

**SUPPORTING STATEMENT
FEDERAL PLANT PEST AND NOXIOUS WEEDS REGULATIONS
OMB NO. 0579-0054**

JUSTIFICATION

January 2013

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 Plant Protection Quarantine (PPQ) 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 into 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 PPQ 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 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 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.

APHIS uses the following information activities for individuals requesting the importation of regulated articles or for moving these articles interstate.

Advance Notification of Arrival (Business) - 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 (PPQ 526) (Business) (State) (Individuals) - Data provided by an applicant on this form 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.

Application for Permit to Receive Soil (PPQ 525A) (Business) - Applicants use this form to apply for a permit to move soil. Soil is strictly controlled under APHIS quarantine regulations (7 CFR 330.300) because it can readily provide a pathway for the introduction of a variety of dangerous organisms into the United States. The movement of soil into the United States from foreign sources is prohibited, and movement within the

continental United States is restricted unless authorized by APHIS under specific conditions (e.g., safeguards applied). The importation of soil from foreign sources and/or

the interstate movement is authorized by APHIS solely under strictly controlled circumstances described in a permit and/or compliance agreement.

Consultation with State or Outside Agencies and Individuals (Business)

(Individuals) (State) - 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 (Business) - 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 (Business) - 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 determines 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 (Business)

(State) - 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 519) (Business) - 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 regarding black stem rust, gypsy

moth, Japanese beetle, pine shoot beetle, pink bollworm, fruit fly, citrus canker, witchweed, imported fire ant, golden nematode, sugarcane, and karnal bunt and 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.

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.

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/plant_health/permits/downloads/forms/ppqform519.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

PPQ 525A (Application for Permit to Receive Soil) is automated and posted at: http://www.aphis.usda.gov/plant_health/permits/downloads/forms/ppqform525a.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 to determine that the facility is regulated and adequate to prevent the spread of plant pests, noxious weeds, and garbage from entering the United States. This 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 that APHIS collects in connection with this program is the minimum needed to ensure that business entities (such as importers) do not introduce plant pests or noxious weeds with shipments of regulated articles and adequately dispose of regulated garbage to prevent the spread of plant pests and noxious weeds 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 estimates 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 it 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.

- **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;**

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.

- **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 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.

Productive consultations concerning APHIS' information collection activities were made with the following individuals during 2012:

Dr. Jeffrey Littlefield
Montana State University
Entomology Laboratory
324 Leon Johnson Hall
Boseman, Montana 59717
406-994-4722

Mr. Steve Brown
Division of Plant Industry
California Department of Food and Agriculture

P.O. Box 942871
Sacramento, California 94271-0001
916-654-1017

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

On Wednesday, January 25, 2012, page 3729, 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. No comments from the public were received.

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 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.**

The cost to the public was determined by multiplying the total number of burden hours, 18,418, times the wage per hour rate, \$31.25. ($31.25 \times 18,418 = 575,562.25$).

\$31.25 is the hourly rate derived from the U.S. Department of Labor, Bureau of Labor Statistics May 2011 Report – Occupational Employment and Wages in the United States. See <http://www.bls.gov/news.release/pdf/ocwage.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.

The estimated cost for the Federal Government is \$776,777. 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.

ICR Summary of Burden:

Requested Program	Program	Change	Change	Previously Approved
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	Change Due to New Statute	Change Due to Agency Discretion	Due to Adjustment in Agency Estimate	Due to Potential Violation of the PRA	
Annual Number of Responses	36,440	0	5,593	0	30,847
Annual Time Burden (Hr)	18,418	0	2,797	0	15,621
Annual Cost Burden (\$)	0	0	0	0	0

There is a program change of +5,593 annual responses, and +2,797 burden hours, but the number of respondents, 25,755, will remain the same. The increase in annual responses and burden hours are due to the addition of PPQ form 525A which was initially in the 2007 submission but removed from the 2010 submission because of a pilot study that was conducted to test the continued need for the form. The results of the study determined that the form should still be used and is being added to this collection.

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.

PPQ 519 (Compliance Agreements) - is used in 12 information collections.

PPQ 526 (Application for Permit to Move Live Plant Pests, Noxious Weeds, Soil, and Prohibited Plants) - is used in 3 information collections.

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

PPQ 525A – (Application for Permit to Receive Soil) - is used in one information collection. APHIS will display the OMB expiration date on this form.

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.