

Supporting Statement
Federal Plant Pest, Noxious Weed, and Garbage Regulations
OMB NO. 0579-0054

INTRODUCTION

January 2010

Collection 0306 has been merged into this collection for better efficiency. The same CFR sections are covered under both collections and Form 519 is also used in these two collections. This merger was announced in the Federal Register Notice published in August 2009. Collection 0306 will be discontinued after this renewal package for 0054 has been approved.

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, insect pests or Federal noxious weeds from entering the United States, preventing the spread of these organisms that are not widely distributed in the United States, and eradicating those imported pests when eradication is feasible.

In accordance with Section 412 of the Plant Protection Act (Title IV, Pub L. 106-224, 114 Stat. 438, 7 U.S.C. 7712), the Secretary of Agriculture is authorized to prohibit or restrict the importation, entry, exportation, or movement of interstate commerce of any plant, plant product, biological control organism, noxious weed, article, or means of conveyance, if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction or dissemination of a plant pest or noxious weed within the United States.

APHIS' regulations implementing the Plant Protection Act are contained (in part) in Part 330 of Title 7, Code of Federal Regulations (7 CFR 330), and Part 360 of Title 7, Code of Federal Regulations (7 CFR 360).

The introduction and establishment of new plant pests or noxious weeds in the United States could cause multimillion dollar losses to American agriculture.

To prevent this from happening, APHIS engages in a number of information collection activities designed to allow its program to determine whether shipments of regulated articles (such as certain plants and soil) represent a possible risk of introducing or disseminating plant pests or noxious weeds into the United States.

APHIS' primary means of obtaining this vital information is requiring individuals to apply for a permit to import regulated articles or to move these articles interstate. The permit application contains such information as the nature and amount of items to be imported or moved interstate, the country or locality of origin and the intended destination, and the intended port of entry in the United States.

Such data enables APHIS to evaluate the risks associated with the importation or interstate movement of plant pests, noxious weeds and soil, and also enables its program to develop risk-mitigating conditions, if necessary, for importation or movement.

APHIS also requires the owners or operators of certain garbage-handling facilities to apply for a permit so that they can be approved to process regulated garbage in such a way that it no longer poses a threat of disseminating plant pests or livestock and poultry diseases within the United States. Without these information gathering procedures, APHIS would have no way of detecting and intercepting shipments that pose a potential risk to American agriculture.

APHIS is asking OMB to approve this information collection, for 3 more years, associated with its efforts to ensure that regulated articles do not pose a risk of introducing plant pests or noxious weeds 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.

Advance Notification of Arrival - The owner or operator of an aircraft or watercraft entering the United States from a foreign country (or arriving in the continental United States from Hawaii or any territory or possession of the United States) must provide APHIS with advance notification of intent to arrive at a specific port. APHIS uses this information to ensure that adequate personnel are available for inspections upon the craft's arrival.

Application for Permit or Courtesy Permit (PPQ 526) - Data provided by an applicant on these forms is used by APHIS and State personnel (in the State of destination) to evaluate the risks associated with the proposed movement of plant pests, noxious weeds, and soil. APHIS uses this information to determine whether a permit can be issued, and also to develop risk-mitigating conditions for movement. The information on the application is used for the initial permit evaluation, and thereafter may be reviewed for renewals of permits. A permit can be issued for more than one organism, cover multiple shipments, and be valid for as little as 1 month or up to 5 years, depending on the type of movement. A courtesy permit can be issued to facilitate movement of organisms that are not subject to the regulations, but look similar to those organisms that are regulated.

Consultation with State or Outside Officials - APHIS may consult with other Federal or State officials for their views on the danger of dissemination of plant pests in connection with the movement. These officials may make written objection to the movement of plant pests if they believe such movement may involve dissemination of a plant pest into their State, territory, possession, or district.

Appeal of Denial or Cancellation of Compliance Agreement or Request for a Hearing - Denial or cancellation of a compliance agreement may be initiated by APHIS at any time if APHIS determines that the requirements set forth in the agreement are not being met. The owner/operator of the facility whose agreement has been canceled may appeal APHIS' decision, in writing, within 10 days of receiving written notification of the cancellation.

All of the above data collected enables APHIS to evaluate the risks associated with the importation or interstate movement of regulated articles, and also enables APHIS to develop risk-mitigating conditions, if necessary, for importation or movement.

Application for Approval of Facility or Sewage System - Garbage that is unloaded from any means of conveyance must be moved to an approved facility for proper disposal. An application for approval of a facility or sewage system is made in writing by an authorized representative or official of any carrier. Facility approval will be granted after APHIS inspects the facility and determine that the disposal of regulated garbage is adequate to prevent the spread of plant pests (or livestock or poultry diseases) within the United States.

Opportunity to Show Cause After Withdrawal of Facility Approval - Any person whose facility approval is denied or withdrawn may write to APHIS and request an opportunity to show why the approval was wrongfully denied or withdrawn.

Compliance Agreements (PPQ Form 519) - This agreement is required for the movement of regulated garbage and articles, soil, and, in some instances, plant pests. Compliance agreements are only issued for high risk plant pests when APHIS or State personnel need to closely monitor operations at the facility to ensure permit conditions are being met. By signing a compliance agreement with APHIS, the applicant agrees to comply with the prescribed regulations and stipulations when moving or treating regulated items. Among other things, the applicant agrees to:

- Allow inspectors access to the facility;
- Follow proper labeling, marking, and other handling procedures;
- Engage in recordkeeping activities, such as keeping time and temperature recordings when sterilization is used as a means of disposing of regulated garbage;

- Train employees and keep records of the training; and
- Ensure that the facility meets the requirements of all applicable environmental authorities.

The following two programs are no longer required and have been removed from the CFR Regulations: Corn cyst nematode (removed by final rule published 9/10/06) (1 burden hour) and Unshu Oranges (1 burden hour).

Appeal of Denial or Cancellation of Compliance Agreement – Any compliance agreement may be canceled, either orally or in writing, by an inspector whenever the inspector finds that the person who has entered into the compliance agreement has failed to comply. Any person whose compliance agreement has been canceled may appeal the decision, in writing, within 10 days after receiving written notification of the cancellation.

Appeal of Denial or Cancellation of Compliance Agreement or Request for Hearing for Domestic Quarantines – Any certificate or permit which has been issued or authorized may be withdrawn by the inspector or the Deputy Administrator if he determines that the holder thereof has not complied with any condition for the use of such document imposed by this subpart. The holder will be afforded reasonable opportunity to present his views and if there is a conflict as to any material fact, a hearing will be held to resolve the conflict.

Recordkeeping - Any person engaged in the business of importing or exporting plants must keep records of each importation and exportation and make them available to PPQ inspectors upon request. These records must include shipping documents, a description of the plants, the number of plants in the shipment, the plants' region of origin, the date and place of import or export, and the name and address of the individuals who received the plants. These records must be kept for a period of 3 years.

Merged Activity from 0579-0306 - There are two Compliance Agreements for the movement of regulated garbage and articles from Hawaii to a waste site that have been merged into collection 0054.

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.

Letters of Appeals for permits and compliance agreements can be automated by utilizing a computer that has Microsoft Word or word processing software.

PPQ Form 519 (Compliance Agreements) is automated as a PDF and is downloadable at: <http://www.aphis.usda.gov/library/forms/pdf/ppq519.pdf>

PPQ Form 526 (Application for Permit) is automated as a PDF and is downloadable at: http://www.aphis.usda.gov/plant_health/permits/downloads/forms/ppqform526.pdf

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 incursion or interstate spread of plant pests 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 in connection with this program is the minimum needed to ensure that regulated entities (such as importers) do not inadvertently introduce a plant pest or noxious weed into the United States. APHIS has determined that 10 percent of the total 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.

If this information was not conducted or conducted less frequently, APHIS' ability to protect the United States from a plant pest or noxious weed incursion would be significantly compromised. APHIS would have no means by which to assess the risk posed by any given item imported into the United States, nor would APHIS have any means by which to assess whether garbage-handling facilities are operating in such a manner as to prevent the dissemination of plant pests, noxious weeds, or diseases within the United States. Therefore, it would only be a matter of time before an adverse event occurred that could prove economically damaging to American agriculture.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with the general information 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.

When the records are no longer needed to conduct business and the authorized expiration date of 3 years has been reached, the Federal Records Officer will determine if the records are eligible for final disposition.

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, 9101

Productive consultations concerning our information collection activities were made with the following individuals during 2009:

Charles Coffman
Executive Director
Interstate Pest Control Compact
845 Southland Drive 27-9792
St. Albans, WV
304-727-9792

Mr. John Connell
CDFA
1220 N. St., Suite 316
Sacramento, CA 95814
916-654-0317

Kim Young
BDP International Inc.
2929 Walker Road, NW
2nd Floor
Grand Rapids, MI 49544
(616) 791-3840

On Friday, August 7, 2009, pages 39609-39610, APHIS published in the Federal Register, a 60-day notice seeking public comments on its plans to request a 3-year renewal of this collection of information. Two comments were received from a concerned citizen about the risks associated with the importation or interstate movement of plant pest, noxious weeds, and soil. It had no relevance to the purpose of this collection.

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 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. These estimates were developed using historical data, the calculated average number of permits requested, and discussions with field and industry personnel.

. Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories.

Total cost to respondents is computed by multiplying their average wage by the total number of hours needed to completed the work.

$$\$28.44 \times 15,717 = \$446,991.48.$$

\$28.44 is the hourly rate derived from the U.S. Department of Labor Bureau of Labor Statistics February 12, 2009 Report-National Compensation Survey: Occupational Wages in the United States, August 2006. See <http://www.bls.gov/ncs/ocs/sp/ncb10832.pdf>.

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.

This cost is based on the estimated average time required to process permit applications. These costs are currently estimated to be \$614,193.13 per year. See APHIS Form 79.

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

Combining PPQ forms 525A and 526 resulted in a burden reduction of 30,123 hours. However, APHIS is now requiring individuals to complete the form, resulting in an increase of 5,142 respondents.

There was an adjustment of -43,895 responses to this collection. Because of economic conditions, 20,000 fewer companies applied for this program. APHIS also incorrectly listed an extra 23,895 respondents the last time this collection was approved, and that mistake has now been corrected.

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 APHIS collects.

17. If seeking approval to not display the expiration date for OMB approval of the information collections, explain the reasons that display would be inappropriate.

Since these forms are used in a number of information collections, it is not practical to include an OMB expiration date for each form. The forms used in this collection are PPQ 519 and 526. APHIS is seeking approval to not display the OMB expiration date on these forms.

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.