

**Supporting Statement
Importation of Tree Tomatoes from Ecuador
Into the Continental United States
OMB No. 0579-0464**

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 amending 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 will have to be produced in accordance with a systems approach that includes 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 will use 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.

Operational Workplan; (7 CFR 319.56-83(a)(1)); (Foreign Government)

The NPPO of Ecuador must provide an operational workplan to APHIS for approval that details the activities it will carry out to meet the specific requirements of this section. APHIS works closely with the NPPO in monitoring and auditing implementation of the systems approach.

Production Site Registration; (7 CFR 319.56-83(a)(2)); (Foreign Government, Business)

Production sites processing tree tomatoes for export to the continental United States must be registered with the NPPO. This ensures tomatoes can be traced to their source of production if necessary.

Packinghouse Registration; (7 CFR 319.56-83(a)(3)); (Foreign Government, Business)

Pest-exclusionary packinghouses packaging tree tomatoes for export to the continental United States must be registered with the NPPO. This ensures tomatoes can be traced to their source of packing if necessary.

Recordkeeping; (7 CFR 319.56-83(a)(4), (b)(1)); (Foreign Government)

The Ecuadoran NPPO must maintain for at least one year all forms and documents related to export program activities in registered places of production and packinghouses and make them available to APHIS upon request. The NPPO also must keep for one year records regarding the placement and monitoring of all fly traps, as well as records of all pest detections in these traps, and provide the records to APHIS upon request.

Identification; (7 CFR 319.56-83(a)(5)); (Business)

Lots of tree tomatoes from Ecuador must be traceable back to their production sites. The identity of each lot of tree tomatoes must be maintained throughout the export process from the places of production and packing until the tomatoes are released for entry into the continental United States. The means of identification must be described in the operational workplan.

Trapping; (7 CFR 319.56-83(b)(1)); (Foreign Government, Business)

Registered places of production of tree tomatoes destined for export to the continental United States must be determined by APHIS and the NPPO to be free from A. fraterculus and C. capitata based on trapping conducted in accordance with the operational workplan. If the number of trapped flies exceed levels specified in the operational workplan (per trap, per day), 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 fruit fly risk is mitigated.

Inspections and Monitoring; (7 CFR 319.56-83(b)(3,4)); (Foreign Government, Business)

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 and it must allow APHIS to monitor these inspections. The NPPO also must certify to APHIS that registered places of production have in place effective fruit fly trapping programs and control guidelines to reduce pest populations.

Remedial Measures; (7 CFR 319.56-83(b)(5)); (Foreign Government, Business)

If APHIS or the Ecuadoran NPPO determines that a registered place of production has failed to follow the requirements in this new rule, the place of production will be excluded from exporting

tree tomatoes to the United States until APHIS and the NPPO jointly agree that the place of production has taken appropriate remedial measures to address and mitigate the pest risks.

Phytosanitary Inspections; (7 CFR 319.56-83(d)); (Foreign Government)

Biometric sampling of the tree tomato fruit during post-harvest processing as jointly agreed upon by APHIS and the NPPO of Ecuador must be conducted by the NPPO in Ecuador. The sample must be visually inspected for N. elegantalis and Tamarillo mosaic virus, and portions of the fruit cut open and inspected for A. fraterculus and C. capitata.

Phytosanitary Certificate and Declaration; (7 CFR 319.56-83(e)); (Foreign Government, Business)

The NPPO of Ecuador must issue a phytosanitary certificate for each consignment of fresh tree tomato fruit from Ecuador. Each certificate must contain 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.

The operational workplan is prepared by the NPPO using APHIS guidelines. It and the remaining documents prepared or managed by the NPPO are created and managed at its discretion.

APHIS has no influence on when foreign countries may 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. ITDS will allow respondents to submit import and export cargo data as required by the U.S. Customs and Border Protection service and its Partner Government Agencies (PGAs) using 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.

APHIS is the only Federal agency responsible for preventing the incursion or interstate spread of plant pests, diseases, and noxious weeds. The information it 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. 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.

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. Failing to collect this information would severely limit APHIS' ability to ensure fruit and vegetable imports are not carrying dangerous insect pests and diseases. Consequently, the introduction of insect pests and disease into the United States could result in significant damage to American fruit crops and severe economic losses for the United States fruit industry.

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;**
Registered places of production of tree tomatoes must be determined by APHIS and the NPPO to be free from A. fraterculus and C. capitata based on trapping conducted in accordance with the operational workplan. If the number of trapped flies exceed levels specified in the operational workplan (per trap, per day), 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 fruit fly risk is mitigated. 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 and it must allow APHIS to monitor these inspections. The NPPO also must certify to APHIS that registered places of production have in place effective fruit fly trapping programs and control guidelines to reduce pest populations. The Ecuadoran NPPO must maintain all forms and documents related to export program activities in registered places of production and packinghouses and make them available to APHIS upon request. The NPPO also must keep records regarding the placement and monitoring of all fly traps, as well as records of all pest detections in these traps, and provide the records to APHIS upon request.
- **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 APHIS-2015-0072, was published in the Federal Register on Wednesday, June 21, 2017 with a 60-day comment period. During this time, APHIS received five comments. Two commenters supported the action, while three opposed.

Two commenters opposed to the new rule stated the risks for introduction of plant pests or invasive species was too high. APHIS responded the risk assessment and specified measures in the rule effectively mitigate the risks. One of the commenters further commented that the new rule would adversely affect U.S. tomato growers economically. Because tree tomatoes are not commercially grown in the United States, there is no economic impact on U.S. tomato growers. The third commenter opposed to the rule stated the United States could not control the pesticides used by Ecuador on their products. APHIS responded there are sufficient regulations in the United States concerning the importation of food, particularly by the Environmental Protection Agency (EPA), to ensure commodities do not enter the United States containing illegal pesticide residues. Each of these comments are addressed in greater detail in the final rule Federal Register notice. None of the comments directly addressed burden described in this information collection. APHIS adopted the proposed rule as the final rule without change.

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.**

APHIS estimates there are 42 respondents for this information collection. 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 Ecuadoran fruit producers and packinghouse managers, and federal agricultural officials of the Ecuador NPPO. APHIS estimates their total annualized burden cost is \$17,475, and arrived at this figure by multiplying the total burden hours (688) by the estimated average hourly wage of the respondents (\$25.40). This estimated salary was obtained from the APHIS International Services attache' in Ecuador.

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.

See APHIS Form 79. The estimated cost for the Federal Government is \$16,336.

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.