

Supporting Statement
Importation of Fresh Apricots from Continental Spain
Docket No. APHIS-2011-0132

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 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 its 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.

The regulations in “Subpart-Fruits and Vegetables” (7 CFR 319.56 through 319.56-54, 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.

APHIS’ final rule will amend the fruits and vegetables regulations to allow the importation into the continental United States of fresh apricots from Continental Spain, subject to a systems approach. The systems approach includes registration of production locations and packinghouses, audits of growing records and practices, and an adequate pest control program that includes pest monitoring, sanitary practices, and chemical and biological controls. The fruit will also need to be imported in commercial consignments, with each consignment identified throughout its movement from place of production to port of entry in the United States. Consignments will have to be accompanied by a phytosanitary certificate issued by the national plant protection organization of Spain declaring that the fruit is free from all quarantine pests and has been produced in accordance with the systems approach. In addition, the apricots would be required to undergo cold treatment and be subject to port of entry inspection. This final rule will allow for the safe importation of fresh apricots from continental Spain into the United States while continuing providing protection against the introduction of quarantine pests.

APHIS is asking OMB to approve its use of these information collection activities, associated with its efforts to prevent the spread of fruit flies and other 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.

APHIS will use the following information activities to provide protection against the introduction of quarantine pests.

Operational Workplan – In this final rule, APHIS will require the Spanish national plant protection organization (NPPO) to provide a workplan that details the activities that the Spanish NPPO will, subject to APHIS' approval, carry out to meet the requirements of § 319.56-55 .

Trust Fund Agreement - If APHIS personnel need to be physically present in an exporting country or region to facilitate the exportation of fruits or vegetables and APHIS services are to be funded by the NPPO of the exporting country or a private export group, then the NPPO or the private export group must enter into a trust fund agreement with APHIS that is in effect at the time the fruits or vegetables are exported.

Production Site Registration – Production sites where the fruit is grown have to be registered with the NPPO of Spain.

Packinghouse Registration – Packinghouses where fruit is packaged must be registered with the NPPO of Spain.

Phytosanitary Certificate (foreign) w/additional Declaration - Each consignment of fruit will have to be accompanied by a phytosanitary certificate issued by the NPPO of Spain that contains an additional declaration stating that the fruit in the consignment was inspected and found free of was grown in an approved place of production, inspected, and found free from Cydia funebrana, Apiognomonina erythrostoma, Monilinia fructigena, and Ceratitidis capitata based on field and packinghouse inspections. Requiring a phytosanitary certificate will ensure that the NPPO of Spain has inspected the fruit and certified that the fruit meets the conditions for export to the United States.

Box Labeling - Harvested apricots must be placed in cartons or containers that are marked with the official registration number of the place of production.

Records of Export Activities – APHIS will require the Spanish NPPO to retain all forms and documents related to export program activities in groves and packinghouses for at least 1 year and, as requested, provide them to APHIS for review.

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 considerations of using information technology to reduce burden.

APHIS has no control or influence over when foreign countries will automate these certificates.

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

The information APHIS collects is exclusive to its mission of preventing the spread of plant pests 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 100 percent of the respondents 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 cripple APHIS' ability to ensure that apricots from Spain are not carrying plant pests. If plant pests were introduced into the United States, growers would suffer hundreds of millions of dollars in losses.

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.

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

The following individuals were consulted during 2012:

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The proposed rule, Docket Number (APHIS-2011-0132), was published in the Federal Register on January 30, 2013, with a 60-day comment period. During this time, APHIS received four comments: they were from a foreign government, a State department of agriculture, an organization representing State plant regulatory agencies, and a university professor. One commenter stated that we should not allow the import of apricots from Spain that have been sprayed with pesticides, unless methods can be devised to ensure that such fruit will not be toxic to consumers. The U. S. Environmental Protection Agency (EPA) is responsible for registering pesticides for use in the United States and the U. S. Food and Drug Administration is responsible for enforcing EPA pesticide residue tolerances and for determining whether an imported food violates the Federal Food, Drug, and Cosmetic Act. No change was made from this comment. One commenter recommended that the bilateral workplan track closely with the pest mitigation measures specified by APHIS in the systems approach. That will be the case. One commenter stated that, given the ripening period of apricot is approximately May 1 through July 15, official inspections would have to be conducted from March to August, which under the proposed regulations would require six inspections. APHIS is making two changes in response to this comment. While it is important that the production site be inspected prior to harvest, both to look for early signs of pests that may not be as visible later and to familiarize the inspector with the production area, upon further consideration APHIS believes a reasonable standard is that a pre-harvest inspection occur at least 1 month prior to harvest rather than the proposed 2 months. Therefore, APHIS is changing the proposed standard to read "starting at least 1 month before harvest." Also, in this final rule APHIS is changing the relevant sentence in § 319.56-58(c)(1) to read "The NPPO of Spain, or an authorized person designated in the workplan, must visit and inspect...". Two commenters stated that risk mitigation measures should include an additional high level of inspection by APHIS at the U.S. port of entry. The risk mitigations APHIS is adding to the regulations for the importation of fresh apricots from continental Spain include two points of inspection, one in continental Spain and one at the U.S. port of entry. No change is being made to this requirement.

The proposed rule is being adopted as a **final rule**, without change to any of the paperwork requirements.

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 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 Federal plant health authorities in Spain and exporters of apricots from Spain to the United States. APHIS estimates the total annualized cost to these respondents to be \$4,424. APHIS arrived at this figure by multiplying the total burden hours (187 hours) by the estimated average hourly wage of the above respondents (\$23.66). The hourly wage was provided by USDA's Agricultural Specialist in Spain.

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 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 the capital and start-up cost, maintenance costs, and purchase of services in connection with this program.

14. Provide estimates of annualized cost 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 \$4383.00. (See APHIS Form 79).

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

This is a new program.

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 it collects.

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 under the Act.

B. Collections of Information Employing Statistical Methods.

Statistical methods are not used in this information collection.