

ATTACHMENT H

Pesticide Container-Containment ICR – Record of Consultation

Consultation:

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(1) Publicly Available Data

- (A) Is the data that the Agency seeks available from any public source, or already collected by another office at EPA or by another agency? **The only known source of Containment Structure Requirements data is the American Agronomic Stewardship Alliance (AASA), however, this data is confidential and not available to the public. This response is “No”.**
- (B) 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? **This appears to be not applicable as the information is not collected by EPA and will only be used by EPA or its designee to ensure compliance with regulations in the event of an audit or problem.**

(3) Clarity of Instructions

- (A) 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, the instructions, along with an extensive outreach by the regulated industry, make the requirements for record keeping clear.**
- (2) If not, what suggestions do you have to clarify the instructions?
- (B) Do you understand that you are required to maintain records? **Yes.**
- (C) 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 there is no schedule for submission of records and they will likely only be provided for review during an inspection, this is a somewhat moot point.**
- (D) Regarding any pesticide container-containment forms, do you use them? Are they clear, logical and easy to complete? **Forms used are all developed in-house and are in electronic format which can be printed on demand. No issues with maintaining the required data.**

(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.

(A) 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. **As most of our internal records are electronic, we would support any secure type of electronic record submission that is compliant with our security guidelines covering the type of information being submitted.**

(B) Would you be interested in pursuing electronic reporting? Are you keeping your records electronically? If yes, in what format? Yes (see comment above). **Our records are maintained in several commercial available database formats but all can be converted to pdf records as required.**

(C) 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? **Diskette is no longer a supported format for data transfer. Modern encryption algorithms can be used to securely transmit CBI data but standards need to be agreed upon by the EPA and the submitters of such information. Otherwise CD or DVD seems to be the best choice.**

(D) What benefits would electronic submission bring you in terms of burden reduction or greater efficiency in compiling the information? **As all of our data is stored on or generated by electronic equipment, this would eliminate the need to print and/or transcribe data to other formats saving time and money.**

(5) Burden and Costs

(1) Are the labor rates accurate? **Labor rates are reasonable for this assessment.**

(2) The Agency assumes there is no capital cost associated with this activity. Is that correct? **Assuming that we are only considering the generation of the records and not any testing required, this 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 estimates used seem reasonable however limited experience with the relatively new requirements makes the uncertainty large.**

(4) Are there other costs that should be accounted for that may have been missed? **I see nothing of consequence that needs to be added to the assessment.**

Consultation:

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(1) Publicly Available Data

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

As a Pesticide Registrant, we are required to keep records related to the filling of refillable pesticide containers and informational records (procedures and descriptions) related to the refilling of refillable containers by retailers under contract. We are also required to maintain records of non-refillable containers used in the distribution and selling of certain pesticide products.

We are not aware of any other public source or agency that collects this data or requires this information to be maintained.

(B) 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?

Currently, there is no requirement to submit to the Agency the information and records we are required to collect under the Pesticide Container & Containment Rule, but only to maintain the information and records for a defined period of time related to the life of the product and other considerations. Therefore, consideration of the frequency of collection under this ICR does not apply to us.

(3) Clarity of Instructions

(A) 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 EPA Pesticide Container & Containment Rule has been the subject of a number of Federal Register (FR) and Pesticide Regulation Notices (PRN) for over a decade, as well as a number of informational pamphlets, brochures and summaries, published by EPA, Crop Life America, and other interested parties after the rule was finalized in 2006. The Final Rule published in the Federal Register was over 100 pages, so it was a time consuming challenge in the beginning to understand everything that the Regulation covered and sort out exactly who was subject to which regulations, what products were covered by which regulations and what was required, including recordkeeping

requirements, of each sector (registrant, non-registrant refiller, etc.) subject to the regulations. However, the variety of information published after the Final Rule simplified the information and summarized it into easily discernable charts and tables. In the end, what each sector had to do, like recordkeeping responsibilities, became clearer. It was a cooperative effort between EPA and the regulated industry that made the information available and understandable.

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

We have no suggestions at this time.

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

Yes, we do understand that we are required to maintain records and have them available for inspection to the Agency and its delegated authorities.

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

Since there is no requirement at this time to submit any information or records, the format of the submission does not apply in this case.

(D) Regarding any pesticide container-containment forms, do you use them? Are they clear, logical and easy to complete?

We are not aware of any container-containment forms that are applicable to our data and information recordkeeping obligations; therefore, this is not applicable to our situation.

(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.

(A) 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.

Electronic submission of records and data directly over the Internet would be the fastest and easiest way to comply with information requests. We, as a pesticide registrant, have adopted the Agency's XML-based submission process using magnetic media for other types of data submissions, such as applications for pesticide registration. However, since there is currently no reporting requirement under the Container-Containment Rule, data submission is not relevant at this time. Most of the recordkeeping required of us under the Container-Containment Rule is maintained in an electronic database.

(B) Would you be interested in pursuing electronic reporting? Are you keeping your records electronically? If yes, in what format?

At this time there is no reporting requirement for records kept under the Container-Containment Rule. We are only required to keep the records for a defined period of time and have them available for inspection by the Agency or its delegated authorities. However, the majority of our records are collected and/or maintained electronically.

(C) 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?

As a pesticide registrant we are very concerned about maintaining the confidentiality of business information that we consider vital to our success as a company. Because of that, we prefer to submit confidential business information (CBI) either on paper or compact discs (CD) rather than over the Internet. We are very comfortable submitting CBI electronically on CD.

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

Since there is no requirement for submission of the data and information collected under the Container-Containment Rule, this question is not relevant to this collection of information.

(5) Burden and Costs

(1) Are the labor rates accurate?

Labor rates of \$36.79/hour for administrative labor and \$124.10/hour for professional labor seems to be a reasonable average assumption for this industry.

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

There were some minor capital costs initially associated with creating the ability to automatically capture some of the information required under the Container-Containment Rule; however, these costs are relatively minor when considered as part of the total capital investment to ensure the Quality of our products and integrity of our automated manufacturing processes.

(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 only truly additional recordkeeping task required of us as a Pesticide Registrant under the Pesticide Container-Containment Rule was the recording of information during the filling of refillable pesticide containers and some other minor tasks. All other recordkeeping was already in place internally, albeit not required by regulation, prior to the implementation of the Rule. With that premise, the burden and cost estimates associated with the "paperwork" or electronic filing of the information required seems reasonable. This does not, however, include the cost to bring the electronic data capturing system on line (see Question 5.2 above).

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

There are no other costs related to the recordkeeping requirements of a Pesticide Registrant under the Container-Containment Rule that we can think of that should be considered at this time. The only consideration that we, as a Pesticide Registrant, have at this time is, what is the value to the Agency of the information we are collecting? When the Agency does decide to come and audit our records to ensure that we are keeping records, there will definitely be additional costs borne by the Pesticide Registrants to prepare the information for inspection

and costs to the taxpayers – is that cost justified compared to the value of the information obtained in return?

Consultation:

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(1) Publicly Available Data

(A) 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. We are audited by State Chemists and AASA inspectors but they do not collect the info.**

(B) 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 only thing we report is repackaging (annually) to EPA through ASMARK forms and collection of the info.**

(3) Clarity of Instructions

(A) 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? **Yesas retailers we don't report to EPA except Repackaging.**

(2) If not, what suggestions do you have to clarify the instructions? **Reporting of repackaging is pretty simple and should be left alone.**

(B) Do you understand that you are required to maintain records? **Yes....definitely**

(C) Considering that there is no required submission format, is it difficult to submit information in ways that are clear, logical and easy to complete? **ASMARK form is making this easy**

(D) Regarding any pesticide container-containment forms, do you use them? **There are no set forms being used from EPA. We use State Chemist forms for our license and use ASMARK forms for annual repackaging report.** Are they clear, logical and easy to complete?

(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.

- (A) What do you think about electronic alternatives to paper-based records and data submissions? **We have to issue with what we report by ASMARK to EPA is not accepted to by the State Chemist office as we must report the Tier 11 SARA reporting. Still have to convert it to paper report. May be a state of Indiana thing.**
- (B) 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. **We prefer to use on-line secure site due to issues in the past with mailing disk etc.**
- (B) Would you be interested in pursuing electronic reporting? **Yes.** Are you keeping your records electronically? **Yes** If yes, in what format? **Some are PDF, some Excel and we don't know what to call the state of Indiana.**
- (C) 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? **No, issues with loosing information sent on diskette through mail**
- (D) What benefits would electronic submission bring you in terms of burden reduction or greater efficiency in compiling the information? **Easier to collect from any location that has a computer; allows for review of history of location, easier to compile the information into one report for the company as at total; more secure transfer of information; more efficient use of time when tracking of records and operations.**

(5) Burden and Costs

- (1) Are the labor rates accurate? **Not for Indiana. Local wages are about 50% of what is used in this report**
- (2) The Agency assumes there is no capital cost associated with this activity. Is that correct? **Some computer costs; annual training costs; travel costs for seminars; office., vehicle and office filing equipment required for Risk Coordinator who oversees this reporting for the company**
- (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? **No, we believe you could double the costs as the information is collected at the retail sight and reported to the central office and reviewed for accuracy before being reported to ASMAR who reports it to the EPA.** 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? **Could be costs associated with inspections and collection of info ...overnight stays, meals etc., travel costs as companies get bigger.**