

**SUPPORTING STATEMENT  
PLANT PEST REGULATIONS; UPDATE OF PROVISIONS  
APHIS DOCKET NO. 2008-0076  
OMB NO. 0579-0187**

**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. 7701- et seq.), 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. The regulations for implementing these aspects of the Plant Protection Act are contained in Part 330, Title 7, Code of Federal Regulations (7 CFR 330).

APHIS published a final rule amending 7 CFR 330, specifically the regulations regarding the movement of plant pests; the criteria regarding the movement and environmental release of biological control organisms, and establishing regulations to allow the importation and movement in interstate commerce of certain types of plant pests without restriction by granting exceptions from permitting requirements for those pests; and regulations regarding the movement of soil. This rule clarifies the factors that will be considered when assessing the risks associated with the movement of certain organisms and facilitate the movement of regulated organisms and articles in a manner that also protects U.S. agriculture. This rule also establishes petition processes that allow requests for exemptions from permitting requirements for certain plant pests or biological organisms; requirements for compliance agreements between APHIS and laboratories, and the creation of a general permit.

APHIS is asking the Office of Management and Budget to approve for 3 years these new information collection activities in the amended regulation.

**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 will use the following information activities.

**General Permit; (7 U.S.C. 7711); (Private Sector)**

A general permit is a general authorization to conduct activities specified on the permit. It may be issued by APHIS as an exception to other types of permits that are limited in time and scope. General permits do not require an application but APHIS must receive information from a requestor about its special circumstances that would justify its issuance.

**Petition to Add Biological Control Organisms to the List of Organisms Granted Exceptions from Permitting Requirements; (7 CFR 330.202(c)); (Individuals, Private Sector)**

Any person may submit a petition to APHIS, in writing, to add a biological control organism to the list referred to in 7 CFR 330.202(b). It must include:

(1) Evidence indicating that the organism is indigenous to the continental United States throughout its geographical or ecological range, or evidence indicating that the organism has produced self-replicating populations within the continental United States for an amount of time sufficient, based on the organism's taxon, to consider that taxon established throughout its geographical or ecological range in the continental United States.

(2) Results from a field study where data was collected from representative habitats occupied by the biological control organism. Studies must include sampling for any direct or indirect impacts on target and non-target hosts of the biological control organism in these habitats. Supporting scientific literature must be cited.

(3) Any other data, including published scientific reports, that suggest that subsequent releases of the organism into the environment of the continental United States will present no additional plant pest risk (direct or indirect) to plants or plant products.

**Compliance Agreement (PPQ Form 519); (7 CFR 330.203(c)(4)); (Private Sector)**

Soil samples from an area quarantined in accordance with 7 CFR 301 without prior issuance of an interstate movement permit may only be moved to a laboratory that has entered into and is operating under a compliance agreement with APHIS and is approved by APHIS to conduct chemical/physical tests and analyses of such samples.

**Petition to Add Plant Pests to the Plant Pest List; (7 CFR 330.204(b)); (Individuals, Private Sector)**

Any person may submit a petition to APHIS, in writing, to add a plant pest to the list of plant pests that may be moved in interstate commerce within the continental United States without restriction. It must include:

(1) The biology of the plant pest, including characteristics that allow it to be identified, known hosts, and virulence; the geographical or ecological range of the plant pest within the

continental United States; and the areas of the continental United States within which the plant pest is established; or

(2) Information that the plant pest is commercially available and raised under the regulatory purview of another Federal agency (which must include a citation to the relevant law, regulation, or order under which the agency exercises such oversight).

**Petition to Remove Plant Pests from the Plant Pest List; (7 CFR 330.204(c)); (Individuals, Private Sector)**

Any person may submit a petition to APHIS, in writing, to remove a plant pest from the list of plant pests that may be moved in interstate commerce within the continental United States without restriction. It must include independently verifiable information demonstrating that APHIS' initial determination that the plant pest belongs to one of the categories in 7 CFR 330.204(a) should be changed, or that additional information is now available that would have caused us to change the initial decision.

**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.**

A general permit and a compliance agreement (PPQ Form 519) are initiated by APHIS after information is exchanged telephonically or in writing with the requestor.

There is no specific form or format for petitions. They may be submitted by email to [pest.permits@aphis.usda.gov](mailto:pest.permits@aphis.usda.gov) or any means listed on APHIS' plant pest permitting website.

**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 within the United States 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 100 percent of the public sector respondents are small entities. 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.

**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. An adverse event could result in severe physical and economic damage to United States 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 matter 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 the information collection activities in this request:

Edith E. Smith  
Shady Oak Butterfly Farm  
12876 SW CR 231  
Brooker, FL 32622  
Tel. 877-485-2458

Robert Rich  
Weedbusters Biocontrol  
5607 Hillview Way  
Missoula, MT 59803  
Tel. 406-251-4261

James Steadman  
University of Nebraska - East Campus  
406 Plant Sciences Hall  
Lincoln, NE 68583  
Tel. 402-472-3163

APHIS' proposed rule, docket APHIS-2008-0076, was published in the Federal Register on Thursday, January 19, 2017 with a 60-day comment period. During that time, 77 comments were received by interested parties, all of which are addressed in the final rule. The proposed rule was adopted as the final rule, with all changes discussed in the final rule. Two activities, general permits and compliance agreements, were added to the information collection as placeholders. The final rule was published in the Federal Register on June 25, 2019.

**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 71. APHIS estimates there are 8 respondents composed of the public sector and individuals.

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

APHIS estimates the total annualized cost to these respondents to be \$30,864. APHIS arrived at this figure by multiplying their estimated average hourly wage (\$32.05) by the number of hours (963) required to complete the burdens.

The average hourly wage was derived from the latest Occupational Employment and Wages report published by the U.S. Department of Labor Bureau of Labor Statistics in May 2017 (see <https://www.bls.gov/news.release/pdf/ocwage.pdf>). Wages used are for biological scientists (\$38.56), plant scientists (\$33.26), and for private citizens, the U.S. average wage of \$24.34.

**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 79. The estimated cost to the Federal Government is \$68,230.

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

This is a new program. APHIS is amending the plant pest regulations to allow petitions to add or remove biological control organisms and plant pests from official exemption and plant pest lists, the use of general permits, and requiring laboratories handling soil samples to enter compliance agreements with APHIS. These activities total an estimated 963 hours of burden annually.

**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 collections, explain the reasons that display would be inappropriate.**

There are no USDA forms associated with the information collections that result from this rule.

**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.