

February 2017

**Supporting Statement  
Importation of Fresh Tree Tomatoes from Ecuador  
Into the United States  
APHIS-2015-0072  
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 United States Department of Agriculture (USDA), 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 United States, 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 United States or not known to be widely distributed throughout the United States.

The regulations in “Subpart – Fruits and Vegetables” (Title 7, Code of Federal Regulations (CFR) 319.56, referred to 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 is proposing to amend the fruit and vegetable regulations to allow the importation of tree tomatoes (Solanum betaceum) from Ecuador into the continental United States. As a condition of entry, the tree tomatoes would have to be produced in accordance with a systems approach that would include, but not be limited to, requirements for importation in commercial consignments, registration and monitoring of places of production, field monitoring and pest-control practices, trapping, and inspection for quarantine pests by the National Plant Protection Organization (NPPO) of Ecuador.

APHIS is asking the Office of Management and Budget (OMB) to approve, for 3 years, 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.**

APHIS uses the following collection information activities to verify that tree tomatoes from Ecuador are grown in production areas that are registered and monitored by the NPPO of Ecuador, and to verify consignments have been produced with a systems approach.

**319.56-77(a)(2) Operational Workplan (foreign government)** - The NPPO of Ecuador must provide an operational workplan to APHIS that details the activities that the NPPO of Ecuador will, subject to APHIS' approval of the workplan, carry out to meet the requirements of this section. The operational workplan must include and describe specific requirements as set forth in this section. APHIS will be directly involved with the NPPO of Ecuador in monitoring and auditing implementation of the systems approach.

**319.56-77(a)(2) Production Site Registration (business) (foreign government)** - Tree tomatoes considered for export to the continental United States must be produced at places of production that are registered with the NPPO of Ecuador.

**319.56-77(a)(3) Packinghouse Registration (business) (foreign government)** - Tree tomatoes must be packed for export to the continental United States in pest-exclusionary packinghouses that are registered with the NPPO of Ecuador.

**319.56-77(a)(4) and (b)(1) Recordkeeping (foreign government)** - The NPPO of Ecuador must maintain all forms and documents related to export program activities in registered places of production and packinghouses for at least 1 year and, as requested, provide them to APHIS upon request. Registered places of production of tree tomatoes destined for export to the continental United States must be determined by APHIS and the NPPO of Ecuador to be free from A. fraterculus and C. capitata based on trapping conducted in accordance with the operational workplan. If the flies (per trap, per day) exceed levels specified in the operational workplan, the place of production will be prohibited from exporting tree tomatoes to the continental United States until APHIS and the NPPO of Ecuador jointly agree that the risk has been mitigated. The NPPO must keep records regarding the placement and monitoring of all traps, as well as records of all pest detections in these traps, for at least 1 year, and provide the records to APHIS, as requested.

**319.56-77(a)(5) Identification (business)** - The identity of each lot of tree tomatoes from Ecuador must be maintained throughout the export process, from the place of production until the tomatoes are released for entry into the continental United States. The means of identification that allows the lot to be traced back to the place of production in which it was produced, and the packinghouse in which it was packed, must be described in the operational workplan.

**319.56-77(b)(1) Trapping (business) (foreign government)** - Registered places of production of tree tomatoes destined for export to the continental United States must be determined by APHIS and the NPPO of Ecuador to be free from A. fraterculus and C. capitata based on trapping conducted in accordance with the operational workplan. If the flies (per trap, per day) exceed levels specified in the operational workplan, the place of production will be prohibited from exporting tree tomatoes to the continental United States until APHIS and the NPPO of Ecuador jointly agree that the risk has been mitigated.

**319.56-77(b)(5) Inspections and Monitoring (business) (foreign government)** - Starting 60 days before harvest and continuing throughout the shipping season, the NPPO of Ecuador must visit and inspect registered places of production monthly for signs of infestation. The NPPO of Ecuador must allow APHIS to monitor these inspections. The NPPO of Ecuador must also

certify to APHIS that registered places of production have in place effective fruit fly trapping programs and control guidelines to reduce pest populations.

**319.56-77(b)(6) Remedial Measures (business) (foreign government)** - If APHIS or the NPPO of Ecuador determines that a registered place of production has failed to follow the requirements in this paragraph, the place of production will be excluded from the export program until APHIS and the NPPO of Ecuador jointly agree that the place of production has taken appropriate remedial measure to address the plant pest risk.

**319.56-77(d) Phytosanitary Inspections (foreign government)** - A biometric sample of tree tomato fruit jointly agreed upon by the NPPO of Ecuador and APHIS must be inspected in Ecuador by the NPPO of Ecuador following post-harvest processing. The sample must be visually inspected for N. elegantalis and Tamarillo mosaic virus. A portion of the fruit must then be cut open and inspected for A. fraterculus and C. capitata.

**319.56-77(g) Phytosanitary Certificate and Declaration (business) (foreign government)** - Each consignment of fresh tree tomato fruit from Ecuador must be accompanied by a phytosanitary certificate, issued by the NPPO of Ecuador, that contains an additional declaration that the tomatoes were produced in accordance with the operational workplan, and have been inspected and found free of A. fraterculus; C. capitata; N. elegantalis; and the Tamarillo mosaic virus.

**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 phytosanitary certificates. However, APHIS is involved with the Government-wide utilization of the International Trade Data System (ITDS) via the Automated Commercial Environment (ACE) to improve business operations and further Agency missions. This will allow respondents to submit the data required by U.S. Customs and Border Protection and its Partner Government Agencies (PGAs), such as APHIS to import and export cargo through a Single Window concept. APHIS is also establishing a system known as e-File for CARPOL (Certification, Accreditation, Registration, Permitting, and Other Licensing) activities. This new system will strive to automate some of these information collection activities. The system is still being developed and business processes continue to be identified and mapped.

**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.**

APHIS estimates that approximately 95 percent of the business 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.**

APHIS is the only Federal agency responsible for preventing the incursion or interstate spread of plant pests, diseases, and noxious weeds. The information APHIS is collecting is its only source for the information and it is not being collected through other forms or reports.

**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;**

Starting 60 days before harvest and continuing throughout the shipping season, the NPPO of Ecuador must visit and inspect registered places of production monthly for signs of infestation. The NPPO of Ecuador must allow APHIS to monitor these inspections. The NPPO of Ecuador must also certify to APHIS that registered places of production have in place effective fruit fly trapping programs and control guidelines to reduce pest populations.

- **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, governmental 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 other 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.**

APHIS held productive consultations with the following individuals concerning this program:

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APHIS' proposed rule (Docket No. APHIS-2015-0072) 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.**

Respondents are foreign businesses and the NPPO in Ecuador. The annualized cost to respondents for the burden hours for this information collection totals \$17,475.20. APHIS arrived at this figure by multiplying the total hours (688) by the estimated average hourly wage of the above respondents (\$25.40). This hourly wage was provided by the IS attaché in Ecuador.  $688 \text{ burden hours} \times \$25.40 \text{ estimated average hourly wage} = \$17,475.20$ .

**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 \$15,300. (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.

**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 included 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.