

January 2018

Supporting Statement
Importation of Orchids in Growing Media from Taiwan
Docket No. APHIS-2016-0005
OMB No. 0579-0458

TERMS OF CLEARANCE: “OMB is withholding approval at this time. Prior to publication of the final rule, the agency should provide a summary of any comments related to the information collection and their response, including any changes made to the ICR as a result of comments. In addition, the agency must enter the correct burden estimates.”

There were 11 comments to the proposed rule and their summary may be found in Question 8. There were no changes to activities or burdens as a result of the comments.

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 or insect pests from entering the United States, preventing the spread of pests and noxious weeds not widely distributed in the United States, and eradicating those imported pests when eradication is feasible. The Plant Protection Act authorizes the Department to carry out its mission.

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 regulations in Title 7, Code of Federal Regulations (CFR), Part 319, prohibit or restrict the importation into the United States of certain plants and plant products to prevent the introduction of plant pests and noxious weeds. The regulations in “Subpart – Plants for Planting,” §§ 319.37 through 319.37-14 (referred to as the regulations) contain, among other things, prohibitions and restrictions on the importation of plants, plant parts, and seeds for propagation.

APHIS published a final rule amending the regulations governing the importation of plants and plant products to add orchid plants of the genus *Dendrobium* from Taiwan to the list of plants that may be imported into the United States in an approved growing media, subject to specified growing, inspection, and certification requirements.

APHIS is asking OMB to approve its use of these information collection activities associated with its efforts to prevent the spread of plant pests and noxious weeds 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 ensure that orchids in growing media from Taiwan adhere to the regulations while continuing to ensure protection against the introduction of quarantine pests:

Phytosanitary Certificate; (7 CFR 319.37-8(e)); (Foreign Government, Business)

A restricted article of a plant listed in §319.37-8(e) may be imported if established in an approved growing media listed in the section and otherwise meets the conditions of the section. The restricted article must be accompanied by a phytosanitary certificate issued by the National Plant Protection Organization (NPPO) of Taiwan. The certificate must include a declaration that the restricted article meets the conditions of 7 CFR 319.37-8(e).

Written Agreement with APHIS; (7 CFR 319.37-8(e)(2)); (Foreign Government)

Articles imported under §319.37-8(e) must be grown in compliance with a written agreement for enforcement of this section, signed by both the NPPO of Taiwan and the USDA APHIS Plant Protection and Quarantine Program.

Written Agreement; (7 CFR 319.37-8(e)(2)(i)); (Foreign Government, Business)

Orchids in growing media from Taiwan must be grown in compliance with a written agreement between the grower and the NPPO of Taiwan. The grower agrees to comply with the provisions of this section and to allow inspectors and representatives of the NPPO of Taiwan access to the growing facility, as necessary, to monitor compliance.

Inspections; (7 CFR 319.37-8(e)(2)(viii)); (Foreign Government, Business)

Orchids in growing media from Taiwan must be inspected in the greenhouse by an APHIS inspector or an inspector of the NPPO of Taiwan and found free from evidence of quarantine pests no more than 30 days prior to the date of export to the United States.

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 considerations of using information technology to reduce burden.

APHIS has no control or influence over when foreign countries will automate their phytosanitary certificates or written agreements. 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 of the purpose described in item 2 above.

The information APHIS collects is exclusive to its mission of preventing the spread of plant pests and noxious weeds 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 has determined that there is no impact on any 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.

Failing to collect this information would severely limit APHIS' ability to ensure orchids in growing media from Taiwan are not carrying plant pests or noxious weeds. If plant pests or noxious weeds were introduced into the United States, American growers could suffer millions of dollars in plant and monetary losses.

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;**

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- **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.

APHIS engaged in productive consultations with the following individuals concerning the information collection requirements associated with this program:

Taiwan Orchid Growers Association
 No.325, Wushulin, Wushu Village
 Houbi Dist., Tainan City 731, Taiwan
 Tel. 011-886-6-683-0304
www.toga.org

Taiwan Floriculture Exports Association
 901 Room 41, Section 1
 Chung Hsiao West Road
 Taipei, Taiwan. R.O.C.
 Tel: 011-886-2-331-3146

Ching Hua Orchids
 No.192, Dongshan 3rd Road, Xinying District
 Tainan City 730, Taiwan
 011-886--6-633-2319
chorchid@ms15.hinet.net

On Thursday, October 27, 2016, APHIS published a 60-day notice of proposed rule in the Federal Register on pages 74720 and 74721, seeking public comments on its plans to amend 7 CFR 319.37 to allow the import of orchids in growing media from Taiwan to the United States

under 7 CFR 319.37-8. There were 11 comments received from a scientific group, an industry organization, a State Department of Agriculture, and 8 private citizens. Eight of the commenters were from Hawaii, two were from Florida, and one was from Delaware.

Two of the comments were in favor of the proposed rule change. Comments from the other nine contained allegations of unfair trade or negative economic impacts on U.S. orchid producers, and increased risk for introduction of lesser or unknown plant pests. Importation of *Dendrobium* is currently permitted; this rule change added the importation of the orchids in approved growing media. All of the aforementioned comments are addressed in the final rule. The proposed rule is being adopted as the final rule, without change, and will publish in the Federal Register on January 29, 2018.

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.

APHIS implements the Confidential Business Information (CBI) policy and procedures to insure claims are reviewed in accordance with the Freedom of Information Act (FOIA), exemption 4 (5 U.S.C 552(b)(4)). CBI is protected from mandatory public disclosure under this Act. 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 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 burden estimates.

- **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 annualized cost to respondents to be \$8,669. APHIS arrived at this figure by multiplying the total burden hours (317) by an estimated respondent average hourly wage of \$27.41. This estimated hourly wage for Taiwanese business and Federal official respondents was derived from the APHIS International Services attache' located in Taiwan.

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 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 the capital and start-up cost, maintenance costs, and purchase of services in connection with this program.

14. Provide estimates of annualized cost 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 Form 79. The estimated cost for the Federal Government is \$7,120.

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

This is a new program.

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 it 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.

There are no USDA forms included in this information collection.

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.