

**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.: 0278.10

1(b) Short Characterization/Abstract

This information collection activity notifies the Environmental Protection Agency (EPA) of a 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)) allows pesticide registrants to distribute or sell registered pesticide products under a different name or in addition to the registered name (see Attachment A). Additionally, this statute allows the second company to distribute a registered pesticide product under its own name. Such distribution and sale is termed “supplemental distribution” and the product is termed a “distributor product.” EPA requires pesticide registrants who enter into supplemental distribution agreements with other companies to submit Form 8570-5, *Notice of Supplemental Distribution of a Registered Pesticide Product* (see Attachment B).

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 Attachment C).

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

Pursuant to 5 CFR 1320.8(d), EPA published a Federal Register (FR) Notice announcing this proposed information collection activity and providing a 60-day public comment period (74 FR 30073; July 24, 2009). The Agency did not receive any public comments.

3(c) Consultations

During the development of this renewal ICR, EPA contacted the following representatives of a cross-section of pesticide registrants seeking feedback on their assessment of the regulatory burden estimates expressed by the Agency in this ICR:

- L. Perrigo Company (Brian Anson; 269-673-1223)
- Bonide Products, Inc. (Rebecca Horton; 540-375-8827)
- Brulin & Company (Berma L. Johnson; 317-923-3211, ext 3391)

Two of the three representatives contacted responded. Among other feedback, representatives of L. Perrigo and Brulin & Company confirmed that the estimated burden hours are accurate. The consultation questions and the responses received by the Agency have been included as an attachment in the docket under attachments D and E, respectively.

3(d) Effects of Less Frequent Collection

This activity is only conducted once per "event" (one notification is submitted per product); there is no way that EPA can reduce the frequency of the collection. 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. The registrant and the distributor are expected 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.

EPA 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 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 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 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 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 a 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 approximately 15 minutes per response. The Agency's respondent 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 2,500 notice submissions annually over the past 3 years, based on the actual number of submissions received annually over that period (1,972 in FY2006, 2,117 in FY2007, and 1,596 in FY2008), the Agency now expects to receive only 1,895 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 454.8 hours.

Consistent with recent ICR renewals, OPP is using labor cost estimates from Agency economists with respect to wages, benefits and overhead for all labor categories for affected industries, state government, and EPA employees. This approach uses a transparent and consistent methodology and current publicly-available data to provide more accurate estimates and allow easy replication of the estimates.

Labor Cost Approach	Description
<i>Methodology:</i>	The methodology uses data on each sector and labor type for an <i>Unloaded wage rate</i> (hourly wage rate), and calculates the <i>Loaded wage rate</i> (unloaded wage rate + benefits), and the <i>Fully loaded wage rate</i> (loaded wage rate + overhead). Fully loaded wage rates are used to calculate respondent costs. This renewal uses data from 2007, which is the most recent.
<i>Unloaded Wage Rate:</i>	Wages are estimated for occupations (management, technical, and clerical) within applicable sectors. The Agency uses average wage data for the relevant sectors available in the National Industry-Specific Occupational Employment and Wage Estimates from the Bureau of Labor Statistics (BLS) at http://www.bls.gov/oes/current/oes_nat.htm .
<i>Sectors:</i>	The specific North American Industry Classification System (NAICS) code and website for each sector is included in that sector's wage rate table. Within each sector, the wage data are provided by Standard Occupational Classification (SOC). The SOC system is used by Federal statistical agencies to classify workers into occupational categories for the purpose of collecting, calculating, or disseminating data (see http://www.bls.gov/oes/current/oes_stru.htm).
<i>Loaded Wage Rate:</i>	Benefits represent 43% of unloaded wage rates, based on benefits for all civilian non-farm workers, from http://www.bls.gov/news.release/ecec.t01.htm .
<i>Fully Loaded Wage Rate:</i>	The loaded wage rate is multiplied by 50% (EPA guidelines 20-70%) to get overhead costs.

A copy of the formula work sheets used to estimate the labor rates and to derive the fully loaded rates and overhead costs for this renewal are listed in *Attachment F*.

Table 1. Estimated Respondent Burden/Cost per Supplemental Distribution Application

REGISTRANT	HOURS, RATES			TOTAL	
	<i>Mgmt</i> \$104.41/hr	<i>Tech</i> \$57.88/hr	<i>Cler</i> \$34.95/hr	Hours	Costs
Collection Activities					
Read any Instructions	0.08	0.00	0.00	0.08	\$8.35
Process, compile, review information for accuracy and appropriateness	0.05	0.00	0.00	0.05	\$5.22
Complete and submit EPA Form 8570-5	0.03	0.00	0.00	0.03	\$3.13
Store, file, or maintain information	0.00	0.00	0.08	0.08	\$2.80
Total	0.16	0.00	0.08	0.24	\$19.50

Data Source: U.S. Department of Labor, Bureau of Labor Statistics, May, 2007.

NAICS 325300 - Pesticide, Fertilizer, and Other Agricultural Chemical Manufacturing

Notes: Fringe benefits/wage per hour is the average for non farm, non federal civilian workers.

Totals may not sum due to rounding.

ANNUAL BURDEN: 0.24 Total Hours x 1,895 Respondents = 454.8 Hours

ANNUAL COSTS: \$19.50 Total Costs x 1,895 Respondents = \$36,952.5

6(c) Estimating Agency Burden and Cost

The Agency devotes 0.33 hours, or 20 minutes, to process each of the 1,895 supplemental distribution submissions. Processing of supplemental distribution submissions is conducted by clerical staff (SOC of office and administrative support occupations).

To determine Agency costs, the Agency used the Bureau of Labor Statistics estimates of labor rates for the North American Industry Classification System code for the Federal Executive Branch (NAICS 999100). For clerical occupations, the fully loaded mean wage rate is \$41 (See Worksheet for NAICS 999100 EPA and Federal Government in *Attachment G*).

The total annual Agency burden associated with the notice of supplemental distribution of a registered pesticide product is 625.35 hours. This estimate assumes the Agency devotes 0.33 hours to each of the 1,895 respondents. The Agency cost associated with this program is \$25,904.65 annually

ANNUAL BURDEN: 0.33 Total Hours x 1,895 Responses = 625.35

ANNUAL COSTS: \$13.67 Total Costs x 1,895 Responses = \$25,904.65

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	454.8	\$36,952.5
Annual Agency Burden/Cost Estimates	625.35	\$25,904.65

6(e) Reasons for Change in Burden

The total annual respondent burden associated with the notice of supplemental distribution of a registered pesticide product is 454.8 hours, a decrease of 140.2 hours over the 595 hours estimated in the ICR from 2006. This decrease is an adjustment. The average number of supplemental registrations received by the EPA over the last three years is approximately 1,895 responses per year (1,972 in FY2006, 2,117 in FY2007, and 1,596 in FY2008). Based on these numbers, the Agency estimates that it will receive an average of 1,895 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 454.8 hours, or about 15 minutes per response. 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 (see Attachment H).

The Agency has established a public docket for this ICR under Docket ID No. EPA-HQ-OPP-2009-0264, which is available for online viewing at www.regulations.gov, or in person viewing at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305-5805. You may submit comments regarding 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.

Submit your comments, referencing Docket ID No. EPA-HQ-OPP-2009-0264 and OMB Control No. 2070-0044, to (1) EPA online using www.regulations.gov (our preferred method), or by mail to: Public Information and Records Integrity Branch (PIRIB), Mail Code: 7502P, Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460, and (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

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-2009-0264, 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 – Section 3 of FIFRA. Also available at online at the US House of Representatives' US Code website .
Attachment B	EPA Form 8570-5 - Notice of Supplemental Distribution of a Registered Pesticide Product Also available at online at http://www.epa.gov/opprd001/forms/8570-5.pdf .
Attachment C	40 CFR part 152.132 - Obligations and Rights of Registrants - Supplemental Distribution. Also available online at the National Archives and Records Administration's Electronic CFR Website .
Attachment D	List of Standard Questions
Attachment E	Consultation Process: Responses
Attachment F	Work Sheets used to Calculate Registrant Labor Costs
Attachment G	Work Sheets used to Calculate EPA & Federal Government Labor Costs
Attachment H	Display Related to OMB Control #2070-0044 – Listings of Related Regulations in 40 CFR 9.1. Also available online at the National Archives and Records Administration's Electronic CFR Website .