USDA) prohibits or restricts the interstate movement of fruits, vegetables, and other products from Hawaii, Puerto Rico, the U.S. Virgin Islands, and Guam to the continental United States to prevent the spread of dangerous plant diseases and pests that occur in Hawaii and the territories.

APHIS is proposing to revise and reorganize the regulations pertaining to the interstate movement of fruits and vegetables to consolidate requirements of general applicability and eliminate redundant requirements, update terms and remove outdated requirements and references, and make various editorial and nonsubstantive changes to the regulations to make them easier to use. APHIS is also proposing to make substantive changes to the regulations including: Establishing criteria within the regulations that, if met, would allow us to approve certain new fruits and vegetables for interstate movement in the United States and to acknowledge pest-free areas in Hawaii and U.S. territories expeditiously; and doing away with the practice of listing in the regulations specific commodities as regulated articles. These changes are intended to simplify and expedite our processes for approving certain regulated articles for interstate movement and pest-free areas while continuing to allow for the public participation in the process.

If APHIS' proposed rule is adopted, it would not allow for the interstate movement of any specific new fruits or vegetables, nor would it alter the conditions for interstate

movement of currently approved fruits or vegetables except as specifically described in APHIS' proposed rule.

APHIS is asking OMB to approve the use of these information collection activities, for 3 years, associated with its effort to prevent the spread of plant pests and diseases into the continental 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.

Limited Permit (PPQ Form 530) – Fruits or vegetables shipped from Hawaii, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, or the U.S. Virgin Islands through the continental United States must be accompanied by a limited permit, a copy of which must be presented to an inspector at the port of arrival and the port of export in the United States, and at any other location in the United States where an air consignment is authorized to stop or where overland consignments change means of conveyance.

Transit Permit (PPQ Form 586) – A transit permit is required for the arrival, unloading, and movement through the continental United States of fruits and vegetables otherwise prohibited by this subpart (§ 318.13-6) from being moved through the continental United States from Hawaii, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, or the U.S. Virgin Islands.

Labeling for Pest Free Area - Each box of fruits or vegetables that is moved interstate from a pest-free area must be clearly labeled with:

- (i) The name of the orchard or grove of origin, or the name of the grower; and
- (ii) The name of the municipality and State or territory in which the fruits or vegetables were produced; and
- (iii) The type and amount of fruits or vegetables the box contains.

Inspection & Certification – This proposed rule will require inspection and certification to take place in the State of origin by an inspector because States do not have individual National Plant Protection Organizations. The inspector would be a State agricultural inspector or anyone authorized by APHIS or the Department of Homeland Security.

Marking Requirements – In order to ensure that consignments are not misdirected, APHIS would require shipping containers be marked as “For Distribution in Alaska Only.”

Compliance Agreement (PPQ Form 519) – Persons wishing to move fruits and vegetables from a pest-free area in Hawaii, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, or the U.S. Virgin Islands must enter into a compliance

agreement with APHIS in accordance with § 318.13-3(d) and the fruits and vegetables must otherwise meet the requirements of paragraphs (a) and (b) of this section.

Trapping and Surveillance – APHIS will make a determination of an area’s pest-free status based on information provided by the State. The information used to make this determination will include trapping and surveillance data, survey protocols, and protocols for actions to be performed upon detection of testing.

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.

PPQ Form 530 is a pressure sensitive form and is not practicable for automation.

PPQ Form 519 (Compliance Agreement) is downloadable, fillable, and posted at: www.aphis.usda.gov/library/forms/pdf/ppq519.dot

PPQ Form 586 (Application for Permit to Transit Plants and/or Plant Products through the U.S. is downloadable and posted at: http://www.aphis.usda.gov/permits/ppq_epermits.shtml

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 of preventing the incursion or interstate spread of plant pests, diseases, and noxious weeds 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.

A firm primarily engaged in wholesaling fresh fruits and vegetables is considered small if it employs not more than 100 persons. All types of fruit and vegetable farms are considered small if they have annual receipts of \$0.75 million or less. It is estimated that 95 percent of the respondents are small entities. However, APHIS expects little impact on the total volume of U.S. fruits and vegetables, or on U.S. producers, marketers, and consumers.

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.

If APHIS did not collect this information or collected it less frequently, the effectiveness of Hawaiian fruits and vegetables quarantine programs would be severely compromised, likely resulting in the interstate spread of a number of destructive (and economically damaging) agricultural pests. The spread of such pests as the melon fruit fly and the oriental fruit fly would result in millions of dollars in damage to American agriculture.

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.

The following individuals were consulted during 2007-2008:

Hawaii Pride, LLC
Eric Weinert, Senior Vice President
808-982-8888, X12

Hawaii Tropical Fruit Growers
Bob Hamilton/Hula Brothers
P.O. Box 388
Kurtistown, HI 96760
808-966-6633/808-966-6282

Kona Dragon Fruit
Tom Benton
Captain Cook, HI 96704
808-541-1980
Bentonfamilyfarm@hawaii.rr.com

APHIS' proposed rule (Docket No. APHIS 2007-0052) will describe its information gathering requirements, and also provide a 60-day comment period. During this time,

interested members of the public will have the opportunity to provide their input concerning the usefulness, legitimacy, and merit of the information collection activities APHIS is proposing.

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 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.

Respondents are wholesalers and producers of fruits and vegetables, as well as State officials. APHIS estimates the total annualized cost to these respondents to be \$199,549.68 which is the estimated hours (8,646) multiplied by the estimated average hourly rate (\$23.08).

The hourly rate was 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/ncb20832.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, operation and maintenance, 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 \$124,796.24. (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-I.

This is a new program. APHIS is proposing to revise and reorganize the regulations to make them easier to use.

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 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 certifies compliance with all the provisions under the Act.

B. Collections of Information Employing Statistical Methods.

Statistical methods are not used in this information collection.