

SUPPORTING STATEMENT  
ENVIRONMENTAL PROTECTION AGENCY  
**NOTICE OF ARRIVAL OF PESTICIDES AND DEVICES** (Form 3540-1)  
19 CFR 12.110-117

**1. Identification of the Information Collection**

**1(a) Title of the Information Collection**

Notice of Arrival of Pesticides and Devices under section 17(c) of the Federal Insecticide, Fungicide, and Rodenticide Act as amended (FIFRA). ICR Number 0152.09.

**1(b) Short Characterization/Abstract**

The U.S. Customs and Border Protection and Border Protection regulations at 19 CFR 12.112 require that an importer desiring to import pesticides into the United States shall, prior to the shipment's arrival, submit a Notice of Arrival (NOA) of Pesticides and Devices (EPA Form 3540-1) to the Environmental Protection Agency (EPA), who will determine the disposition of the shipment. After completing the form, EPA returns the form to the importer or his agent, who must present the form to Customs and Border Protection upon arrival of the shipment at the port of entry. This is necessary to ensure that EPA is notified of the arrival of pesticides and devices as required by the Federal Insecticide Fungicide and Rodenticide Act (FIFRA) section 17(c) and has the ability to examine such shipments to determine whether they are in compliance with FIFRA.

The form requires identification and address information of the importer or his agent and information on the identity and location of the imported pesticide or device shipment. When the form is submitted to EPA regional personnel for review it is examined to determine whether the shipment should be released for entry upon arrival or alternatively whether it should be detained for examination. The responsible EPA official returns the form to the respondent with EPA instructions to Customs and Border Protection as to the disposition of the shipment.

Upon the arrival of the shipment, the importer presents the completed NOA to the District Director of Customs and Border Protection at the port of entry. Customs and Border Protection compares entry documents for the shipment with the NOA and notifies the EPA regional office of any discrepancies, which EPA will resolve with the importer or broker. At this point the shipment may be retained for examination. If there are no discrepancies, Customs and Border Protection follows instructions regarding release or detention. If EPA inspects the shipment and it appears from examination of a sample that it is adulterated, misbranded, or otherwise violates the provisions of FIFRA, or is otherwise injurious to health or the environment, the pesticide or device may be refused admission into the United States.

Respondents subject to this information collection include all importers of pesticides and devices as defined by FIFRA.

## **2. Need for and Use of the Collection**

### **2(a) Need/Authority for the Collection.**

This information collection activity allows Customs and Border Protection to fulfill its statutory obligation to notify the EPA of the arrival of pesticides into the United States. This allows EPA to determine whether imports comply with U.S. pesticide law. The information permits EPA to stop unregistered, suspended, canceled, misbranded, contaminated, or otherwise violative products from being imported into the country, track those that do enter, and minimize any adverse environmental impact that might arise from the importation of violative products. If EPA did not collect this information, Customs and Border Protection and the EPA would be unable to meet their statutory requirements under FIFRA.

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

The information is used by EPA regional pesticide enforcement and compliance staff, the Office of Enforcement and Compliance Assurance, and the Office of Pesticides Programs to monitor and assure compliance with the pesticide laws. Customs and Border Protection uses this information to ensure that pesticide products admitted to the U.S. are reviewed by the EPA for compliance. The absence of an accompanying NOA is, under Customs and Border Protection regulations, grounds for refusal of entry into the United States.

## **3. Non-Duplication, Consultations, and other Criteria.**

### **3(a) Non Duplication.**

The information required under this collection is not duplicated by any other information collection.

### **3(b) Public Notice Required Prior to ICR Submission to OMB.**

The Federal Register notice required by 5 CFR 1320.8(d) was published December 9, 2008 at 73 FR 74715-74717.

### **3(c) Consultations.**

No comments have been received in response to the notice published in the Federal Register.

### **3(d) Effects of less frequent collection.**

This collection represents the minimum collection frequency possible to comply with statutory requirements, which is that the Agency be notified of the arrival of each shipment into the United States.

**3(e) General Guidelines.**

None of the reporting or recordkeeping requirements contained in 19 CFR 12.110-117 violates any of the regulations established by OMB in 5 CFR 1320.6.

**3(f) Confidentiality.**

If information submitted by an importer bringing pesticides into the United States is declared sensitive or confidential, it cannot be released to the public. Certain information reported on the form (names and addresses of broker or agent, of importer or consignee, and of shipper, along with unit size, quantity, total net weight, country of origin, port of entry, carrier, entry number, and entry date) may be claimed as Confidential Business Information (CBI). Other information (EPA Registration Number and Producer Establishment Number, the brand name of product, and major active ingredients and percentage of each) may not be claimed as CBI.

Confidential data submitted to this Agency is handled in accordance with the provisions of the FIFRA Confidential Business Information (CBI) security manual. This manual contains instructions relative to confidential documents, specifically: physical security measures; CBI copying and destruction procedures; transfer of CBI materials within EPA to contractors or to other government offices; computer security; CBI typing procedures; and internal office procedures. The manual dictates that all CBI must be marked or flagged as such, only authorized Agency personnel may be permitted access to CBI, all CBI must be kept in secure (double-locked) areas, and all CBI for destruction must be cleared by a Document Control Officer.

**3(g) Sensitive Questions.**

Not applicable. No information of a sensitive or private nature is requested in the information collection activity.

**4. The Respondents and Information Collected.****4(a) Respondents/North American Industry Classification System (NAICS) Codes.**

The majority of respondents fall under 325300, Pesticide, Fertilizer, and other Agricultural Chemical Manufacturing. Other business and institutions participating include Agriculture, Forestry, Fishing and Hunting, Sector 11 and Wholesale Trade, Sector 42.

**4(b) Information Requested.****(i) Data items**

All data in this ICR that is recorded and reported is required by FIFRA Sections 3, 7, and

17, and 19 CFR Part 12.

Provide notification of:

- name and complete address of broker or agent (19 CFR 12.112)
- name and complete address of importer or consignee (19 CFR 12.112)
- name and address of shipper (19 CFR 12.112)
- EPA registration number (19 CFR 12.111 and FIFRA Sec. 3)
- EPA producer establishment number (19 CFR 12.112 and FIFRA Sec. 7)
- brand name of product (19 CFR 12.112 and FIFRA Sec. 17(c))
- major active ingredients and percentage of each (19 CFR 12.112 and FIFRA Sec.17(c))
- unit size, quantity, total net weight (19 CFR 12.112 and FIFRA Sec. 17(c))
- country of origin (19 CFR 12.112)
- port of entry, entry number, entry date (19 CFR 12.113)
- carrier (19 CFR 12.113)
- location of goods for examination after importation (19 CFR 12.115)

(ii) Respondent Activities

- Read instructions reverse side of Form 3540-1
- Plan activities-CBP
- Gather information-CBP
- Enter information on form and submit to EPA and Customs and Border Protection
- Plan and review information for accuracy-CBP
- Store, file, and maintain the information-CBP

CBP-"Customary and Usual Business Practice." During the course of normal and prudent business operations, a producer would plan his and his staff's information collection activities, arrange for the collection, review himself or have staff review the information for accuracy, and arrange to maintain or store the information detailed under 4(b) above. The Information to be kept is generally information that prudent businesses would maintain.

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

**5(a) Agency Activities**

The Agency regional personnel review the NOA's for accuracy and completeness of the submitted information and maintain files of the NOA for inspection and targeting.

**5(b) Collection Methodology and Management**

The information collected is produced by all importers as part of Customary Business

Practices, as described above. This collection request concerns the entry and submission of this information using the form 3540-1.

This information is entered once onto the paper form, signed, and submitted to EPA. The EPA-reviewed and signed form returned to the importer becomes a shipping document that will accompany the shipment up to its arrival at the U.S. port of entry. Customs and Border Protection inspectors compare the paper copy with the physical shipment to determine that the shipment conforms to the information on the form.

EPA is currently working on an interagency initiative known as the International Trade Data System (ITDS). The goal of ITDS is to make the Federal government's compliance monitoring of international trade through the collection of data less burdensome and more efficient by integrating and automating the government-wide collection, use, and dissemination of international trade data. Under the ITDS concept, agencies harmonize their data requirements, eliminating redundancies and minor definitional differences.

ITDS is not a separate computer system; it is the authorizing feature of the Automated Commercial Environment (ACE), the new system for processing imports and exports that is being built by U.S. Customs and Border Protection. EPA is currently working with Customs and Border Protection to integrate the Agency's six import regulatory programs, including the current process for notification of arrival of pesticides and devices into the ACE system, so that in the future the notice of arrival process will be done electronically and almost instantaneously between importers, EPA, and Customs and Border Protection.

### **5(c) Small Entity Flexibility**

The burden is minimal and affects all importers. It cannot be reduced and still meet requirements. The information collection does not disproportionately impact small businesses, since the information requests is gathered during "customary and usual business activity."

### **5(d) Collection Schedule**

A Notice of Arrival submission is required on each occasion that a pesticide shipment is brought into the country.

## **6. Estimating the Burden and Cost of the Collection.**

### **6(a) Estimating Respondent Burden**

The average annual burden to industry per response is estimated to be 0.3 hours, and the total number of annual responses is estimated at 25,000. The total annual hourly burden is therefore estimated to be 7500 hours.

### **6(b) Estimating Respondent Costs**

**(i) Estimating Labor Costs**

Since the regulation and associated information collection has a minor economic impact on respondents, a regulatory impact analysis was not conducted. This ICR uses estimates of labor rates and associated costs based on Department of Commerce Bureau of Labor Statistics estimates. Specifically this ICR uses the May 2007 National Industry-Specific Occupational Employment and Wage Estimates for the industry NAICS codes 325300. After adjusting for inflation using the CPI inflation calculator on the Bureau of Labor and Statistics website, the mean hourly wage rates for NAICS code 325300 were: management, \$48.61; sales and related support, \$29.71; and clerical (administrative), \$16.27. A factor of 1.16 was added to adjust for benefit costs, with respective total wage costs of \$107.57, \$65.75, and \$36.01.

**(ii)**

Annual Costs:

(a) Management	1000	hours	X	107.57	=	\$107,570
(b) Technical	2750	hours	X	65.75	=	\$180,812.5
(c) Clerical	3750	hours	X	36.01	=	\$135,037.5
						<u>\$423,420</u>

The paperwork burden estimates represent the average costs. Some respondents will spend less effort and others with several pesticides or products will have more complicated requirements and spend more time than the average estimated.

**(ii) Estimating Capital and Operations and Maintenance Costs.**

Not applicable. All costs associated with this collection are addressed in items 12 and 14 of this statement.

**(iii) Capital Start-up vs. Operating and Maintenance Costs**

Not applicable.

**6(c) Estimating Agency Burden and Cost**

The computations of the estimated annual cost to the Government for this activity are given below. The cost to the government is based on 890 workdays (about 3.57 workyears) to review and process forms, at an average of GS-13 step 1 grade, plus 10.5% overhead costs. Personnel costs are for both EPA and Customs and Border Protection employees. Other direct costs are limited to printing costs for instructions and reporting forms, and are for EPA only.

Annual salary rate	x	work years	=	total salary
\$86,927		3.57		\$310,329

Total salary	+	10.5% Ovh	+	Direct costs*	=	Total cost
\$310,329		\$32,585		\$60,947		\$403,861

\*The previous ICR included direct costs of \$56,034. This amount was adjusted for inflation in this ICR to arrive at a new direct cost of \$60,947.

#### 6(d) Estimating the Respondent Universe and Total Burden and Costs

The total number of respondents subject to 19 CFR 12.110-117 is 25,000. The total annual labor costs are \$423,420 and the total annual capital and O & M costs to the regulated entity are \$0 dollars. Details on which this estimate is based appear in the table below.

#### 6(e) Bottom Line Burden Hours and Cost Tables

Table 1: Average annual EPA Resource Requirement for Pesticide Imports

Activity	(A)EPA*	(B)Occurrences	(C) EPA hrs/yr	(D) Cost
Review NOA and return to broker or agent	3.57 workyears	25000	7500	\$403,861

\*EPA: 1 workyear (250 workdays) and 1 person at GS 13 step 1 grade plus 10.5% overhead costs.

Table 2: Annual Burden of Reporting and Recordkeeping Requirements for Pesticide Importers

	BURDEN HOURS (per year)			TOTAL	
	Mgmt. \$107.57/hr	Tech. \$65.75/hr	Cler. \$36.01/hr	Hours	Costs
A) Read or hear any instructions	750	500	0	1250	\$113,552.5
B) Plan Activities	0	0	0	0	\$0

C) Create information	0	0	0	0	\$0
D) Gather information	0	0	0	0	\$0
E) Process, compile, review information for accuracy	250	1000	0	1250	\$92,642.5
F) Complete written forms	0	1250	1250	2500	\$127,200
G) Record, disclose, or display information	0	0	1250	1250	\$45,012.5
9) Store, file, or maintain information	0	0	1250	1250	\$45,012.5
TOTAL BURDEN	1000	2750	3750	7500	\$423,420

### **6(f) Reasons for Change in Burden.**

There were no program changes affecting this ICR. However, the calculated labor costs were adjusted to reflect inflation and current salaries.

### **6(g) Burden Statement**

The annual public reporting and recordkeeping burden for this collection of information is estimated to average 0.3 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to: review instructions; develop, acquire, install, and 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 be able to respond to a collection of information; search 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 are listed in 40 CFR part 9 and 48 CFR chapter 15.

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-OECA-2008-0809, which is available for public viewing at the Enforcement and Compliance Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room 3304, 1301 Constitution Ave., NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the Enforcement and Compliance Docket and Information Center is (202)



566-1752. An electronic version of the public docket is available at [www.regulations.gov](http://www.regulations.gov). Use [www.regulations.gov](http://www.regulations.gov) to submit or view public comments, access the index listing of the contents of the public docket, and to access documents in the public docket that are available electronically. Once in the system, input the docket ID number identified above into the “search” box.

**B. COLLECTIONS OF INFORMATION REQUIRING STATISTICAL METHODS.**

Not applicable.