

July 31, 2011

Supporting Statement
Importation of Plants for Planting; Establishing a Category
For Plants for Planting Not Authorized for Importation
Pending Pest Risk Analysis
Docket No. APHIS-2006-0011
OMB No. 0579-XXXX

NOTE: The proposed rule, Docket Number APHIS-2006-0011, was published in the Federal Register on Thursday, July 23, 2009, with a 60-day comment period. At the time of publication, the proposed rule did not impose any new paperwork burden. One of the proposed provisions was to allow individuals to petition APHIS to conduct pest risk analyses with respect to plant taxa that were added to the NAPPRA list. Out of the 256 comments received, several commenters stated that APHIS should require the submission of information along with such petitions in accordance with its regulations in 7 CFR 319.5. In response, APHIS added such a requirement. Requiring that information be submitted in accordance with 7 CFR 319.5 will help APHIS ensure that it can actually complete a pest risk analysis in response to a petition. As a result of this requirement, the final rule contains paperwork burden. On May 3, 2011, APHIS published in the Federal Register a “New Information Collection Comment Request” which closed on July 5, 2011. Three comments were received but none of the comments dealt with paperwork. These comments are available in ROCIS.

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 the entry of plant diseases or insect pests from entering into the United States, preventing the spread of pests and noxious weeds not widely distributed into the United States, and eradicating those imported pests when eradication is feasible.

Under the Plant Protection Act (7 U.S.C. 7701 – et seq.), the Secretary of Agriculture is authorized to take such actions as may be necessary to prevent the introduction and spread of plant pests and noxious weeds within the United States. The Secretary has delegated this responsibility to the Administrator of APHIS.

The regulations in 7 CFR Part 319 prohibit or restrict the importation of certain plants and plant products into the United States to prevent the introduction of plant pests and noxious weeds. The regulations contained in “Subpart-Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products,” §§ 319.37 through 319.37-14 (referred to below as the regulations), restrict, among other things, the importation of living plants, plant parts, and seeds for propagation.

APHIS is amending the regulations in the final rule to establish a new category of regulated articles in the regulations governing the importation of nursery stock, also known as plants for

planting. This category will list taxa for plants for planting whose importation is not authorized pending pest risk analysis.

APHIS is asking OMB to approve the use of this information collection activity associated with its effort to prevent the spread of plant pests and plant diseases 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.

Submission of Information from National Plant Protection Organization (NPPO) before the Pest Risk Assessment (PRA) is prepared

Before the PRA can be prepared, the following information must be submitted to APHIS via email, fax, or mail: (1) a description and/or map of the specific location(s) of the areas in the exporting country where the plant, plant parts, or plant products are produced; (2) the scientific name (including genus, species, and author names) and taxonomic classification of arthropods, fungi, bacteria, nematodes, viruses, viroids, mollusks, phytoplasmas, spiroplasmas, etc., attacking the crop; and (3) the plant part attacked by each pest, pest life stages associated with plant part attacked, and location of pest (in, on, or with commodity).

APHIS needs this information in order to evaluate all the pests that could be associated with a taxon. While a plant taxon may be added to the NAPPRA category based on evidence that it is a host of a quarantine pest, there may be additional quarantine pests for which the taxon can serve as a host, and it may also be a quarantine pest itself.

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 information provided by the NPPO to establish a new category of regulated articles will not be automated at any time in the near future. Currently the proposed regulations to establish a new category will require funding, research, and a process in place before APHIS can commit to automating the above data. Once the rulemaking process is complete, APHIS will make a decision as to how the process will be incorporated into the ePermits system.

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 to prevent the introduction of plant pests into the United States. The information 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 required to protect U.S. nursery stock and other plant resources from the potential introduction of plant pests into the United States. APHIS has no small entities involved with this information collection.

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 APHIS did not collect this information or if this information was collected less frequently, APHIS would not be able to effectively evaluate the spread of plant pest. The introduction of plant pests into the United States could cause billions of dollars in losses to American agriculture.

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.

Persons consulted in 2010-2011 are as follows:

Lin Schmale
Society of American Florist
1601 Duke St.
Alexandria, VA 22314
703-838-5232

Mr. Craig Regelbrugge
American Nursery and Landscape
1000 Vermont Ave., NW. 3rd Flr.
Washington, DC 20005
202-789-2900

Joyce Fingerut
North American Rock Garden Society
537 Taugwork Road
Stonington, CT 06378-1805
860-535-3067

The proposed rule, Docket Number APHIS-2006-0011, was published in the Federal Register on Thursday, July 23, 2009, with a 60-day comment period. At the time of publication, the proposed rule did not impose any new paperwork burden. One of the proposed provisions was to allow individuals to petition APHIS to conduct pest risk analyses with respect to plant taxa that were added to the NAPPRA list. Out of the 256 comments received, several commenters stated that APHIS should require the submission of information along with such petitions in accordance with its regulations in 7 CFR 319.5. In response, APHIS added such a requirement. Requiring that information be submitted in accordance with 7 CFR 319.5 will help us ensure that APHIS can actually complete a pest risk analysis in response to a petition. On May 3, 2011, APHIS published in the Federal Register a "New Information Collection Comment Request" announcing new burden that would be contained in the final rule. This notice closed on July 5,

2011. Three comments were received but none of the comments dealt with paperwork. One comment was received from a concerned citizen about her perception of the general disregard of the environment by USDA. The other two comments also had no relevance to paperwork burden.

These comments are available in ROCIS.

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 (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 83I.**

See APHIS Form 71 for hour burden estimates. These estimates were developed using historical data, calculated average time to fill out the certificates, forms, other information collection and recordkeeping requirements, and through discussions with industry experts.

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

Respondents are importers of nursery stock. APHIS estimates the total annualized cost to these respondents to be \$ 1,260. These estimates were developed by using historical data through discussions with nursery owners. $\$45.00 \times 28 \text{ hours} = \$1,260.00$

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 startup 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 startup 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 for annualized cost to the Federal Government. This cost is based on the estimated average time required to process certificates, complete preclearance forms, and fulfill APHIS' other regulatory obligations. These costs are estimated to be \$347.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 831.

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 being 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 associated with 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.