

Consultation Questionnaire Responses for the "Soil and Non-Soil Fumigant Risk Mitigation" Renewal ICR

OMB Control No.: 2070-0197; EPA No.: 2451.02

Docket ID No.: EPA-HQ-OPP-2018-0423

Company Representatives Contacted

EPA contacted 7 stakeholders who are impacted by the paperwork collection activities associated with this ICR. A list of the companies contacted are provided below. Only 2 stakeholders (Degesch America, Inc. and Douglas Products) provided responses.

Soil Fumigant Representatives

- Syngenta (represented by Bergeson & Campbell, P.C.)

Non-Soil Fumigant Representatives

- Degesch America, Inc
- Douglas Products
- Griffin Pest Management
- International Warehouse Services
- National Pest Management Association
- Royal Pest Solutions

Questionnaire Questions

Provided are the questions sent to stakeholder representatives. The representatives were asked to answer questions from either A (related to soil fumigations) or B (related to non-soil fumigations). The two commenters that provided responses answered questions related to non-soil fumigant questions only.

A. Questions Related to Soil Fumigants**(1) Publicly Available Data**

- Is the information (i.e. FMP and Post Application Summary (PAS), training materials, etc.) that the Agency requests available from any public source, or already collected by another office at EPA or by another agency?
- If yes, where can you find the information? (Does your answer indicate a true duplication, or does the input indicate that certain data elements are available, but that they do not meet our data needs very well?)

(2) Frequency of Collection

- Can applicators record, maintain, and distribute the information less frequently and still produce the same outcome?

(3) Clarity of Instructions

The ICR is intended to account for the paperwork burdens associated with the requirements for certain fumigant product users to develop FMPs and Post Application Summaries (PASs), to post signs, to participate in fumigant-specific trainings when required, and to provide certain information to decrease the likelihood of applicator, handler, and bystander exposure to fumigants.

- Based on the available instructions (fumigant labeling requirements, EPA guidances, etc.), is it clear what is required? If not, what suggestions do you have to clarify the instructions?

- Do you understand that you are required to maintain records? Do you know how long you are required to maintain these records?
- While there no required forms associated with this process, EPA does provide sample FMP/PAS templates for soil fumigants online (<https://www.epa.gov/soil-fumigants>)? Do you use them or have you developed your own format?
 - If you use EPA's templates, are they clear, logical, and easy to use? Do you have recommendations on improving the templates?
 - If you have developed your own format, why did you choose to do so?

(4) Electronic Reporting and Recordkeeping

- Are you completing the FMPs and PASs and maintaining records by paper or electronically?
 - If you are using paper, is it possible for you to keep records electronically?
 - If yes, why have you chosen to complete the requirements by paper?
 - If no, what obstacles have you experienced that prevent you from completing the requirements electronically?
 - If you are completing the requirements electronically, in what format (e.g., Word, Excel, online, etc.)?
 - Has electronic recordkeeping reduced your paperwork burdens? If so, please explain.
- What benefits would electronic reporting and recordkeeping bring you in terms of burden reduction or greater efficiency in compiling the information?

(5) Burden and Costs

- Are the labor rates accurate?
- The Agency assumes there are some capital costs for soil fumigant users for buffer zone signs and monitoring equipment. Are the estimates for these capital costs accurate? Are there other capital costs that have not been captured in this ICR?
- Bearing in mind that the burden and cost estimates include only burden hours and labor 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 labor cost estimates that are substantially different from EPA's, please provide an explanation of how you arrived at your estimates. Also, please specify the type of fumigation.
- Are there other costs that should be accounted for that may have been missed?

B. Questions Related to Non-Soil Fumigants**(1) Publicly Available Data**

- Is the information (e.g., Fumigant Management Plans (FMPs) or training materials) that the Agency requests available from any public source, or already collected by another office at EPA or by another agency?
- If yes, where can you find the information? (Does your answer indicate a true duplication, or does the input indicate that certain data elements are available, but that they do not meet our data needs very well?)

(2) Frequency of Collection

- Can you record, maintain, and distribute the information less frequently and still produce the same outcome?
- On average, how many non-soil fumigant applications are performed in any given year?
- Some homes, buildings, and commodities may be fumigated every year, by the same pest control company or under contract, such that the time required for all subsequent, similar applications to that same site is reduced significantly. However, the current data available to EPA does not make a distinction between initial and subsequent applications. Due to limited information, EPA has assumed that every non-soil fumigant application requires a new FMP, and that the estimated burden hours are the same for all non-soil fumigant applications.
 - Is EPA's assumption correct, or do applicators frequently perform subsequent applications to the same or substantially similar sites (e.g. homes or mills that are fumigated every year or multiple times over a period of weeks or months)?
 - If applicators typically perform subsequent applications at the same site, can you provide a rough estimate of how frequently these subsequent applications occur (e.g. about 25%, 50%, etc. of total applications)? Please list the type(s)/site(s) of these non-soil applications.
 - How much time does it take to complete the requirements identified in this ICR for the either a one-time application or an initial application? For subsequent applications? Please list the type(s)/site(s) of these non-soil applications.

(3) Clarity of Instructions

The ICR is intended to account for the paperwork burdens associated with the requirements for certain fumigant product users to develop FMPs, to develop or participate in fumigant-specific trainings when required, and to provide certain information to decrease the likelihood of applicator, handler, and bystander exposure to fumigants.

- Based on the available instructions (fumigant labeling requirements, EPA guidances, etc.), is it clear what is required? If not, what suggestions do you have to clarify the instructions?
- Do you understand that you are required to maintain records? Do you know how long you are required to maintain these records?
- While there no required forms associated with this process, EPA does provide sample FMP templates for soil fumigants online (<https://www.epa.gov/soil-fumigants>). Do you use them to as a guide for completing the non-soil fumigant requirements, or have you developed your own format?
 - If you use EPA's templates, are they clear, logical, and easy to use? Do you have recommendations on improving the templates for non-soil fumigant use?
 - If you have developed your own format, why did you choose to do so?

- o Without an available template specification created for non-soil fumigants, has it been difficult to develop your own format to comply with the non-soil fumigant labels? Do you believe that an EPA-developed template for non-soil fumigants will help to reduce burden?

(4) Electronic Reporting and Recordkeeping

- Are you completing the required information collection activities on paper or electronically?
 - o If you are using paper, is it possible for you to keep records electronically?
 - If yes, why have you chosen to complete the requirements by paper?
 - If no, what obstacles have you experienced that prevent you from completing the requirements electronically?
 - o If you are completing the requirements electronically, in what format (e.g., Word, Excel, online, etc.)?
 - Has electronic recordkeeping reduced your paperwork burdens? If so, please explain.
- What benefits would electronic reporting and recordkeeping bring you in terms of burden reduction or greater efficiency in compiling the information?

(5) Burden and Costs

- Are the labor rates accurate?
- The Agency assumes there are no capital costs associated with the non-soil fumigant activities for FMP completion and development of training materials. If this assumption is not correct, please explain why and provide any estimates you may have regarding capital costs.
- Bearing in mind that the burden and cost estimates include only burden hours and labor 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 labor cost estimates that are substantially different from EPA's, please provide an explanation of how you arrived at your estimates. Also, please specify the type of fumigation.
- Are there other costs that should be accounted for that may have been missed?

Consultation Responses from Degesch America, Inc.

B. Questions Related to Non-Soil Fumigants

(1) Publicly Available Data

- Is the information (e.g., Fumigant Management Plans (FMPs) or training materials) that the Agency requests available from any public source, or already collected by another office at EPA or by another agency?

All of this information is held internally between the customer and applicable emergency services.

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

(2) Frequency of Collection

- Can you record, maintain, and distribute the information less frequently and still produce the same outcome?
No

- On average, how many non-soil fumigant applications are performed in any given year?

Thousands of non-soil fumigations are performed throughout a year.

- Some homes, buildings, and commodities may be fumigated every year, by the same pest control company or under contract, such that the time required for all subsequent, similar applications to that same site is reduced significantly. However, the current data available to EPA does not make a distinction between initial and subsequent applications. Due to limited information, EPA has assumed that every non-soil fumigant application requires a new FMP, and that the estimated burden hours are the same for all non-soil fumigant applications.

- Is EPA's assumption correct, or do applicators frequently perform subsequent applications to the same or substantially similar sites (e.g. homes or mills that are fumigated every year or multiple times over a period of weeks or months)?

We perform subsequent or substantial applications at similar sites.

- If applicators typically perform subsequent applications at the same site, can you provide a rough estimate of how frequently these subsequent applications occur (e.g. about 25%, 50%, etc. of total applications)? Please list the type(s)/site(s) of these non-soil applications.

50% silos, bins, mills, plants, warehouses, tarps, railcars, containers & trailers

- How much time does it take to complete the requirements identified in this ICR for the either a one-time application or an initial application? For subsequent applications? Please list the type(s)/site(s) of these non-soil applications.

15 minutes to 2 hours – Sites are same as listed above. Substantial and initial fumigations can take 15 minutes and sometimes up to 2 hours. This is based on available information for preparing FMP's, safety procedures, specific customer requirements, etc.

(3) Clarity of Instructions

The ICR is intended to account for the paperwork burdens associated with the requirements for certain fumigant product users to develop FMPs, to develop or participate in fumigant-specific trainings when required, and to provide certain information to decrease the likelihood of applicator, handler, and bystander exposure to fumigants.

- Based on the available instructions (fumigant labeling requirements, EPA guidances, etc.), is it clear what is required? If not, what suggestions do you have to clarify the instructions?

More emphasis on FMP and increased enforcement

- Do you understand that you are required to maintain records? Do you know how long you are required to maintain these records?

Yes. 2 Years. Some confusion with states having longer requirements.

- While there no required forms associated with this process, EPA does provide sample FMP templates for soil fumigants online (<https://www.epa.gov/soil-fumigants>). Do you use them to as a guide for completing the non-soil fumigant requirements, or have you developed your own format?

We have our own format following the label requirements

- o If you use EPA's templates, are they clear, logical, and easy to use? Do you have recommendations on improving the templates for non-soil fumigant use?

We have reviewed the soil fumigation FMP and there is too much requested information not applicable to non-soil fumigations.

- o If you have developed your own format, why did you choose to do so?

Because it is structural and/or commodity specific

- o Without an available template specification created for non-soil fumigants, has it been difficult to develop your own format to comply with the non-soil fumigant labels? Do you believe that an EPA-developed template for non-soil fumigants will help to reduce burden?

No and No. Templates are widely available.

(4) Electronic Reporting and Recordkeeping

- Are you completing the required information collection activities on paper or electronically?

Both

- o If you are using paper, is it possible for you to keep records electronically? **N/A**
 - If yes, why have you chosen to complete the requirements by paper?
 - If no, what obstacles have you experienced that prevent you from completing the requirements electronically?
- o If you are completing the requirements electronically, in what format (e.g., Word, Excel, online, etc.)? **Word and PDF**

- Has electronic recordkeeping reduced your paperwork burdens? If so, please explain.

Yes, somewhat by eliminating the completion of redundant information.

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

We keep the records electronically but hard copies are distributed to the customer and applicable emergency services. An electronic format would ease the distribution.

(5) Burden and Costs

- Are the labor rates accurate?
- The Agency assumes there are no capital costs associated with the non-soil fumigant activities for FMP completion and development of training materials. If this assumption is not correct, please explain why and provide any estimates you may have regarding capital costs.
- Bearing in mind that the burden and cost estimates include only burden hours and labor 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 labor cost estimates that are substantially different from EPA's, please provide an explanation of how you arrived at your estimates. Also, please specify the type of fumigation.
- Are there other costs that should be accounted for that may have been missed?

In response to Item 5, the labor rates appear to be within reason. They fluctuate from job to job and region to region.



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Ryne Yarger
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703-605-1193

Dear Ryne,

Re: OMB Control No.: 2070-0197; EPA No.: 2451.02

Thank you for providing, by email dated October 29, 2018, an opportunity for Douglas Products to provide input on EPA's draft ICR for OMB Control No.: 2070-0197; EPA No.: 2451.02.

Because your email provided less than two weeks for Douglas Products to respond, we have been unable to answer all of the questions identified in the Fumigant Consultation Questionnaire. Douglas Products would be willing to provide additional information if EPA extends the time for Douglas Products to respond. This letter provides our initial responses.

Factual Error

As an initial matter, the draft ICR Supporting Statement contains a significant factual error. On Page 4, the draft Supporting Statement states that "In 2017, EPA approved updated labels for sulfuryl fluoride products incorporating these recommendations." This statement is incorrect; no such label updates have been approved. Douglas Products expects this statement will be corrected in the document's final form.

Registrant Burden Estimates are Woefully Inadequate

With regard to the current burden estimates, the estimates provided for non-soil fumigants in Tables 21-25 significantly understate the burdens for sulfuryl fluoride products. It appears that EPA may have attempted to use a single burden estimate methodology for all the non-soil fumigants, but this is inappropriate given the significant variations in chemistry and use patterns. For example, while the current labels for some products require an FMP, others do not. Similarly, the required training schedules for each fumigant are different.

In Table 23, EPA also assumes, without justification or explanation, that the costs to the registrants for the completion and implementation of a stewardship plan are equal to "roughly a third" of the cost as for soil fumigation. While Douglas Products cannot speak to the cost estimates presented for the soil fumigant training, Douglas disagrees with EPA's unsubstantiated "roughly a third" assumption. The structural fumigation labels for sulfuryl fluoride are in

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many ways *more* complex than those for soil fumigation, as they require specific steps for preparation, including sealing, and aeration of structures, separate application of a warning agent for non-commodity fumigation, and specialized clearance devices to achieve specific clearance readings. Furthermore, while the EPA-approved soil fumigant training is an approximately 8-hour online course taken once every three years, Douglas Products provides in-person training every year.

The inaccuracy of EPA's estimate is further demonstrated by the dramatic under-estimation of costs in Table 23. Table 23 estimates that the annual cost of maintaining and disseminating training materials is \$1,296 per year. EPA's cost estimate fails to recognize that the sulfuryl fluoride training is disseminated *in person* by the registrant's staff throughout the year in either 4 hour+ sessions (for initial training) or 2+ hour sessions (for annual training). In 2017, Douglas Products and its distributor partners provided more than 360 separate training sessions around the country. EPA's total annual estimate for registrant burden underestimates the actual burden to registrants of maintaining and disseminating training materials by at least 2,140%. Table 21 similarly neglects to include an estimate the cost to applicators of attendance at annual training sessions to receive the stewardship training.

Table 23 also assumes that the registrants "develop training materials" only "one time." This is inaccurate. As EPA is well aware, Douglas Products updates their sulfuryl fluoride training materials at least annually to reflect updated label requirements and based on input from applicators, regulators, and industry fumigation specialist. Such updates require more than 160 hours of labor per year to determine what sections of the training programs need revision, obtain revised information and photographs, and update, proof, copy and distribute the revised training materials. . EPA should add additional annual burdens to develop training materials each year.

Finally, Table 23 assigns the registrants' Technical Staff a labor rate of \$73/hr. The actual labor rates for the necessary technical staff to prepare and disseminate the training in person is nearly twice that rate.

The underestimated costs in Tables 21 and 23 subsequently cause Tables 24 and 25 to also underestimate the burdens. If Tables 21-25 will be used as a basis for regulatory decisions (e.g. estimated cost to registrant and end-user) then it would be important for these tables to be completely revised to allow regulators to properly understand the significant burdens imposed on industry.

Conclusion

In conclusion, Douglas Products is concerned by the factually inaccurate statements in the draft Supporting Statement and gross under-estimation of burdens placed on the non-soil fumigant registrants. Based on the deficiencies identified so far, Douglas Products has no confidence that the estimates provided for applicators and other registrants are any more reliable. Douglas Products urges EPA to rescind the current ICR proposal and develop a new proposal that is more accurate.

Best regards,



Tim McPherson

Global Regulatory Leader

Douglas Products