

**Supporting Statement
Importation of Fresh Pitahaya Fruit from Ecuador
into the Continental United States
Docket No. APHIS-2015-0004
OMB No. 0579-0447**

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 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 plants and plant pests into the United States or their dissemination within the United States.

The regulations in “Subpart-Fruits and Vegetables” (7 CFR 319.56, 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 amended the fruits and vegetables regulations to allow the importation of fresh pitahaya fruit into the continental United States from Ecuador. As a condition of entry, the fruit has to be produced in accordance with a systems approach that includes production site registration, inspections, monitoring, recordkeeping, and packinghouse registration and procedures designed to exclude quarantine pests. The fruit is also required to be imported in commercial consignments and accompanied by a phytosanitary certificate issued by the NPPO of Ecuador stating that the consignment was produced and prepared for export in accordance with the requirements in an operational workplan. This action allows for the importation of fresh pitahaya from Ecuador while continuing to provide protection against the introduction of plant pests into the United States.

APHIS is asking OMB to approve its use of these information collection activities, for 3 years, 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.

319.56-76(a) - Operational Workplan (foreign government) – The NPPO of Ecuador must provide an operational workplan to APHIS that details 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 the specific requirements as set forth in this section.

319.56-76(c) - Production Site Registration (business and foreign government) – All production sites that participate in the pitahaya export program must be approved by and registered with the NPPO of Ecuador in accordance with the operational workplan.

319.56-76(c)(5) – Recordkeeping (foreign government) - The NPPO of Ecuador must maintain records of trap placement, checking of traps, and any quarantine pest captures in accordance with the operational workplan. Trapping records must be maintained for APHIS review for at least 1 year.

319.56-76(d)(1) – Monitoring (foreign government) - The NPPO of Ecuador must monitor packinghouse operations to verify that the packinghouses are complying with the requirements of the systems approach. If the NPPO of Ecuador finds that a packinghouse is not complying with the requirements of the systems approach, no pitahaya fruit from the packinghouse will be eligible for export to the continental United States until APHIS and the NPPO of Ecuador conduct an investigation and both agree that the pest risk has been mitigated.

319.56-76(d)(2) – Packinghouse Registration (business and foreign government) - All packinghouses that participate in the pitahaya export program must be registered with the NPPO of Ecuador.

319.56-76(f) – Phytosanitary Certificates (foreign government and business) - Each consignment of pitahaya fruit must be accompanied by a phytosanitary certificate issued by the NPPO of Ecuador bearing the additional declaration that the consignment was produced and prepared for export in accordance with the requirements in the operational workplan.

319.56-76(c)(2) – Inspections (foreign government) - The production sites must be inspected prior to each harvest by the NPPO of Ecuador or its approved designee in accordance with the operational workplan. If APHIS or the NPPO of Ecuador finds that a place of production is not complying with the requirements of the systems approach, no fruit from the place of production will be eligible for export to the continental United States until APHIS and the NPPO of Ecuador conduct an investigation and appropriate remedial actions have been implemented.

319.56-76(e)(2) – Identifying Shipping Documents (business) - Pitahaya fruit presented for inspection at the port of entry to the United States must be identified in the shipping documents in accordance with the requirements in the operational workplan. This identification must be maintained until the fruit is released for entry into the continental United States.

319.56-76(c)(2) – Box Markings (business) - Harvested pitahayas must be placed in field cartons or containers that are marked to show the place of production so that traceback is possible.

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 their phytosanitary certificate. 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 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 90% 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.

Failing to collect this information would cripple APHIS' ability to ensure that fresh pitahaya from Ecuador are not carrying plant pests. If plant pests were introduced into the United States, growers in 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 concerning the information collection activities associated with this program:

Bravo Fruit, LLC.

Ash Shoukry, General Manager
2404 S Wolcott Ave Ste 21.
Chicago, IL 60608
Phone: 831-760-0714

Bergin Fruit and Nut Company
Dave Soika
2000 Energy Park Drive
St. Paul, MN 55108
Phone: 651-558-9744

Barnier SARL
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APHIS' proposed rule (Docket No. APHIS-2015-0004) published on Friday, April 8, 2016, and received 12 comments from the public. Eight of the comments, consisting of shippers, growers, and consumers, stated general support for the proposed action. The remaining four commenters did not categorically oppose the rule but did raise questions about its provisions. None of the comments dealt with paperwork burden. However, one commenter did raise concerns over the risk of introducing *A. fraterculus* into the continental United States via the pathway of fresh pitahaya from Ecuador, particularly in areas of the southern United State that could sustain permanent *A. fraterculus* populations. However, APHIS determined the production and inspection practices contained in the systems approach, which include requirements for fruit fly trapping, pre-harvest inspections, and packinghouse pest exclusion procedures, will sufficiently mitigate the risk of *A. fraterculus* in imports of fresh pitahayas from Ecuador. In addition, a 2016 site visit to Ecuador conducted after publication of the proposed rule determined the host population of *A. fraterculus* in pitahaya areas of production to be negligible with respect to pest risk, unnecessarily rendering the proposed requirement prohibiting other host crops of *A. fraterculus* to be grown within 100 meters of pitahaya fields. Therefore, APHIS removed the requirement by amending proposed CFR Section 319.56-77c(2) accordingly, and adopted the proposed rule as the final rule with the one change mentioned above. All comments are addressed in the Final Rule.

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. Any and all information obtained in this collection shall not be disclosed except in accordance with 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 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.

APHIS estimates the annualized cost to respondents to be \$11,730. APHIS arrived at this figure by multiplying the total burden hours (690) by the estimated average hourly wage of the above respondents (\$17.). The estimated salary of \$17 was derived from the APHIS IS Attache located in Ecuador.

(690 burden hours X \$17 est. hourly wage = \$11,730 estimated annualized cost/respondents)

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 \$23,940. (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.