

**SUPPORTING STATEMENT FOR
AN INFORMATION COLLECTION REQUEST**

1. IDENTIFICATION OF THE INFORMATION COLLECTION

1(a). Title of the Information Collection:

TITLE: Notice of Supplemental Distribution of a Registered Pesticide Product

OMB No.: 2070-0044

EPA No.: 0278.09

1(b). Short Characterization/Abstract

This information collection request (ICR) is a proposed renewal of an existing ICR that is currently approved by Office of Management and Budget (OMB) and is due to expire on January 31, 2007. This information collection activity provides the Environmental Protection Agency (EPA) with notification of supplemental registration of distributors of pesticide products. EPA is responsible for the regulation of pesticides as mandated by the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended. Section 3(e) of FIFRA (7 U.S.C. 136a(e), see Attachment A) allows pesticide registrants to distribute or sell a registered pesticide product under a different name instead of or in addition to his own. Such distribution and sale is termed “supplemental distribution” and the product is termed a “distributor product.” EPA requires the pesticide registrant to submit a supplemental statement (EPA Form 8570-5, *Notice of Supplemental Distribution of a Registered Pesticide Product*, see Attachment B) when the registrant has entered into an agreement with a second company that will distribute the registrant's product under the second company's name and product name.

2. NEED FOR AND USE OF THE COLLECTION

2(a). Need/Authority for the Collection

This information is required to be submitted pursuant to section 3(e) of FIFRA, as amended. Regulations pertaining to supplemental distribution are contained in Title 40 CFR Part 152.132 (see Attachments A and C, respectively).

2(b). Practical Utility/Users of the Data

Section 3(e) of FIFRA requires pesticide registrants to notify the Agency when the registrant has entered into an agreement with a second company to distribute the registrant's product under the second company's name and product name. The distributor is considered an agent of the registrant for all intents and purposes under the Act, and both the registrant and the distributor may be held liable for violations pertaining to the distributor product. EPA's Office of Pesticide Programs is responsible for maintaining information about supplemental distribution agreements.

3. NON DUPLICATION, CONSULTATIONS, AND OTHER COLLECTION CRITERIA

3(a). Non duplication

This is the only information collection activity of its kind, and the information collected under this program is collected only once per receipt of a notice of distributor registration. Therefore, the possibility of duplication does not exist.

3(b). Public Notice Required Prior to ICR submission to OMB

In proposing to renew this ICR, EPA published a Federal Register Notice on May 10, 2006 (71 FR 27240) (Attachment G) and provided a 60-day public notice and comment period. The Agency received no public comments. EPA also engaged in consultation with stakeholders as listed in section 3(c).

3(c). Consultations

In addition to the public notice that EPA published in the Federal Register concerning the renewal of this ICR, the Agency consulted, as required under 5 CFR 1320.8(d)(1), with stakeholders who actively interact with the Agency through the use of this collection instrument. EPA staff contacted three relevant stakeholders and asked them for their assessment of the regulatory burden estimates expressed by the Agency in this ICR. EPA consulted with the following individuals:

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Each of the respondents indicated that the cost and burden estimates were comparable to current costs as estimated by EPA. A copy of the questions EPA asked as part of the consultations are listed in Attachment E; the stakeholder responses are included in Attachment F.

3(d). Effects of Less Frequent Collection

This activity is only conducted once per "event" (one notification is submitted per product), therefore, there is no way that the EPA can reduce the frequency of the collection. The EPA must maintain the current frequency of this collection in order to avoid violating FIFRA section 3(e).

3(e). General Guidelines

The only PRA-imposed guideline in 5 CFR 1320.6 that may be exceeded in this collection is the record-keeping retention period. We would expect the registrant and the distributor to maintain copies of their distribution agreement (EPA Form 8570-5) as long as the registration is valid or until the parties notify EPA that they have voluntarily dissolved the distribution agreement. Registrations are valid unless they are voluntarily canceled or withdrawn by the registrant or until EPA has cause to suspend or cancel the registration as a result of the Reregistration Program or an adverse finding by the Agency. Since the average period of marketability of a pesticide ranges from 15 to 30 years, the PRA-imposed guideline indicating that data, other than health, medical, or tax records need not be retained for more than 3 years generally will be exceeded in this program.

This collection of information does not involve the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (e.g., permitting electronic submission of responses). Additionally, is not practicable for the Agency to implement electronic reporting at this time.

OPP is not yet able to make electronic reporting available for this information collection. Based on the Agency's needs, and on the Office of Management and Budget's (OMB) GPEA guidance (as updated by OMB's policy on E-Authentication), EPA would likely require that any electronically submitted forms be signed with an e-signature technology such as public key infrastructure (PKI). As this information collection request indicates, both the basic product registrant and the distributor must sign the required notification. EPA is currently unaware of how an e-signature technology that offers both the Agency and the signatories the level of document integrity and signature security such as that offered by PKI can be successfully applied to a document that requires multiple signatures.

3(f). Confidentiality

Product distributorship data submitted by basic product registrants under FIFRA section 3(e), are considered by the Office of Pesticide Programs (OPP) to contain no confidential business information (CBI).

3(g). Sensitive Questions

No information of a sensitive or private nature is requested in conjunction with this information collection activity. Further, this information collection activity complies with provisions of the Privacy Act of 1974 and OMB Circular A-108.

4. THE RESPONDENTS AND THE INFORMATION REQUESTED

4(a). Respondents/NAICS Codes

The North American Industrial Classification System (NAICS) code for businesses participating in this program is **325320** (Pesticide and other Agricultural Chemical Manufacturing).

4(b). Information Requested

(i) Data Items, Including Record Keeping Requirements

Any pesticide registrant may participate in this program by submitting a completed EPA Form 8570-5, *Notice of Supplemental Distribution of a Registered Pesticide Product*, to the Agency. The registrant must furnish the following information:

- EPA registration number of the product to be distributed;
- EPA-assigned distributor company number;
- name and address of the basic product registrant;
- name of the registered product to be distributed;
- name to be used on the distributed product;
- name and address of the distributor;
- signature and title of the distributor and date signed; and signature and title of the basic product registrant and date signed.

(ii) Respondent Activities

For each distributor product, the basic product registrant must send a completed notice (EPA Form 8570-5), signed by both the basic product registrant and the distributor, to EPA. Responsibility for regulatory compliance rests primarily with the basic product registrant. However, both the basic product registrant and the distributor may be held liable for any violation of FIFRA. A participant must undertake the following activities in order to provide the requisite information to the EPA:

Read	Read form and instructions; and
Compile	review information for accuracy and appropriateness.
Submit	Submit EPA Form 8570-5 to the Agency; and
Store	file or maintain the information.

5. The Information Collected - Agency Activities, Collection Methodology, and Information Management

5(a). Agency Activities

Notices of Supplemental Distribution of a Registered Pesticide Product (EPA Form 8570-5) are pin-punched with the date of receipt. Subsequent processing steps include:

Verify	Verify the regulatory status of the primary registration to be supplementally distributed; and
Assign	If necessary, assign an EPA company number to the supplemental distributor.
Acknowledge receipt	Provide a receipt of the notice by mailing a copy to the distributor company.
Process	Process information from the form into the computerized "Distributor File," a part of the Office of Pesticide Programs Integrated Network (OPPIN).
File and maintain information	The original form is filed in the regulatory file of the parent Section 3 registration and kept in the Office of Pesticide Programs Information Services Center.

5(b). Collection Methodology and Management

Registrants voluntarily enter into agreements with distributors. They are required, under FIFRA, to notify the Agency of these agreements. EPA maintains the original notifications in the regulatory file of the parent Section 3 registration at the Office of Pesticide Programs Information Services Center.

5(c). Small Entity Flexibility

Most of the companies participating in this program would qualify as small entities. The Agency closely examined potential burdens to small entities and instituted changes to this program in 1984. At that time, OMB approved the changes. The Agency also re-evaluated the general burden categories in 1986. The Agency believes that the burden imposed by this activity has been minimized to what is believed to be the minimal level at which this program can effectively function under the requirements specified in the FIFRA and the regulations for the enforcement of FIFRA.

5(d). Collection Schedule

Not applicable. This activity is conducted only once per "event" when the registrant submits an EPA Form 8570-5, Notice of Supplemental Distribution of a Registered Pesticide Product, to the Agency. Therefore, there is no set schedule for collection of this information.

6. ESTIMATING THE BURDEN AND COST OF THE COLLECTION

6(a). Estimating Respondent Burden

The burden associated with this collection of information is estimated to be about 15 minutes per response. The Agency's burden estimate on the per-response basis has not changed over the last several years. However, there has been a decrease in the number of notices submitted to EPA over the last several years. Whereas EPA had expected to receive about 4,000 notice submissions annually over the past 3 years, based on the actual number of submissions received annually over that period (2,607 in FY2003, 2605 in FY2004, and 2,226 in FY2005), the Agency now expects to receive only 2,479 notice submissions annually over the next 3 years. Given this change, EPA estimates the total annual burden associated with the notice of supplemental distribution of a registered pesticide product to be 595 hours.

6(b). Estimating Respondent Costs

For a period of some years, when estimating labor rates for most OPP program ICR renewals, the Agency adjusted the ICR renewal labor rates by using the NASA Gross Domestic Product (GDP) Deflator Inflation Calculator to index the labor cost for a particular year. However, in July 2006, Agency economists completely re-estimated wages, benefits, and overhead for all labor categories for the pesticide industry, state government and Agency employees. The Agency analysis uses currently available information on labor rates and other benefits from publicly available websites. A copy of the methodology used to re-estimate the labor rates and formulas used to derive the fully loaded rates and overhead costs are listed in Attachment H.

To derive the labor rates for this ICR, Agency economists estimated the wages for the management, technical, and clerical labor categories using the methodology cited above. The industry respondent costs for this renewal for managerial and clerical rates are estimated at \$100.86 and \$33.05 per hour, respectively. These labor rates are fully loaded and include benefits and overhead costs.

Using the Agency's burden estimate and the fully-loaded labor rates, the estimated average cost to comply with this ICR is approximately \$18.78 per response. The estimated annual cost of the estimated burden for all respondents associated with the supplemental distribution of a registered pesticide product is \$46,555.62. The methodology for calculating the respondent burden has not changed since the last ICR approval. The number of annual estimated responses is 2,479, with each respondent spending approximately 15 minutes responding per submission.

Respondent Burden/Cost Estimates

COLLECTION ACTIVITIES	Burden Hours (per submission)		Total	
	Mgmt \$100.86/hr	Clerical \$33.05/hr	Hours	Costs
Read any Instructions	0.08	0	0.08	\$8.07
Process, compile, review information for accuracy and appropriateness.	0.05	0	0.05	\$5.04
Complete and submit EPA Form 8570-5	0.03	0	0.03	\$3.03
Store, file, or maintain information.	0	0.08	0.08	\$2.64
Total	0.16	0.08	0.24	\$18.78

ANNUAL BURDEN: 0.24 Total Hours x 2,479 Respondents = 595 Hours
 ANNUAL COSTS: \$18.78 Total Costs x 2,479 Respondents = \$46,555.62

6(c). Estimating Agency Burden and Cost

To derive the labor rates for this ICR, Agency economists estimated the wages for the management, technical, and clerical labor categories using the methodology cited above. The EPA labor rates for this renewal for clerical rates are estimated at \$47.17 per hour. These labor rates are fully loaded and include benefits and overhead costs.

The total annual Agency burden associated with the notice of supplemental distribution of a registered pesticide product is 818 hours. This estimate assumes the Agency devotes 0.33 hours to each of the 2,479 respondents. The Agency cost associated with this program is \$38,548.45 annually

Annual Agency Burden/Cost Estimates

	Burden Hours	Total	
COLLECTION ACTIVITIES	Clerical \$47.14/hr	Hours	Costs (\$)
Pin-Punching Receipt	0.02	0.02	0.94
Verifying Status of parent	0.05	0.05	2.36
Assigning Company Number	0.02	0.02	0.94
Acknowledging Receipt	0.08	0.08	3.77
Data Entry and Quality Check	0.08	0.08	3.77
Microfilming and Retirement	0.08	0.08	3.77
TOTAL	0.33	0.33	15.55

ANNUAL BURDEN: 0.33 Total Hours x 2,479 Responses = 818

ANNUAL COSTS: \$15.55 Total Costs x 2,479 Responses = \$38,548.45

6(d). Bottom Line Burden Hours and Cost Tables

Total Annual Respondent and Agency Burden and Costs

	Total	
	Hours	Costs
Annual Respondent Burden/Cost Estimates	595	\$46,555.62
Annual Agency Burden/Cost Estimates	818	\$38,548.45

6(e). Reasons for Change in Burden

The total annual response burden associated with the notice of supplemental distribution of a registered pesticide product is 595 hours, a decrease of 405 hours over the 1000 hours estimated in the ICR from 2003. This decrease is an adjustment. The average number of supplemental registrations received by the EPA over the last three years is 2,479 responses per year (2,607 in FY2003, 2605 in FY2004, and 2,226 in FY2005). We estimate, therefore, that we will receive an average of 2,479 supplemental registrations annually for the next three years.

6(f). Burden Statement

The total estimated annual respondent paperwork burden to comply with this information collection activity is 595 hours. This estimate includes the time needed to review instructions; utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to respond to a collection of information; search existing data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable.

To comment on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, EPA has established a public docket for this ICR under docket ID No. EPA-HQ-OPP-2006-0311, which is available for public viewing at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. The Docket Public Reading Room is open from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Docket is (703) 305-5805. An electronic version of the public docket is available through Federal eRulemaking Portal, <http://www.regulations.gov>. Follow the online instructions for viewing documents and submitting comments. You can also send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503, Attention: Desk Office for EPA. Please include the docket ID No. EPA-HQ-OPP-2006-0311 and OMB control number 2070-0044 in any correspondence.

Attachments List

All of the attachments listed below can be found in the docket for this ICR (unless otherwise noted); accessible electronically through www.Regulations.gov. On the main page, select **Advanced Search** from the menu bar at the top and select **Docket Search**. Enter the Docket ID Number, EPA-HQ-OPP-2006-0311, in the **Docket ID** field. Click on the **Submit button**. From the results page, you will be able to link to the docket view or directly open select documents found in the docket.

- Attachment A** **7 U.S.C. 136a(e) - FIFRA Section 3(e)**
- Attachment B** **EPA Form 8570-5 - Notice of Supplemental Distribution of a Registered Pesticide Product**
- Attachment C** **40 CFR part 152.132.**
- Attachment D** **Display Related to OMB Control #2070-0044 - Listings of Related Regulations in 40 CFR 9.1**
- Attachment E** **Consultation Process: List of Standard Questions**
- Attachment F** **Consultation Process: Responses**
- Attachment G** **First Federal Register Notice -71 FR 27240 - Agency Information Collection Activities; Proposed Collection; Comment Request; Notice of Supplemental Distribution of a Registered Pesticide Product; EPA ICR No. 0278.09, OMB Control No. 2070-0044 (published May 10, 2006)**
- Attachment H** **Methodology for Estimating OPP ICR Wage Rates for Industry, State and EPA Labor Costs; Memo From Richard Keigwin, Director Biological and Economic Analysis Division, to Bill Diamond, Arnold Layne, Lois Rossi and Elizabeth Leovey July 25, 2006.**