

SUPPORTING STATEMENT
Federally Recognized State Managed Phytosanitary Program
OMB No. 0579-0365

June 2020

A. Justification

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.

Under the Plant Protection Act (7 U.S.C. 7701 – *et seq.*), the Secretary of the U.S. Department of Agriculture (USDA) is authorized to prohibit or restrict the importation, entry, or movement of plants and plant pests to prevent the introduction of plant pests into the United States or their dissemination within the United States.

The Animal and Plant Health Inspection Service (APHIS) and the Department of Homeland Security (DHS), Customs and Border Protection (CBP), take action on imported products when quarantine pests are found upon inspection. Quarantine pests include those that pose a risk to agriculture or the environment but: (1) do not exist in the United States, (2) exist in the United States but are under Federal domestic quarantine under 7 CFR 301 or by Federal Order, (3) exist in the United States but were recently detected and whose regulatory status is under consideration, or (4) exist in the United States but are under State-level quarantine that has been approved by APHIS as providing a level of protection equivalent to a Federal domestic quarantine. APHIS has taken action on pests that meet the fourth criteria for years based on informal requests by States in the interest of supporting our State cooperators and industries within those States and this program/information collection aims to standardize this process.

APHIS' Plant Protection and Quarantine (PPQ), has established the following procedures for States (through the National Plant Board (NPB) to petition the Agency to recognize State-level plant pest regulations and associated actions taken as meeting the international criteria for official control and accepted measures to protect an area that would economically or environmentally be endangered by the introduction of a pest. The International Plant Protection Convention ((IPPC) defines "official control" as the active enforcement of mandatory phytosanitary regulations and the application of mandatory phytosanitary procedures with the objective of eradication or containment of quarantine pests or for the management of regulated no-quarantined pests. APHIS also intends to recognize State level regulations to exclude such pests from areas that would be endangered by their introduction.

APHIS' policy for the Federally Recognized State Managed Phytosanitary (FRSMP) Program is to ensure that for whatever action APHIS takes at ports of entry on the States' behalf, APHIS is able to conclusively show that the State program has been evaluated and meets APHIS standards, and thus can be defended against a World Trade Organization (WTO) challenge. In short, APHIS needs this information collection to ensure it has adequate support for continuing to protect States against pests that exist in other U.S. States when those pests are found during port of entry inspections.

This is an administrative process between APHIS and the States basing the Federally Recognized State Managed Phytosanitary (FRSMP) Program on the guidelines for the application of official control. In addition to eradication and containment programs, APHIS will recognize programs that exclude a pest based on the same criteria. States will be required to provide evidence that introduction of a pest presents an economic or environmental risk and that they take phytosanitary action domestically, thereby justifying equivalent action at ports of entry for the protection of the endangered area.

APHIS is asking the Office of Management and Budget (OMB) to approve, for 3 additional years, the use of these information collection activities associated with its efforts to eradicate, exclude, or contain regulated plant pests within 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 eradicate, exclude, and contain regulated plant pests within the United States.

PPQ is requesting this information to establish a relationship between APHIS and State Departments of Agriculture. The State Plant Regulatory Official (SPRO) of a State or States will be eligible to petition APHIS for recognition of qualifying State programs. Upon initial implementation of the program, PPQ will create a General Permit to be located on the FRSMP Web site at: http://www.aphis.usda.gov/plant_health/plant_pest_info/frsmp/index.shtml and permit will be populated with information gathered from petitions that PPQ approves.

APHIS developed criteria by which petitions will be evaluated and status will be granted. A copy of the criteria is attached as supplemental information. Granting the status helps APHIS accomplish its goals by recognizing State-managed phytosanitary programs at the Federal level. The United States complies with its obligations under the IPPC, an international agreement on plant health with 172 current signatories. Signatory countries are expected to apply equivalent measures to import and domestic plant health (phytosanitary) regulations.

Respondents know how and where to submit this information and what to report because it is posted on the APHIS Web site at: https://www.aphis.usda.gov/import_export/plants/manuals/ports/downloads/frsmp.pdf. The National Coordinator for Official Control continues to reach out to States. In the past, the Coordinator delivered presentations at regional plant board meetings, conducted conference calls with the SPROs, released articles for States in the APHIS news, and worked with NPB representatives of the FRSMP Program. In addition, respondents are aware of this information collection because the NPB acts as a clearinghouse when a petition is initiated. Designated representatives communicate with the membership.

7 CFR 371.3 Petition - Protocol for Quarantine Pests of Concern (State)

To obtain a program's designation as a FRSMP Program, States (through the NPB) must petition APHIS-PPQ to recognize their established or proposed programs to eradicate or contain a regulated plant pest. The State provides the following supporting information and documentation:

- 1. Presence** – Evidence the pest does not exist in the State, or if it does exist, that it is being contained or there are programs in place for eradication. Include appropriate survey data; define the infested area(s), endangered area(s), and protected area(s), and the procedures used for establishing containment or eradication.
- 2. Possible entry and establishment** - Evidence that the pest could become established or widespread in the State.
- 3. Economic/environmental harm** - Evidence that the pest could cause economic and/or environmental harm in the State.
- 4. Maintenance/Verification** - A description of the State actions used to maintain and monitor for pest freedom upon eradication, or limit distribution by containment, including a description of monitoring programs.
- 5. Quarantine regulations** – A copy of the State or local quarantine regulations that provide for enforcement of the appropriate programs.

7 CFR 371.3 Petition - Protocol for Regulated Non-Quarantine Pests (State)

The State provides the following supporting information and documentation:

- 1. Economic harm/Vulnerability** – Evidence that a particular pest could cause significant harm to plants for planting if the pest was not managed through a certification program.
- 2. Quarantine regulations/Testing** – Evidence the State has regulatory authority and a program established to manage the levels of the pest in plants for planting that are the hosts for the pest, and a copy of the State, local, or quarantine regulations that provide for the enforcement of a management program and testing protocols. Provide a description of recent State actions taken under these regulations and the testing protocols used in the program.
- 3. Management/Verification** – A description of State actions to manage the level and/or producers' management of pests in the plants for planting where the pest is maintained below a level that can affect production, health, or marketability of plants for planting and cause an unacceptable economic impact to those plants.

7 CFR 371.3 State Cooperative Agreement (State)

APHIS-PPQ requires SPROs to commit, in writing, the willingness to allocate resources necessary to implement and maintain the program. SPROs identify the State's authority by citing the relevant regulations. SPROs provide a description of how to implement the program, such as surveys, inspections, and compliance agreements.

7 CFR 371.3 Audit Review Requirements Annual Report (State)

States submit annual accomplishment reports and APHIS-PPQ audits programs for survey and monitoring in order to confirm compliance. APHIS-PPQ bases the audits on the procedures submitted in protocol items 1, 4, and 5 for Quarantine Pests and protocol item 3 for Regulated Non-Quarantine Pests. Any non-compliance must be addressed appropriately.

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 FRSMP Program will rely on the Integrated Plant Health Information System (IPHIS) to manage its data/automation needs.

APHIS and the States will use IPHIS to report program information. Exactly what the program information is will be determined by APHIS and may vary depending on the operational parameters of each program.

The collection of the petition package itself will not be accomplished through IPHIS.

APHIS will ask that 100 percent of the collection be in electronic format, whether through IPHIS database reporting, email, or another application. However, as stated above, a prototype in IPHIS has not been created yet. APHIS originally thought this might be a hardship for some States, but moving forward, this seems to be a valid option.

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 that APHIS collects is exclusive to its mission of eradicating, excluding, and containing regulated plant pests within the United States and is not available from any other source. In addition, this information collection is about collaborating with States thus reducing any risks of duplication.

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 the United States from destructive plant pests while strengthening its safeguarding system domestically. APHIS has determined that there are no small entities involved with this information collection because they are all 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 collected or if it was collected less frequently, APHIS would be less effective in establishing procedures that are used to contain regulated plant pests within the United States.

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, governmental 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.

APHIS held productive consultations with the following individuals concerning information collection activities associated with the FRSMP program and regarding information collection activities. The respondents were generally ambivalent regarding the paperwork requirements and

didn't feel they were asking for too much information. The respondents are familiar with completing documentation at both the federal and state level and understand the importance of protecting agricultural products from plant pests and diseases. Respondents felt that the information requested for petitions and audit summaries bolstered their research.

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On Friday, February 7, 2020, pages 7265-7266, Vol. 84, No. 232, 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 were received from the public.

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. 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 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 burden estimates.

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

APHIS estimates the total annual cost to these respondents to be \$ 11,256.71. APHIS arrived at this figure by multiplying the hours of estimated response time (243 hours) by the estimated average hourly wage of the above respondents (\$31.50) and then multiplying the result (\$7,654.50) by 1.4706 to capture benefit costs.

The estimated hourly rate of \$31.50 was derived from the most current U.S. Department of Labor, Bureau of Labor Statistics Report – Occupational Employment and Wages in the United States at <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 of any other expense that would not have been incurred without this collection of information.

The estimated cost to the Federal Government is \$17,727.20. (See APHIS Form 79).

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

There are no changes to this information collection since the last renewal submission, due to low submissions of petition requests from States.

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.

There are no forms associated with this collection of information. However, there is supplemental documentation which has been referenced throughout this information collection entitled, "Guidelines for Federal Recognition of a State Managed Phytosanitary Program", which includes, among other things, Petition Procedures, Protocol for Regulated Non-Quarantine Pests, Where to Send Petitions, etc. APHIS has no plans to seek approval for not displaying the OMB expiration date on these Guidelines.

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 employed in this information collection activity.