

Supporting Statement
Black Stem Rust; Identification Requirements and Addition of Rust-Resistant Varieties
OMB Control No. 0579-0186

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 plant diseases or insect pests from entering the United States, preventing the spread of plant pests and noxious weeds not widely distributed in 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 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 Black Stem Rust quarantine and regulations, contained in 7 CFR 301.38 through 301.38-8 (referred to below as the regulations), quarantine the conterminous 48 States, and the District of Columbia, and govern the interstate movement of certain plants of the genera *Berberis*, *Mahoberberis*, and *Mahonia*, known as barberry plants. The species of these plants are categorized as either rust-resistant or rust-susceptible. Rust-resistant plants do not pose a risk of spreading black stem rust or of contributing to the development or new traces of the rust; rust-susceptible plants do pose such risks.

Although rust-resistant species are included as regulated articles, they may be moved into or through protected areas if accompanied by a certificate.

Black stem rust is one of the most destructive plant diseases of small grains that are known to exist in the United States. The disease is caused by a fungus that reduces the quality and yield of infested wheat, oat, barley, and rye crops by robbing host plants of food and water. In addition to infecting small grains, the fungus lives on a variety of alternate host plants that are species of the genera *Berberis*, *Mahoberberis*, and *Mahonia*. The fungus is spread from host to host by wind-borne spores.

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 activity to quarantine the conterminous 48 States and the District of Columbia to govern the interstate movement of certain plants of the genera *Berberis*, *Mahoberberis*, and *Mahonia*, known as barberry plants.

Request to Add Rust Resistant Barberry Varieties; (7 CFR 301.38); (Business; State)

When a business requests APHIS to add a variety to the list of rust-resistant barberries, it needs to provide APHIS with a written description and color pictures that can be used by the State nursery inspectors to clearly identify the variety and distinguish it from other varieties. This action enables nurseries to move the species into and through protected areas and to propagate and sell the species in States or parts of States designated as protected areas.

The request to add rust-resistant barberry varieties requires the following steps to be taken:

Step 1: The nursery ships the new barberry varieties to a USDA-Agricultural Research Service (ARS) lab to be tested for their resistance to the black stem rust pathogen along with the description of the plant characteristics. The information is emailed electronically.

Step 2: USDA-ARS informs APHIS of the results of the test, as resistant to black stem rust or susceptible to black stem rust pathogen. This usually takes a few months (4-6 months).

Step 3: APHIS then initiates a Regulatory Work Plan, and the varieties are listed in 7 CFR 301.38.

Step 4: APHIS informs the nursery of the listing/request for public comments published in the Federal Register.

Compliance Agreement (PPQ Form 519); (7 CFR 301-38-2(b)); (Business)

Businesses engaged in shipping barberry to Protected Areas can enter into a PPQ Compliance Agreement to facilitate inspection and certification of the product. The entity can enter into the agreement with APHIS by signing a PPQ 519 Compliance Agreement. This does not allow self-certification and a PPQ inspection is still required.

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 collection is for domestic programs and the compliance agreement and certificates are submitted on paper.

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 diseases into the United States, and to prevent the spread of diseases within 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.

APHIS has determined the business respondent is a small entity. The information APHIS collects is the minimum needed to protect the United States from the introduction of black stem rust and other plant diseases.

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.

This information collection is critical to APHIS' mission of preventing exotic plant pests from entering the United States or spreading within the United States. An incursion or spread of a quarantined plant or insect pest could cause millions of dollars in damage to U.S. 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.

APHIS engaged in production consultations with the following individuals at businesses engaged in barberry sales and shipping. We provided information related to the time and effort associated with the information requirements of the barberry regulations. The respondents expressed no concerns with any of these items and had no further recommendations.

Ted McDonald, VP Sales and Marketing
Monrovia Nurseries
800 S Shamrock Ave
Monrovia, CA 91016
Tel. (407) 647-2039

Jim Berry
J. Berry Farms
201 Private Rd 5180
Grand Saline, TX 75140

Jason Carter, Assistant Director of The Science House
Mountain Horticultural Crops Research and Extension Center
455 Research Drive
Mills River, NC 28759
Tel. (828) 654-8590

On Friday, July 7, 2023, APHIS published in the Federal Register (88 FR 43263) a 60-day notice seeking public comments on its plans to request a 3-year renewal of this collection of information. APHIS did not receive any comments 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. 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.

- **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 respondents to be \$992. This was computed by multiplying the estimated average hourly wage (\$40.29) by the total number of burden hours (17) needed to complete the work, and then multiplying the result by 1.499 to capture benefit costs.

The average hourly rate of \$40.29 is for agricultural managers [SOCC 11-9013] and was obtained from the U.S. Department of Labor; Bureau of Labor Statistics website https://www.bls.gov/oes/current/oes_stru.htm.

According to DOL BLS news release USDL-23-0488 dated March 17, 2023 (see <https://www.bls.gov/news.release/pdf/ecec.pdf>), benefits account for 31 percent of employee costs, and wages account for the remaining 69 percent. Mathematically, total costs can be calculated as a function of wages, resulting in a multiplier of 1.449.

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, operation and maintenance, 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. APHIS estimates the annual cost to the Federal Government is \$933.

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

	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	5	0	1	0	0	4
Annual Time Burden (Hr)	17	0	1	0	0	16

This request for renewal is for 5 estimated annual responses and 17 estimated annual burden hours, reflecting an increase of 1 burden hour from the previous renewal request.

Discretionary changes are the result of J. Berry Farms entering into a Compliance Agreement with APHIS/PPQ for barberry in 2022 which resulted in the burden increase. APHIS was not aware of the shipper and the shipper was not aware of the regulation. The shipper is fully compliant with state and federal regulations.

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 collection, explain the reasons that display would be inappropriate.

PPQ Form 519 is in multiple APHIS information collections, each with different OMB approval expiration dates. It would not be practical to add an expiration date to the form at this time. APHIS and OIRA are currently developing procedures for creating and maintaining a consolidated intra-Agency common form ICR. Upon the forms' inclusion in the common form ICR upon its approval, the form will be updated with the appropriate PRA banners, ICR control numbers, and OMB approval expiration dates.

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.