

**Attachment E**  
**Summary Consultation for OPP ICR: Notice of Arrival of Pesticides and Devices**  
**(OMB No. 2070-0020, EPA No. 0152.12)**

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**Questions and Responses**

(1) Publicly Available Data

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

A. There is no additional burden to data collection.

B. To some extent, import data is currently collected by US customs services, which protects most collected data as confidential business information. However, ship manifests are routinely disclosed from the port of entry and provide specific details of all shipments. This information is available through the Port Import/Export Reporting Service (PIERS)<sup>1</sup>.

C. N/A

- If yes, where can you find the data? (Does your answer indicate a true duplication, or does the input indicate that certain data elements are available, but that they don't meet our data needs very well?)

A. N/A

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<sup>1</sup> See: [https://en.wikipedia.org/wiki/PIERS:\\_The\\_Port\\_Import/Export\\_Reporting\\_Service](https://en.wikipedia.org/wiki/PIERS:_The_Port_Import/Export_Reporting_Service)

B. Such information is limited to the raw import Bills of Lading for all waterborne cargo vessels, and it does not cover air or land freight shipments. PIERS does not collect all fields required by the EPA NOA for pesticide registration information.

C. N/A

(2) Frequency of Collection

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

A. Every shipment needs to be recorded and I cannot think of a better way to do this than the current system.

B. Electronic reporting and transmission, as stated earlier, would be beneficial to industry and ease both recordkeeping obligations and transmission. Additionally multiple parties could have access simultaneously, reducing redundancy. Finally, should correction or resubmission be needed, electronic communication would minimize the burden and costs to all parties and help reduce delay in the import process.

C. N/A

(3) Clarity of Instructions

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

- Based on the instructions (regulations, PR Notices, etc.), is it clear what you are required to do and how to submit such data? If not, what suggestions do you have to clarify the instructions?

A. The instructions are clear.

B. Instructions on the NOA are clear and suggested improvements are addressed in the comments above. The primary issue at this point is the inconsistent and diverging requirements of regional EPA authorities tasked with oversight of this process. Some require labels, confidential formulas, Certificates of Authenticity, or other documents while other regions do not require this documentation. Additionally, enforcement of NOA data is inconsistent, with some regions requiring form changes for each instance in which a ship docks a day late, while others deem these variations to be a trivial irregularity. Standardization of required documents would be useful to integrate regulatory and logistics functions to more efficiently deliver the information the EPA regions require.

C. N/A

- Do you understand that you are required to maintain records?

A. Yes

B. Bayer maintains records as required under 40 CFR 169.

C. N/A

- Are there forms associated with this process? Do you use them? Are they clear, logical, and easy to complete?

A. Yes. We use them as they are a requirement. For the most part, the forms are clear and logical.

B. Bayer maintains records as required under 40 CFR 169.

C. N/A

(4) Electronic Reporting and Recordkeeping

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.

- 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?

A. N/A

B. As mentioned above electronic reporting would be beneficial to industry provided that confidentiality can be ensured. Bayer requests to participate in the ACE-EPA implementation effort.

C. N/A

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

A. Copies of all forms are stored electronically.

B. N/A

C. N/A

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

A. The forms need to be submitted before the shipment makes it to the port which could be done electronically, but with the need for multiple agencies (US Customs) to view the reports it is hard to say if there would be a time savings.

B. Records are being kept both in hardcopy and electronic formats with a desire to convert completely to electronic records where allowed by law. Electronic recordkeeping would better allow for cross connection with other systems to quickly retrieve and report information contained in multiple documents.

C. N/A

(5) Burden and Costs

- Are the labor rates accurate?
  - A. Yes, based on the current personnel required to supply the required data.
  - B. Bayer refers to comments submitted by Bayer in response to EHA-HQ-OPP-2015-0332-0001.
  - C. N/A
  
- The Agency assumes there is no capital cost associated with this activity. Is that correct?
  - A. Yes, that is correct.
  - B. Bayer maintains significant information technology infrastructure for accounting, import/export logistics and in all manufacturing plants tied to providing information for the NOA. While these systems support several functions, it is incorrect that there are no capital costs to Bayer associated with this activity.
  - C. N/A
  
- 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.
  - A. After doing this routinely for some time the estimates are accurate. They may be off for the first few times that a NOA is processed.
  - B. Bayer estimates its own expense in completion of the form to be 650 hours per year. The current process for completion is:
    - Receive shipping documentation from foreign shipper
    - Determine appropriate EPA regulation>TSCA or FIFRA. If FIFRA,
    - Identify port of entry using shipping docs (box 12)>this determines EPA regional office to file NOA
    - Complete NOA form using 2014 document version,
      - o 2 regions allow electronic NOA filing (Region 6/TX, Region 9/CA)>comparable time taken to enter NOA data in the designated online portal.
      - o All other regions follow the standard process, requiring hardcopy documentation.
      - o Request entry number from Customs broker, include on NOA form. Region 2 requires dummy 7501 which must be provided to us by Customs broker
      - o Prepare any additional documentation required by designated regional office. Region 2 requires a pro forma invoice, Regions 4, 7 required

addendum letters, Regions 6 and 9 require a guideline statement (similar to USDA 1114)

- Review EPA label to determine if respective data fields are accurate (EPA Reg #, EPA Est #, CBP origin marking). If label is questionable, follow up with Label Graphics and KIM teams for further review.
- Save pdf copy of NOA in our archive system, by product and entry number (or IT # for FTZ).
- Print 2 copies of NOA form, 1 cover letter, 1 copy of additional documentation, and EPA label to submit to regional office; secondary copies of the aforementioned docs are printed and retained in entry folder.
- Create mailing label to submit NOA to regional office, and return mailing label to send back to importer or Customs broker. We have had a few instances of where EPA will hold NOA until they receive a return mailing envelop, because they do not want to pay postage.
- Received approved hardcopy from EPA either directly to team or by Customs broker. Once entry complete, Imports team scans copies of entry docs (including NOA) to SharePoint as convenience/information copies.

Bayer also estimates an additional 30-60 minutes per NOA that are questioned by EPA, including research, review, and response to agency...timetable depends upon receipt of information from other teams. This may take longer, spanning into 1-3 business days, depending upon level of research required and key personnel availability. Assuming a follow up rate of 5%, this adds another 65 – 130 hours of burden to the process.

NOA review/approval times are dependent upon the regional office, with most regions take an average of approx. 3-5 business days to review and approve. However, certain regions may take 2-3 weeks to approve considering high NOA volumes they process. We advise our customers that NOA processing time can take approx. 1 week to receive an approved NOA. Assuming the NOA is filed upon customs entry, this adds and associated 5 days of storage and other costs. If filed early (before entry) this presents this problem associated with customs entry numbers and increases the number of NOAs questioned and the likelihood of refiling due to changes in the delivery date, carrier or other NOA fields.

C. N/A

- Are there other costs that should be accounted for that may have been missed?
  - A. All pertinent costs have been accounted for.
  - B. In the event of delays in the import process Bayer could expect expenses dealing with the storage and holding of samples. Such charges are somewhat dependent upon the type of shipment and include:
    - For courier / sample type of shipments
      - o \$20 – 30 per shipment per day for
    - For ocean containers:
      - o \$100 – 300 per day

o An additional \$100+ per day if goods sit at the rail ramp

Air freight is even more expensive than ocean containers but costs were not immediately available at the time comments were submitted.

C. N/A