

**SUPPORTING STATEMENT
Plants for Planting Regulations
OMB No. 0579-0190**

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) 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 into the United States, and eradicating those imported pests when eradication is feasible.

Under the Plant Protection Act (PPA) (7 U.S.C. 7701 – et seq), the Secretary of Agriculture is authorized to prohibit or restrict the importation, entry, exportation, or movement in interstate commerce of plant pests and other articles, to prevent the introduction of plant pests into the United States or their dissemination within the United States.

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-Plants for Planting,” §§ 319.37 through 319.37-14 (referred to as the regulations), restrict, among other things, the importation of living plants, plant parts, and seeds for propagation. Plant Protection and Quarantine (PPQ), a program within USDA’s Animal and Plant Health Inspection Service (APHIS), is responsible for implementing the PPA, and does so through the enforcement of its regulations.

APHIS’ nursery stock regulations requires APHIS to collect information from a variety of individuals who are involved in growing, exporting, and importing nursery stock to ensure plant pests and diseases are not introduced into the United States.

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

APHIS uses the following information collection activities to prevent the introduction of plant pests and plant diseases from entering into the United States.

Foreign Site Certificate of Inspection and/or Treatment (PPQ Form 203) - 7 CFR 319.37-13(c) (Business)

This form is used by APHIS to verify that all treatments of nursery stock performed outside of the United States, and supervised by an APHIS inspector in the country exporting the regulated articles

to the United States, are conducted in accordance with the regulations. The APHIS inspector who supervises the treatment issues a PPQ Form 203 and certifies that the regulated articles have been treated in accordance with the PPQ Treatment Manual, which is incorporated by reference at § 300.1(a). APHIS inspectors are notified that an inspection is needed after treatment of the regulated articles. When the inspector inspects, the business is present for that inspection.

Written Request to APHIS for Permission to Move, Propagate, or Allow Propagation of a Regulated Article - 7 CFR 319.37-7(c) (Business)

APHIS requires that anyone who wishes to move, propagate, or allow propagation of a restricted article under post-entry quarantine, request written permission from APHIS. This person must concurrently request similar permission from APHIS. This ensures that APHIS is made aware when plants in post-entry quarantine are moved or propagated.

Application for Permit to Import Plant and Plant Products (PPQ Form 587) - 7 CFR 319.37-3(a) (Business)

Restricted articles (other than articles for food, analytical, medicinal, or manufacturing purposes) in any of the categories outlined in 7 CFR 319.37-3(a) may be imported or offered for importation into the United States only after issuance of a written permit by PPQ. Importers must apply for written permits from PPQ by completing and submitting PPQ Form 587 to APHIS. APHIS reviews the application (PPQ 587) and issues a written permit to import (or offer for importation) into the United States certain restricted articles in accordance with 7 CFR 319.37-3(a) and any identified permit conditions.

The restricted articles (other than articles for food, analytical, medicinal, or manufacturing purposes) in any of the following categories may be imported or offered for importation into the United States only after issuance of a written permit by the PPQ programs:

- (1) Articles subject to treatment and other requirements of §319.37-6;
- (2) Articles subject to the postentry quarantine conditions of §319.37-7;
- (3) Bulbs of *Allium sativum* (garlic), *Crocasmia* spp. (montebretia), *Gladiolus* spp. (gladiolus), and *Watsonia* spp. (bugle lily) from New Zealand;
- (4) Articles of *Cocos nucifera* (coconut); and articles (except seeds) of *Dianthus* spp. (carnation, sweet-william) from any country or locality except Canada;
- (5) Lots of 13 or more articles (other than seeds, bulbs, or sterile cultures of orchid plants) from any country or locality except Canada;
- (6) Seeds of trees or shrubs from any country or locality except Canada;
- (7) Articles (except seeds) of *Malus* spp. (apple, crabapple), *Pyrus* spp. (pear), *Prunus* spp. (almond, apricot, cherry, cherry laurel, English laurel, nectarine, peach, plum, prune), *Cydonia* spp. (quince), *Chaenomeles* spp. (flowering quince), and *Rubus* spp. (cloudberry, blackberry, boysenberry, dewberry, loganberry, raspberry), from Canada;
- (8) Articles (except seeds) of *Castanopsis* spp. (chinquapin) destined to California or Oregon;
- (9) Articles (except seeds) of *Pinus* spp. (pine), (5-leaved) destined to Wisconsin;

- (10) Articles of *Ribes* spp. (currant, gooseberry), (including seeds) destined to Massachusetts, New York, West Virginia, or Wisconsin;
- (11) Articles (except seeds) of *Planera* spp. (water elm, planer) or *Zelkova* spp. from Europe, Canada, St. Pierre Island, or Miquelon Island and destined to California, Nevada, or Oregon;
- (12) Seeds of *Prunus* spp. (almond, apricot, cherry, cherry laurel, English laurel, nectarine, peach, plum, prune) from Canada and destined to Colorado, Michigan, New York, Washington, or West Virginia;
- (13) Articles (except seeds) of *Vitis* spp. (grape) from Canada and destined to California, New York, Ohio, Oregon, and Washington;
- (14) Articles (except seeds) of *Corylus* spp. (filbert, hazel, hazelnut, cobnut) from provinces east of Manitoba in Canada and destined to Oregon or Washington;
- (15) Articles (except seeds) of *Pinus* spp. (pine) from Canada;
- (16) Articles (except seeds) of *Ulmus* spp. (elm) from Canada and destined to California, Nevada, or Oregon;
- (17) *Solanum tuberosum* true seed from New Zealand and the X Region of Chile (that area of Chile between 39° and 44° South latitude—see §319.37–5(o));
- (18) Small lots of seed imported in accordance with §319.37–4(d) of this subpart; and
- (19) Articles (except seeds) of *Fraxinus* spp. (ash) from counties or municipal regional counties in Canada that are not regulated for emerald ash borer (EAB) but are within an EAB-regulated Province or Territory and are not prohibited under §319.37–2(a).

Markings and Identity of Regulated Articles - 7 CFR 319.40-9(c) (Business)

Importers must mark and identify regulated articles being imported into the United States as described below and in accordance with 7 CFR 319.40-9(c).

Any restricted article for importation other than by mail (at the time of importation or offer for importation) into the United States, will plainly and correctly bear on the outer container (if in a container) or the restricted article (if not in a container) the following information:

- (1) General nature and quantity of the contents,
 - (2) Country and locality where grown,
 - (3) Name and address of shipper, owner, or person shipping or forwarding the article,
 - (4) Name and address of consignee,
 - (5) Identifying shipper's mark and number, and
 - (6) Number of written permit authorizing the importation, if one was issued.
- (b) Any restricted article for importation by mail will be plainly and correctly addressed and mailed to APHIS, PPQ at a port of entry identified in §319.37–14, will be accompanied by a separate sheet of paper within the package plainly and correctly bearing the name, address, and telephone number

of the intended recipient, and will plainly and correctly bear on the outer container the following information:

- (1) General nature and quantity of the contents,
- (2) Country and locality where grown,
- (3) Name and address of shipper, owner, or person shipping or forwarding the article, and
- (4) Number of written permit authorizing the importation, if one was issued.

(c) Any restricted article for importation (by mail or otherwise, at the time of importation or offer for importation into the United States), will be accompanied by an invoice or packing list indicating the contents of the shipment.

Phytosanitary Certificate with Declaration - 7 CFR 319.37-5(u)(1) & (v)(1) (Foreign Government) (Business)

A phytosanitary certificate with an additional declaration is required for *Pelargonium* spp plants from the Canary Islands be grown under certain conditions confirming that those growing conditions have been met for *Pelargonium* spp. plants and will minimize the risk that organisms, such as *Helicoverpa armigera*, *Chrysodeixis chalcites* and *Syngrapha circumflexa* (syn. *Cornutiplusia circumflexa*), might enter the United States via the importation of these plants.

A phytosanitary certificate with an additional declaration is required stating that plants from Israel be grown under certain conditions confirming that those growing conditions have been met. Plants from Israel run the risk of harboring plant pests such as *Spodoptera littoralis* and other pests that could be introduced into the United States. Without control measures, *S. littoralis* could inflict heavy damage to both the yield and quality of U.S. cotton production.

Grower Registration and Agreement - 7 CFR 319.37-5(u)(2) & (v)(2) (Foreign Government) (Business)

Persons in the Canary Islands who produce *Pelargonium* spp plants for export to the United States must be registered and approved by the National Plant Protection Organization (NPPO) of Spain; and enter into an agreement with the NPPO of Spain whereby the producer agrees to participate in and follow the export program for *Pelargonium* spp. plants established by the NPPO of Spain.

Persons in Israel who produce plants for export to the United States must be registered and approved by the NPPO of Israel; and enter into an agreement with the NPPO of Israel whereby the producer agrees to participate in and follow the export program for plants established by the NPPO of Israel.

Production Site Registration - 7 CFR 319.37-5(u)(1) & (v)(1) (Business) (Foreign Government)

Growers in the Canary Islands who produce *Pelargonium* spp. plants for export to the United States must meet the following requirements for inclusion in the export program for *Pelargonium* spp. plants established by the NPPO: *Pelargonium* spp. plants destined for export to the United States must be produced in a production site devoted solely to production of such plants. The production site must be registered with the NPPO and must employ safeguards agreed on by APHIS and NPPO.

Growers in Israel who produce plants for export to the United States must meet the following requirements for inclusion in the export program for plants established by the NPPO of Israel.

Plants destined for export to the United States must come from a production site devoted solely to production of such plants. The production sites in which such plants are produced must be registered with the NPPO of Israel.

Inspections - 7 CFR 319.37-5(v)(4)(i) (Business) (Foreign Government) New

Inspections undertaken in the export program for plants established by the NPPO will include, but may not be limited to, NPPO inspection of the plants and production sites weekly to ensure that no quarantine pests are present. Packing materials and shipping containers for the plants must be inspected and approved by APHIS to ensure that they do not introduce pests of concern.

Approved Growers List - 7 CFR 319.37-5(v)(4)(vii) (Foreign Government) New

The NPPO will provide APHIS with access to the list of registered and approved growers at least annually.

Reinstatement and Reapproval Written Report - 7 CFR 319.37-5(v)(5)(C)(ii) (Business) (Foreign Government) New

A grower may be reinstated, and the grower's production sites may regain approved status, by requesting reapproval and submitting a detailed report describing the corrective actions taken by the grower. Reapproval will only be granted upon concurrence from NPPO and APHIS.

Trust Fund Agreement - 7 CFR 319.37-5(v)(7) (Foreign Government) New

The NPPO must enter into a trust fund agreement with APHIS before each growing season. The NPPO or designated representative is required to pay in advance all estimated costs that APHIS expects to incur through its involvement in overseeing the execution of 7 CFR 319.37-5. These costs will include administrative expenses incurred in conducting the services listed in 7 CFR 319.37-5 and all salaries (including overtime and the Federal share of employee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by the inspectors in performing these services. The NPPO or designated representative is required to deposit a certified or cashier's check with APHIS for the amount of the costs estimated by APHIS. If the deposit is not sufficient to meet all costs incurred by APHIS, the agreement further requires the NPPO or designated representative to deposit with APHIS a certified or cashier's check for the amount of the remaining costs, as determined by APHIS, before the services will be completed. After a final audit at the conclusion of each shipping season, any overpayment of funds would be returned to NPPO or designated representative or held on account until needed.

Emergency Action Notification (PPQ Form 523) - 7 CFR 319.37-8(f)(2) (Business) New

If an inspector determines that any article, or any increase therefrom, grown at a site specified in an authorized post-entry quarantine growing agreement is being grown contrary to the provisions of this section, the inspector shall issue an Emergency Action Notification (PPQ Form 523) to the person who signed the post-entry quarantine growing agreement. This includes numbers greater than the number approved by the post-entry quarantine growing agreement, or in a manner that otherwise presents a risk of introducing quarantine pests into the United States. Again, the inspector shall issue a PPQ Form 523 to the person who signed the post-entry quarantine growing agreement. That person shall be responsible for carrying out all actions specified in the PPQ Form 523. The Emergency Action Notification may extend the time for which the articles and the increase therefrom must be grown under the post-entry quarantine conditions specified in the authorized post-entry quarantine growing agreement, or may require that the person named in the notification must destroy, ship to a point outside the United States, or apply treatments or other

safeguards to the article, the increase therefrom, or any portion of the article or the increase therefrom, within the time specified in the Emergency Action Notification. In choosing which action to order and in setting the time limit for the action, the inspector shall consider the degree of pest risk presented by the quarantine pest(s) associated with the kind of article (including increase therefrom), the types of other host materials for the pest in or near the growing site, the climate and season at the site in relation to the pest's survival, and the availability of treatment facilities.

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.

PPQ Forms 203 and 587 can be downloaded for completion and printed at:

<http://www.aphis.usda.gov/library/forms/pdf/ppq203.pdf>

<http://www.aphis.usda.gov/library/forms/pdf/PPQ587.pdf>

The PPQ Form 523 is not automated at this time because some grove and nursery owners do not have access to the technology needed to electronically access and transmit the form. In addition, an original signature is required.

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 for the purpose described in item 2 above.

The information APHIS collects is exclusive to its mission to prevent the introduction of plant pests and plant disease 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 needed to protect U.S. nursery stock and other plant resources from the potential introduction of plant pests and plant diseases into the United States. APHIS estimates that 60 percent of the respondents involved with this information collection are considered 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 APHIS did not collect this information or if this information was collected less frequently, APHIS could not verify that imported nursery stock does not present a significant risk of introducing plant pests and plant diseases into the United States. The establishment of certain plant pests and plant diseases in the United States could cause substantial 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;**

Inspections undertaken in the export program for plants established by the NPPO will include, but may not be limited to, NPPO inspection of the plants and production sites weekly to ensure that no quarantine pests are present.

- **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 documents;**
- **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 this program were held with the following:

Shawn McBurney
Senior Director, Government Relations
Society of American Florists
1601 Duke Street
Alexandria, VA 22314
360-424-5533

Terri Bates
AmericanHort
1250 I St., NW
Suite 500
Washington, DC 20005
202-789-2900

Lauri Reynolds
Smithers-Oasis
295 Water St. Suite 201
Kent, OH 44240
330-676-4422

On Tuesday, August 29, 2017, page 40984, APHIS published in the Federal Register, a 60-day notice seeking public comments on APHIS' plans to request a 3-year extension of this collection of information. During that time, APHIS received one comment from a concerned citizen about their concerns of APHIS' business practices. This comment has no relevance to this information 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 (other than appropriate, program related payments) or gifts to respondents. The NPPO or designated representative is required to pay in advance all estimated costs via the Trust Fund Agreement.

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 83I.**

See APHIS Form 71 for 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 importers/exporters of nursery stock and NPPO officials. APHIS estimates the total annualized cost to these respondents to be \$146,982.65. APHIS arrived at this figure by multiplying the total burden hours by the average hourly wage rate. ($\$26.45 \times 5,557 \text{ hours} = \$146,982.65$).

The estimated hourly wage was developed by using historical data and through discussions with importers/exporters of nursery stock.

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 no 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.

The estimated annualized cost to the Federal Government is \$70,128. (See APHIS Form 79.)

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

ICR Summary of Burden:

N	Requested	Program Change Due to New Statute	Program Change Due to Agency Discretion	Change Due to Adjustment in Agency Estimate	Change Due to Potential Violation of the PRA	Previously Approved
Annual Number of Responses	10,769 5366	0	5,405 0	0	0	5,364 5366
Annual Time Burden (Hr)	5,557 646	0	4,911 0	0	0	646 646
Annual Cost Burden (\$)	0 0	0	0	0	0	0

There is a program change increase of +5,405 annual responses and +4911 burden hours. The program change increase of +5,405 annual responses and +2,784 burden hours is due to APHIS now accounting for the following:

- (1) Phytosanitary Certificates (Business);
- (2) Inspections (Business and Foreign Government);
- (3) Approved Growers List (Foreign Government);
- (4) Reinstatement/Reapproval Written Report (Business and Foreign Government);
- (5) Trust Fund Agreement (Foreign Government); and
- (6) Emergency Action Notification - PPQ Form 523 (Business).

There is also a program change increase of +2,127 burden hours. The increase is due to the increase in the hours per response to complete the Phytosanitary Certificate (Business).

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.

The PPQ Form 203 is used in 3 information collections, the PPQ Form 587 is used in 6 information collections, and the PPQ Form 523 is used in 5 information collections; therefore, it is not practical to include an OMB expiration date on these forms because of the various expiration dates for each collection. APHIS is seeking approval to not display the OMB expiration dates 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 in the Act.

B. Collections of Information Employing Statistical Methods

Statistical methods are not used in this information collection.