

August 2, 2011

Supporting Statement
Importation of Tomatoes from the Economic Community
Of West Africa States into the Continental United States
Docket No. APHIS-2011-0012

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, Animal and Plant Health Inspection Service (APHIS), is responsible for preventing plant pests and noxious weeds from entering the United States, preventing the spread of plant diseases not widely distributed in the U.S., and eradicating those imported pests and noxious weeds when eradication is feasible.

Under the Plant Protection Act (7 U.S.C. 7701 *et seq.*), the Secretary of Agriculture is authorized to carry out operations or measures to detect, eradicate, suppress, control, prevent, or retard the spread of plant pests new to the U.S. or not known to be widely distributed throughout the United States.

The regulations in “Subpart-Fruits and Vegetables” (7 CFR 319.56-1 through 319.56-50, referred to below as the regulations) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests that are new to or not widely distributed within the United States. Section 319.56-28 of the regulations contains administrative instructions allowing the importation of tomatoes from various countries where the Mediterranean fruit fly (Medfly) *Ceratitis capitata* is present.

APHIS is proposing to amend the fruits and vegetables regulations to allow the importation of tomatoes from the member states of the Economic Community of West African States (ECOWAS) into the continental United States. As a condition of entry, tomatoes from the ECOWAS would be subject to a systems approach that would include requirements for pest exclusion at the production site, fruit fly trapping and monitoring, and procedures for packing the tomatoes. The tomatoes would also be required to be accompanied by a phytosanitary certificate issued by the national plant protection organization of the exporting country with an additional declaration that the tomatoes had been produced in accordance with the proposed requirements. This action would allow for the importation of tomatoes from the ECOWAS into the continental United States while continuing to provide protection against the introduction of quarantine pests.

APHIS is asking the Office of Management and Budget to approve its use of these information collection activities associated with its efforts to prevent the spread of plant pests and plant diseases into the United States.

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

Production Site Registration – Tomatoes from the ECOWAS would have to be grown in approved production sites registered with the National Plant Protection Organization (NPPO) of the exporting country.

Inspection of Production Site – The NPPO of the exporting country would have to visit and inspect the production sites monthly; however, reports must be turned in twice a year. Inspections beginning 2 months before the harvest and continuing through the end of the shipping season. This condition would ensure that the required phytosanitary measures are properly implemented throughout the process of growing and packing tomatoes for export to the United States.

Records of Trap Placement – APHIS requires the NPPO of the exporting country to maintain records of placement, trap maintenance, and captures of any fruit flies of concern. The trapping records would have to be maintained for 1 year and made available to APHIS upon request.

Phytosanitary Certificate with Declaration (foreign) – Tomatoes would be required to be accompanied by a phytosanitary certificate issued by the NPPO of the exporting country with an additional declaration issued by the NPPO of the exporting country stating that the tomatoes had been produced in accordance with the proposed requirements.

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 has no control or influence over when foreign countries will automate their phytosanitary certificates.

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 entry of injurious 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.

The information APHIS collects is the minimum needed to protect the United States from destructive plant pests while increasing the number and variety of fruits and vegetables that can be imported from other countries. APHIS has determined that there are no small entities involved with this information collection.

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.

This information collection activity is critical to its mission in ensuring that tomatoes from the ECOWAS are free of plant pests. The spread of plant pests such as *Solanum lycopersicum* would result in millions of dollars in damage to United States 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.

No special circumstances exist that would require this collection to be conducted in a manner inconsistent with the general information collection guidelines in 5 CFR 1320.5.

- **requiring respondents to report information to the agency more often than quarterly;**

The NPPO of the exporting country would have to visit and inspect the production sites monthly; however, reports must be turned in twice a year.

- **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- **requiring respondents to submit more than an original and two copies of any document;**
- **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;**
- **in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;**
- **requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
- **that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unneces-**

sarily impedes sharing of data with other agencies for compatible confidential use; or

- **requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

No special circumstances exist that would require this collection to be conducted in a manner inconsistent with the general information collection guidelines 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.

In 2011, APHIS held productive consultations with the following individuals concerning the information collection activities associated with its program to import tomatoes from ECOWAS:

John Kieru, Proprietor
Kankam Exporters LTD
Cannon House Annex, 1st Floor, Suite C1
P.O. Box 10463-00400
Nairobi, Kenya
(tel) 254-020-239-1213
Info@kankamexporters.com

Florida Department of Agriculture
and Consumer Services
Division of Plant Industry
1-888-397-1517

PPQ contacted Western Growers for input on the proposed mitigation measures for tomatoes from ECOWAS member States. Western Growers declined to comment.

APHIS' proposed rule (APHIS 2011-0012) 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 APHIS with their input concerning the usefulness, legitimacy, and merit of the information collection activities APHIS is proposing.

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

This information collection activity involves no payments (other than appropriate, program-related 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 estimate of annualized cost to respondents for burden hours totaled \$684.00. APHIS arrived at this figure by multiplying the total hours (19 hours) by the estimated average hourly wage of the above respondents (\$36). $\$36.00 \times 19 = 684.00$

The hourly rate was derived from the U.S. Department of Labor; Bureau of Labor Statistics May 2009 Report – Occupational Employment and Wages in the United States. An average hourly salary was based on estimates from agricultural officials and businesses.

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 for the Federal Government is \$ 63.00. (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. APHIS is proposing to amend the fruits and vegetables regulations to allow the importation of tomatoes from the member states of ECOWAS.

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.

There are no USDA forms involved in this information collection.

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 in the Act.

B. Collections of Information Employing Statistical Methods

Statistical methods are not used in this information collection.