

Request for a Non-Substantive Change to an Existing Approved Information Collection

(EPA ICR No. 0161.15; OMB Control No. 2070-0027; Foreign Purchaser Acknowledgment Statement of Unregistered Pesticides)

I. Introduction

Why is EPA Requesting a Non-Substantive Change?

The existing, approved ICR, entitled “Foreign Purchaser Acknowledgment Statement of Unregistered Pesticides” allows for paper submissions of the Foreign Purchaser Acknowledgment Statement (FPAS) to be submitted via mail or courier. There is currently no electronic reporting option. Submission of complete FPAS via email is not possible because it is not considered secure for the purposes of submitting confidential business information (CBI).

FIFRA section 17(a)(2) and 40 CFR 168.75 requires that any person exporting unregistered pesticides must obtain a statement signed by the foreign purchaser prior to export, acknowledging that the purchaser understands that the pesticide is not registered for use in the US and cannot be sold in the US.

Per 40 CFR 168.75, the exporter must submit the signed acknowledgement statement from the foreign purchaser, and the accompanying certification by the exporter including attachments, to EPA within 7 working days of the exporter's receipt of the purchaser acknowledgement statement, or by the date of export, whichever occurs first. This information must be transmitted to the Office of Pesticide Programs' Document Processing Desk at the appropriate address as set forth in 40 CFR 150.17(a) or (b), Attention: Purchaser Acknowledgement Statement.

EPA has become aware of mail disruptions due to the COVID-19 public health emergency. These disruptions are impacting the timely submission and processing of FPAS. In response to stakeholder concerns, and to ensure the proper performance of the agency’s functions to comply with legal requirements and achieve program objectives, EPA created a mechanism for secure electronic submission of FPAS.

II. Description of Non-Substantive Changes

What Information Collection Request (ICR) is EPA changing?

ICR Title: Foreign Purchaser Acknowledgment Statement of Unregistered Pesticides

ICR Numbers: EPA ICR No. 0161.15; OMB Control No. 2070-0027

What is the current status of this ICR?

This ICR is currently approved through December 31, 2022.

What are the changes that EPA is making to this collection of information?

In order to facilitate the timely submission of FPAS paper documents during the COVID-19 public health emergency and to clear any backlog in submission of FPAS paper documents after the COVID-19 public health emergency, EPA is introducing a temporary, voluntary electronic reporting option.

Electronic submissions of FPAS will be done via the Pesticide Submission Portal (“PSP” or “Pesticide Portal”) which is accessed through EPA’s Central Data Exchange (CDX).¹ Registered CDX users² will be able to select “FPAS Submission” for a dropdown menu and upload one or more attachments for their submission. Consistent with paper FPAS submissions, there are no forms for this activity.³ The EPA does not currently provide a template nor mandate the use of a common form. Therefore, the exporter must develop and use their own FPAS. In preparing the statement, the exporter is free to format the document in any manner as long as it includes all of the required information. The exporter must obtain the signed statement from the foreign purchaser before the pesticide can be shipped. The regulatorily required content for FPAS submissions is described at <https://www.epa.gov/pesticides/importing-and-exporting-pesticides>.⁴

Upon selection of “FPAS Submission” from the dropdown menu, the submitter will be able to see a burden statement which reads:

This collection of information is approved by OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. (OMB Control No. 2070-0027). Responses to this collection of information are mandatory for certain persons, as specified at 40 CFR 168.75. 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 public reporting and recordkeeping burden for this collection of information is estimated to be 1.62 hours per response. Send comments on the Agency’s need for this information, the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden to the Regulatory Support Division Director, U.S. Environmental Protection Agency (2821T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed form to this address.⁵

Did EPA consult with stakeholders about this approach?

As part of the most recent ICR renewal process, EPA asked questions concerning paper submissions and alternatives to paper submissions. One respondent stated that they preferred paper submissions over electronic options and that they did not believe electronic options would provide any benefits in terms of burden reduction or greater efficiency in compiling the information. The other respondent disagreed, indicating electronic alternatives to paper submissions would be a good idea and that they would be interested in electronic reporting as they would provide cost reductions (i.e., postage, mail, paper, ink) and greater efficiency. In

¹ See <https://www.epa.gov/pesticide-registration/electronic-submissions-pesticide-applications>.

² Exporters who are not currently registered in CDX will need to create an account [here](#).

³ See Attachment A, Reporting Instructions.

⁴ FIFRA section 17(a) and related regulations at 40 CFR 168.70, 168.75, and 168.85.

⁵ See Attachment B, screenshots from PSP.

addition, outside of the ICR process, the Agency has received requests from exporters requesting an electronic option for submitting FPASs.

Since the last ICR renewal, the COVID-19 public health emergency has caused EPA's mailroom to be closed for an extended period of time and complicated the paper submission process. EPA has heard from stakeholders who have attempted to submit FPAS via mail and had their submissions returned to them. EPA has also heard from other stakeholders who do not currently have access to mailing resources. These stakeholders have requested secure means to electronically submit FPAS for the duration of the COVID-19 situation. Due to the lack of a secure electronic submission process being available, some stakeholders have chosen to hold their documents and not submit until a process is in place.

Will this change impact the annual ICR burden estimate?

This change will not increase the annual ICR burden estimate. It is not mandatory for stakeholders to take advantage of this electronic reporting option. This action will not change the scope or content of FPAS submissions, nor would it prescribe a format.

The burden associated with CDX registration is covered by another approved ICR (OMB control no. 2025-0003 and ICR No. 2002.07). EPA estimates that 73% of FPAS submitters are already registered in CDX and already use the PSP for other purposes. In most cases, these entities are pesticide registrants.

Those that choose to submit FPAS electronically may experience some savings related to postage and materials (paper, ink, etc.). Because the electronic reporting option is both time-limited and voluntary, these cost savings are likely to be *de minimis*.

What is the expected non-paperwork impact of this change?

There is no expected non-paperwork impact of this change.

How does a temporary electronic reporting option help EPA properly perform Agency functions necessary to comply with legal requirements and achieve program objectives?

Per FIFRA Section 17 and 40 CFR 168.75(d), EPA is required to transmit a copy of each FPAS to the appropriate government official in each of the intended destination countries. Then, after receipt of the Annual Summary the following calendar year, EPA will transmit a copy of the summary document to the appropriate government official. If exporters of unregistered pesticides cannot submit their FPAS to EPA in a timely manner, EPA in turn cannot meet its obligation to ensure the intended destination countries are notified. The electronic FPAS submission option will mitigate delays due to the COVID-19 public health emergency and the potential development of a backlog of FPAS submissions with EPA while ensuring that EPA can properly carry out its functions under FIFRA Section 17.

Will EPA consider a permanent electronic reporting solution for FPAS?

Yes., the temporary electronic reporting option contemplated in this Request for a Non-Substantive Change will expire when the EPA mailroom is opened following the end of the public health emergency because it does not otherwise satisfy EPA's general requirements for electronic reporting at 40 CFR part 3. However, EPA is considering the development of a longer-

term electronic reporting solution and a template/form for FPAS submissions. As part of considering and developing a long-term solution, EPA will determine whether it is necessary to amend to the FPAS requirements at 40 CFR 168.75 to ensure submissions conform with the requirements of 40 CFR 3. EPA is in the process of conducting outreach amongst stakeholders in order to identify ways in which electronic reporting and standardization of format can maximize efficiency and burden reductions for both the Agency and stakeholders.