

Consultation: BASF

(1) Publicly Available Data

(1) Is the data that the Agency seeks available from any public source, or already collected by another office at EPA or by another agency?

No, this is new data being created and stored internally. BASF, like all registrants, will have the test data available for authorized FIFRA inspectors and EPA data call-ins.

(2) If yes, where can you find the data?

Not applicable.

(2) Frequency of Collection

Can the Agency collect the information less frequently and still produce the same outcome?

Yes, the agency is not actually collecting any information from registrants, other than the updated labels. In so far as many labels must be submitted anyway, a reduction in frequency for this rule will produce the same outcome.

(3) Clarity of Instructions

(1) The ICR is intended to require that respondents provide certain data so that the Agency can utilize them.

(1) Based on the instructions (regulations, PR Notices, etc.), is it clear what you are required to do and how to submit such data?

Yes, we changed all our labels to include the required language, and created records based on the testing and cleaning of our packages.

(2) If not, what suggestions do you have to clarify the instructions?

Not applicable.

(2) Do you understand that you are required to maintain records?

Yes, we are required to maintain records on our packaging tests. In particular, we are required to maintain records on certain formulations with suspended solids. These test records demonstrate the rinse-ability of the packages holding the product.

(3) Considering that there is no required submission format, is it difficult to submit information in ways that are clear, logical and easy to complete?

No, since the records do not need to be submitted, we should be able to review them on site with any authorized FIFRA inspector.

(4) Regarding the any [specific program] forms, do you use them?
Are they clear, logical, and easy to complete?

There are no specific forms.

(4) Electronic Reporting and Record keeping

The Government Paperwork Elimination Act requires agencies make available to the public electronic reporting alternatives to paper-based submissions by 2003, unless there is a strong reason for not doing so. One such reason is that, at the present time, the Agency is unable to ensure the security of CBI that might be transmitted over the Internet.

(1) What do you think about electronic alternatives to paper-based records and data submissions? Current electronic reporting alternatives include the use of “web forms”/XML based submissions via the Agency’s Internet site and magnetic media-based submissions, e.g., diskette, CD-ROM, etc. Would you be interested in pursuing electronic reporting?

Sure, BASF supports electronic alternatives as long as we can maintain the same level of confidentiality, the tools needed (software) is widely available, and paper submissions may be used as a back-up in the event there are electronic failures.

Are you keeping your records electronically? If yes, in what format?

Yes, we keep many records electronically. The most common format is a “PDF” file.

(2) Although the Agency does not offer an electronic reporting option because of CBI-related security concerns at this time

(1) Would you be more inclined to submit CBI on diskette than on paper?

Yes, it’s simply easier to create and use. A paper copy can always be printed if need be.

(3) What benefits would electronic submission bring you in terms of burden reduction or greater efficiency in compiling the information?

Electronic submissions do not need to be printed, duplicated, and mailed. Much less file space is needed for storage.

(5) Burden and Costs

(1) Are the labor rates accurate?

Yes, the labor rates are accurate.

(2) The Agency assumes there is no capital cost associated with this activity. Is that correct?

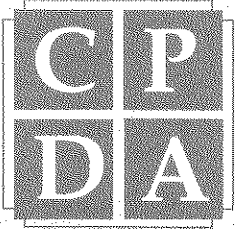
That is correct, no capital cost were required for registrants.

(3) Bearing in mind that the burden and cost estimates include only burden hours and costs associated with the paperwork involved with this ICR, e.g., the ICR does not include estimated burden hours and costs for conducting studies, are the estimated burden hours and labor rates accurate? If you provide burden and cost estimates that are substantially different from EPA's, please provide an explanation of how you arrived at your estimates.

Yes, the hours and labor rates are accurate.

(4) Are there other costs that should be accounted for that may have been missed?

No, there are no other costs that should be accounted for; however, we did voluntarily spend some time and money on outreach and education for our customers, to inform them about the rule. This training and education was done in cooperation with many stakeholders, including EPA, and was done in conjunction with regular industry events. The trade did spend an extra \$50K on some educational material sent directly to about 6000 bulk dealers, but nothing more significant.



Chemical
Producers &
Distributors
Association

June 19, 2009

Nathanael Martin
Field and External Affairs Division
Office of Pesticide Programs
Environmental Protection Agency

Dear Mr. Martin,

Thank you for the invitation to respond to consultation questions on the renewal Information Collection Request (ICR) for the Pesticide Management and Disposal; Standards for Pesticide Containers and Containment rule (40 CFR Parts 9, 156 and 165).

Based on our previous conversation, I will provide responses to the questions regarding the estimated burdens and costs to the regulated community for agricultural and related pesticide products.

CPDA is the preeminent U.S. based trade association representing the interests of generic pesticide registrants and manufacturers and suppliers of inert ingredients used to enhance the delivery and efficacy of pesticide products. CPDA membership also includes manufacturers, formulators and distributors of pesticide products.

Response to Consultation Questions Regarding the Agency Estimation of Burden and Costs:

(1) Are the labor rates accurate?

The NAICS codes cited in the ICR, 325300, 422910 and 115112, for managerial, technical and clerical labor rates are the currently accepted source for this information. I am not aware of a better source, but the burden estimates in the ICR would be improved by applying the most current NAICS labor rates. The 2007 rates are used in the current document and could easily be replaced with the 2008 rates.

(2) The Agency assumes there is no capital cost associated with this activity. Is that correct?

As this ICR is based solely on the recordkeeping aspect of the container and containment rule, it is likely correct to assume that no new structures need be built to store the records.

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(3) Bearing in mind that the burden and cost estimates include only burden hours and costs associated with the paperwork involved with this ICR, e.g., the ICR does not include estimated burden hours and costs for conducting studies, are the estimated burden hours and labor rates accurate?

Under the Paperwork Reduction Act (PRA), “burden” means the “time, effort, or financial resources expended by persons to generate, maintain, or provide information to or for a Federal Agency.” The ICR notes in the activities for some registrants for nonrefillable containers that the information that must be gathered includes “develop residue removal data,” which satisfies the “generation” of information criterion under PRA. In the supporting statement for the ICR, it is unclear whether the costs associated with conducting the residue tests are included in the burden estimate. Also, there is no mention made of the potential recurrence of conducting the residue tests that might be required due to changes to a container/formulation combination for which tests had already been conducted. If residue tests are required when container/formulation changes are made, some estimation should be made of the percentage of occurrences likely per year to better estimate total burden. These burden estimates should be included in the ICR to fulfill the PRA requirements. If they are already in the ICR, they should be clearly indicated. Appropriate labor rates should also be applied to this facet of the information collection.

Also, there is no justification offered for the estimation that 5% of pesticide registrants may apply for a waiver in any given year. Was this estimate based on Agency experience with waiver submissions or is this a “best guess”? The basis for the estimation should be provided.

(4) Are there other costs that should be accounted for that may have been missed?

To the best of my knowledge, no significant costs have been missed.

Please let me know if I may be of further assistance or if you have any questions regarding my responses to the questionnaire.

Regards,



Susan A. Ferenc, DVM, Ph.D.
President
Chemical Producers & Distributors Association

Consultation: Land O' Lakes

(1) Publicly Available Data

(1) Is the data that the Agency seeks available from any public source, or already collected by another office at EPA or by another agency?

I don't know of any single source for the data requested in this ICR.

(2) If yes, where can you find the data?

(2) Frequency of Collection

Can the Agency collect the information less frequently and still produce the same outcome?

The proposed record retention process and time frames seem reasonable. The records will be available at facilities which are typically inspected on an annual basis by State Department of Agriculture representatives and can be verified on an annual basis. If EPA sets up a record collection process it should be coordinated through the State Ag Departments.

(3) Clarity of Instructions

(1) The ICR is intended to require that respondents provide certain data so that the Agency can utilize them.

(1) Based on the instructions (regulations, PR Notices, etc.), is it clear what you are required to do and how to submit such data?

The information Collection Request provided a good summary of recordkeeping requirements. PR Notices and summary of the regulations have been helpful.

(2) If not, what suggestions do you have to clarify the instructions?

(2) Do you understand that you are required to maintain records?

Yes. The regulations spell out the recordkeeping requirements clearly.

(3) Considering that there is no required submission format, is it difficult to submit information in ways that are clear, logical and easy to complete?

As a registrant with multiple repack facilities, I would request all records for my locations be sent to me and consolidated for a single submission. I would accommodate whatever format EPA requested.

(4) Regarding the any [specific program] forms, do you use them?

Our locations use monthly containment inspection forms patterned after the MN Dept. of Ag's secondary containment inspection form.

Are they clear, logical, and easy to complete?

Yes.

(4) Electronic Reporting and Record keeping

The Government Paperwork Elimination Act requires agencies make available to the public electronic reporting alternatives to paper-based submissions by 2003, unless there is a strong reason for not doing so. One such reason is that, at the present time, the Agency is unable to ensure the security of CBI that might be transmitted over the Internet.

(1) What do you think about electronic alternatives to paper-based records and data submissions?

I'm in favor of electronic data submission.

(2) Current electronic reporting alternatives include the use of "web forms"/XML based submissions via the Agency's Internet site and magnetic media-based submissions, e.g., diskette, CD-ROM, etc. Would you be interested in pursuing electronic reporting?

Yes.

Are you keeping your records electronically? If yes, in what format?

All records are not currently being kept electronically.

(2) Although the Agency does not offer an electronic reporting option because of CBI-related security concerns at this time

(1) Would you be more inclined to submit CBI on diskette than on paper?

I'm in favor of electronic submittals over paper.

(3) What benefits would electronic submission bring you in terms of burden reduction or greater efficiency in compiling the information?

Based on EPA's records request, I would organize our data submittal by developing electronic versions of all required records. Paper files are cumbersome and more easily misplaced.

(5) Burden and Costs

(1) Are the labor rates accurate?

The labor estimates are fair.

(2) The Agency assumes there is no capital cost associated with this activity. Is that correct?

I don't foresee any capital costs, although I am interested in developing an internal recordkeeping process for monthly inspections and other records pertaining to compliance with this rule. If that is pursued, there would be costs for programming and development.

(3) Bearing in mind that the burden and cost estimates include only burden hours and costs associated with the paperwork involved with this ICR, e.g., the ICR does not include estimated burden hours and costs for conducting studies, are the estimated burden hours and labor rates accurate?

Without having gone through an actual ICR, it's hard to determine the level of accuracy in the cost estimate values. I believe the cost estimates for the regulated community are under estimated. My opinion is based on typical information requests within the company, where communications frequently must be done one than once, certain locations require additional follow-up or information sent isn't what was originally requested

If you provide burden and cost estimates that are substantially different from EPA's, please provide an explanation of how you arrived at your estimates.

(4) Are there other costs that should be accounted for that may have been missed?

Consultation Questions: ARADC

(1) Publicly Available Data

(1) Is the data that the Agency seeks available from any public source, or already collected by another office at EPA or by another agency?

I am unclear what specifically this question is asking. With regards to empty pesticide containers, agricultural retailers do not currently keep records.

(2) If yes, where can you find the data?

See part (1).

(2) Frequency of Collection

Can the Agency collect the information less frequently and still produce the same outcome?

Under the Rule, agricultural retailers just need to keep their records on hand, so currently, yes, the Agency would have the same outcome if it collected the information less frequently.

(3) Clarity of Instructions

(1) The ICR is intended to require that respondents provide certain data so that the Agency can utilize them.

(1) Based on the instructions (regulations, PR Notices, etc.), is it clear what you are required to do and how you submit such data?

Yes, the record keeping instructions in the Container and Containment Rule are clear. The questions on the ICR are unclear and unspecific.

(2) If not, what suggestions do you have to clarify the instructions?

In regards to the ICR, the questions asked should be specific to the information needed by the Agency instead of general. It is extremely unclear what the specific questions are, and it takes a large amount of time to read the instructions, put together relevant parts of the instructions and data, compare them to the entire regulation, and then compare that to every other possible regulation. The ICR would be much clearer if it asked specific questions and organized the instructions in a way in which each segment of the industry and each part of the recordkeeping instructions for that segment were sectioned.

In regards to the Container and Containment Rule, the recordkeeping instructions are clear.

(2) Do you understand that you are required to maintain records?

Yes, the Agricultural Retailers Association understands that its members, primarily agricultural retailers, must maintain records under the Pesticide Container and Containment Rule.

(3) Considering that there is no required submission format, is it difficult to submit information in ways that are clear, logical and easy to complete?

Yes, since there is not required format, agricultural retailers can keep their records in a manner that works for the business and do not have to duplicate records already kept.

(4) Regarding the [any specific program] forms, do you use them? Are they clear, logical, and easy to complete?

It is unknown how each retailer keeps their records, but it probably makes sense for their individual business record system.

(4) Electronic Reporting and Record keeping

The government Paperwork Elimination Act requires agencies make available to the public electronic reporting alternatives to paper-based submissions by 2003, unless there is a strong reason for not doing so. One such reason is that, at the present time, the Agency is unable to ensure the security of CBI that might be transmitted over the internet.

(1) What do you think about electronic alternatives to paper-based records and data submissions? Current electronic reporting alternatives include the use of “web forms”/XML based submissions via Agency’s Internet site and magnetic media-based submissions, e.g., diskette, CD-ROM, etc. Would you be interested in pursuing electronic reporting?

Most agricultural retailers would be interested in an electronic reporting option; however, many agricultural retailers would still need the option of submitting paper-based records due to technological variances.

Are you keeping records electronically? If yes, in what format?

Most agricultural retailers keep records electronically; however, the database program varies by location. Many retailers keep records that relate to a customer’s purchase on the customer’s computer profile in a database at the retail site.

(2) Although the Agency does not offer an electronic reporting option because of CBI-related security concerns at this time, would you be more inclined to submit CBI on diskette than on paper?

Since they do not have to report the information to the Agency, it does not matter. However, in general, many retailers may prefer to report electronically over the internet, but it probably does not matter for most retailers whether it is in paper or diskette form.

(3) What benefits would electronic submission bring you in terms of burden reduction or greater efficiency in compiling the information?

(5) Burden and Costs

(1) Are the labor rates accurate?

The labor rate estimate used in the ICR is high for most agricultural retailers. Agricultural retailers estimate that their average administrative support cost is \$16 per hour, plus about 30% of the cost in additional benefits, totaling \$20.80 per hour. Professional labor (facility manager) makes about \$70,000 or \$44.00 per hour.

(2) The Agency assumes there is no capital cost associated with this activity. Is that correct?

The Agency's assumption that no capital cost is associated with the record keeping under the Rule is correct.

(3) Bearing in mind that the burden and cost estimates include only burden hours and costs associated with the paperwork involved with this ICR, e.g., the ICR does not include estimated burden hours and costs for conducting studies, are the estimated burden hours and labor rates accurate? If you provide burden and cost estimates that are substantially different from EPA's, please provide an explanation of how you arrived at your estimates.

The estimated time for professional labor to read instructions is low. As of today, there is no compliance manual for record keeping on the Agency website. It is my estimation; however, that for professional labor to find the manual, find the relevant parts, and read the manual and the FR notice for comprehension, professional labor will spend at least an hour reading instructions.

(4) Are there other costs that should be accounted for that may have been missed?

Professional labor also spends time at meetings and conferences understanding the Rule. Many retailers have spent at least an hour listening to presentations on complying with this Rule.