

Attachment F

Summary of Consultations for the Renewal ICR, entitled "Pesticide Program Public Sector Collections (FIFRA Sections 18 & 24(c)), (Renewal)"

OMB Control No. 2070-0182; EPA ICR No. 2311.03; Docket No. EPA-HQ-OPP-2017-0619

1) Representatives contacted from the following state agencies:

- Maryland Department of Agriculture
- Louisiana Department of Agriculture and Forestry
- Washington State Department of Agriculture

Questions and Responses:

EPA provided the same set of questions to each representative for their consideration and feedback. EPA received only one set of responses, provided by the Nevada Department of Agriculture. The questions asked, and their feedback to those questions, are provided below:

Responses from the Representatives for Section 18

2) 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?

MD: Yes, I have found in most cases that the data is available from EPA, the IR-4 Program, or from pesticide registrants.

LA: No

WA: Usually some of the data used to prepare the Section 18 application is publicly available (such as data from USDA and land grant universities).

b. 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 do not meet our data needs very well?)

MD: Yes, as stated above under publicly available data, the IR-4 Program can be of help, as well as, the pesticide registrants.

LA: Not Applicable

WA: The data needs to be reviewed and compiled before it could be used by the USEPA. WSDA has a lot of experience in preparing a Section 18 application for review by the USEPA.

3) Frequency of Collection

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

MD: If the Agency collects information less frequently, I would be concerned that the outcomes would likely not be the same.

LA: No

WA: No

4) Clarity of Instructions

a. 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?

MD: Yes, based on the instructions (regulations, PR Notices, etc.) it is clear to me as to what I must do to provide information for the Section 18.

LA: The instructions for section 18 emergency exemptions are well defined in 40 CFR 166.20. Although the instructions are well defined, it is somewhat difficult sometimes to gather the necessary information. Documenting significant economic loss for specific emergency exemptions can be difficult because experiments have to be devised to document the economic loss incurred with and without the pest and the ineffectiveness of the available alternatives. These experiments can take a significant amount of time to produce the necessary data needed for obtaining an emergency exemption. Therefore, this delays the response time in which an emergency exemption can be obtained to address an emergency pest issue which can be detrimental to an industry.

WA: Yes, and the information and training resource on the EPA web site (https://www3.epa.gov/pesticides/regulating/section18_training/index.html) is fairly helpful.

b. Do you understand that you are required to maintain records?

MD: Yes, I am aware that I must keep records for each Section 18 that is requested and approved.

LA: Yes

WA: 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? If yes, please provide detail.

MD: Considering that there is no required submission format, I would prefer that the Agency develop a reporting format.

LA: Yes, a more defined submission process would allow for more uniform and complete submissions. Currently, as states we are generating applications with the defined parameters of 40 CFR 166.20 and are submitting section 18 requests by e-mail to the emergency response team leader. That seems to work fairly well. However, a defined submission process would make submission more uniform across the country therefore making the process easier for the states and the EPA.

WA: Yes, which is why WSDA has developed a Section 18 guidance document (<https://agr.wa.gov/FP/Pubs/docs/226-Section18Guidance.pdf>) and has provided training to interested parties.

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

MD: I would prefer that the Agency develop a form for the process of submitting a Section 18 request.

LA: No

WA: No EPA forms are used for a Section 18 application.

5) 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.

a. What do you think about electronic alternatives to paper-based records and data submissions? Current electronic reporting alternatives include the use of XML (meta data) based submissions via the Agency's internet site and pdf media for digital and printed submissions. Would you be interested in pursuing electronic reporting?

MD: Yes, I would be very interested in pursuing electronic reports.

LA: Yes, I would be interested in the electronic submission and reporting of section 18 registrations. The electronic submissions would expedite the process and would bring more uniformity to the process for everyone involved.

WA: A good idea, since WSDA is currently submitting Section 18 applications to USEPA electronically

b. Are you keeping records electronically? If yes, in what format?

MD: No, I am not currently keeping electronic records for the Section 18's.

LA: Yes, I keep records in electronic formats. Records are maintained in predominantly pdf format, but some data is maintained in other formats such as xls.

WA: Yes, WSDA maintains records in pdf format.

c. Although the Agency does not offer an electronic reporting option at this time:

i. What format other than paper would you be more inclined to submit 18(c) submissions?

MD: Personally, I would prefer to have a submission format that is clear, logical and easy to use, such as an electronic form.

LA: Preferably, there would be a secure portal setup through the EPA that would allow for submissions for these registrations. Currently, we are submitting section 18 requests by e-mail to the emergency response team leader, and that seems to work well.

WA: WSDA currently sends copies of the Section 18 application documents in pdf format to USEPA via the "Section 18 Mailbox (Sec-18-Mailbox@epa.gov).

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

MD: As stated above, I would prefer to have a format that is clear, logical and easy to use, such as an electronic form.

LA: The electronic submissions would allow the EPA to receive the submissions much quicker than the current process which would result in a more efficient response time by the EPA. In addition, an electronic submission process would allow the EPA to better track the submissions, and the states would be able to better track the status of their emergency exemption requests.

WA: No response

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

MD: No, currently I have no electronic forms associated with the requests for Section 18's.

LA: No

WA: No

6) Burden and Costs

a. Are the labor rates accurate?

MD: I have no information available concerning whether or not the labor rates are accurate.

LA: Yes, the labor rates seem to be representative.

WA: Yes, seems reasonable.

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

MD: I have no information regarding whether or not there is a capital cost associated with this activity.

LA: Yes

WA: Yes, seems reasonable.

c. 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.

MD: I cannot state with any certainty on what the estimated burden hours and costs for conducting studies would be.

LA: Yes, the estimated burden hours and labor rates seem to be representative.

WA: The average estimated hours was the same number as the total hours, and I calculated that the average should have been approximately 70 hours.

d. Are there other costs that should be accounted for that may have been missed?

MD: No response

LA: From my evaluation it appears that the major costs have been captured.

WA: Not that I know of.

7) Miscellaneous - Response to Emergency Exemption Process Revisions

a. How has the streamlined application process impacted your division as it pertains to the following:

i. Recertification of certain repeat emergency exemptions?

MD: The streamlined application process has worked very well for the Section 18's.

LA: The recertification eligibility for certain repeat exemptions under the streamlined application process has made the process much more efficient. When deemed eligible for the recertification program, the states do not have to collect some of the same information collected in previous years which reduces the burden on the states. Additionally, the response time from the submission of the request by the state to the authorization by the EPA is greatly reduced.

WA: The streamlined application process usually works fairly well, although there have been occasional disagreements between WSDA and USEPA (primarily regarding the determination of significant economic loss).

ii. The criteria used to determine when a potential emergency condition is expected to cause a significant economic loss and the data requirements used to document the loss?

MD: The criteria used to determine when a potential emergency condition expected is paramount is dealing with pesticide applications to control the infestation.

LA: As documented in section 4(a) of this survey, significant economic loss and the data requirements used to document the loss are extensive which requires a significant amount of resources and time to properly document. Under the streamlined application process, it allows the states to base the recertifications on previously obtained significant economic loss data which greatly reduces the burden on the states.

WA: No response

b. Has the application and review process for submitting repeat emergency exemptions improved since the regulation went into effect March 28, 2006?

MD: Yes, the application review process for submitting repeat emergency exemptions has worked very well.

LA: Although I have not been involved with section 18 emergency exemption requests prior to the regulation when it went into effect on March 28, 2006, I anticipate that the application and review process has improved for repeat exemptions. I am basing this on my experience of having to collect the necessary requirements and data for a first-time request and the process involving emergency exemptions that have been requested multiple times and have not been deemed eligible for the streamlined application process.

WA: Yes

Responses from the Representatives for Section 24

2) 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?

MD: Yes, I have found in most cases that the data is readily available.

LA: Yes, some of the information has already been collected and is made available by another source or agency.

WA: Usually some of the data used to support a Section 24c SLN registration is publicly available (such as data from USDA and land grant universities).

b. 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 do not meet our data needs very well?)

MD: Yes, I can generally find data, but sometimes some of the data elements are not yet available.

LA: Information such as a list of the federally endangered and threatened species which occur in the proposed area of use is publicly available from the US Fish and Wildlife Services. This information is collected from the US Fish and Wildlife Services and submitted in the section 24(c) registration package.

WA: In general, USEPA does not review the data that was submitted to the WSDA along with the SLN application, but the data is available for review upon request. The documents that are routinely submitted to the USEPA are the cover letter, SLN label, and EPA SLN form.

3) Frequency of Collection

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

MD: I do not believe that the Agency can collect information less frequently and still be able to produce the same outcome.

LA: No, many of the components of the section 24(c) package are specific and are dependent on the pesticide in which the registration is being pursued.

WA: No

4) Clarity of Instructions

a. 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?

MD: I feel it is imperative that the clarity of the data is of utmost importance in presenting a true picture of the issues at hand.

LA: For this process the components that the EPA is looking for with these registrations are well defined. However, certain parameters that indicate if the section 24(c) is the appropriate route to address an imminent pest issue are not as clear. For example, for uses on food or feed crops, it is well defined that the use has to be covered by the necessary tolerances. Where in other cases such as when the state has to determine that the use will not cause unreasonable adverse effects on man or the environment, the data requirements are not well defined. Some more defined guidance on the data requirements that EPA is looking for when evaluating the use and the effects on man or the environment would be useful and provide more clarity for those situations. In addition, this would help the state agencies decide if the section 24(c) or the section 18 is the appropriate direction for the registration.

WA: Yes, however the Section 24c guidance on the EPA web site (<https://www.epa.gov/pesticide-registration/guidance-fifra-24c-registrations>) should be updated.

b. Do you understand that you are required to maintain records?

MD: Yes, I am aware that I am required to maintain and keep records.

LA: Yes.

WA: 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? If yes, please provide detail.

MD: Yes, personally I would prefer a submission form that was logical, clear and relatively easy to complete.

LA: Yes, a more defined submission process would allow for more uniform and complete submissions. Currently, we are submitting section 24(c) registration packages by mail, and that

process requires duplication of effort to make copies of the necessary documents and to send that information through the paper mail system. An electronic submission system would allow for a timelier submission process for the states and the EPA and would allow better tracking of the submissions.

WA: Yes, which is why WSDA has developed a Section 24c SLN guidance document <https://agr.wa.gov/PestFert/Pesticides/docs/SLNGuide.pdf> and has provided training to interested parties.

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

MD: As stated above in item C, I prefer a submission form that is logical, clear.

LA: Yes, the form used for the section 24(c) registration process is the EPA 8570-25 Form: Application for/Notification of State Registration of a Pesticide To Meet a Special Local Need. This form seems to be clear, logical, and easy to follow.

WA: Yes, and the EPA SLN form needs to be updated.

5) 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.

- a. What do you think about electronic alternatives to paper-based records and data submissions? Current electronic reporting alternatives include the use of XML (meta data) based submissions via the Agency's internet site and pdf media for digital and printed submissions. Would you be interested in pursuing electronic reporting?

MD: Yes, I am very interested in pursuing electronic reports.

LA: Yes, I would be interested in the electronic submission and reporting of section 24(c) registrations. The electronic submissions would expedite the process and would bring more uniformity to the process for everyone involved.

WA: Yes, A good idea, since WSDA currently sends a courtesy copy of the appropriate SLN registration documents in pdf format to Tawanda Maignan at USEPA via email (Maignan.Tawanda@epa.gov).

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

MD: Yes, I am keeping records electronically using both XML meta data, as well as, Some pdf media.

LA: Yes, I keep records in electronic formats. Records are maintained in predominantly pdf format, but some data is maintained in other formats such as XLS.

WA: Yes, WSDA maintains records in pdf format.

c. Although the Agency does not offer an electronic reporting option at this time:

i. What format other than paper would you be more inclined to submit 24(c) submissions?

MD: In my position, I do not handle or submit 24(c) submissions as, they are handled by our Department's State Chemist Section.

LA: Preferably, there would be a secure portal setup through the EPA that would allow for submissions for these registrations. However, e-mail submissions would be favorable over the current paper process. Currently, we are submitting section 18 requests by e-mail to the emergency response team leader, and that seems to work well.

WA: WSDA currently sends the original paper documents to USEPA using a courier service, and it would be less time and expense if the documents could be submitted electronically (similar to Section 18 applications).

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

MD: I feel our State Chemist Section would benefit greatly by employing an electronic system for 24(c) requests.

LA: Electronic submissions would eliminate the need to make copies of the necessary documents for the registration submissions which can be extensive for some of these registrations. Also, there are shipping costs and labor costs associated with preparing the documentation for paper submissions by mail which is incurred by the states. Additionally, the electronic submissions would allow the EPA to receive the submissions much quicker than the current mail process which would result in a more efficient response time by the EPA.

WA: No response

6) Burden and Costs

a. Are the labor rates accurate?

MD: I cannot ascertain as to whether or not the labor rates are accurate or not.

LA: Yes, the labor rates seem to be representative.

WA: Yes, seems reasonable.

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

MD: No response

LA: Yes.

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c. 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.

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LA: Yes, the estimated burden hours and labor rates seem to be representative.

WA: The average estimated hours was the same number as the total hours, and I calculated that the average should have been approx. 70 hours.

d. Are there other costs that should be accounted for that may have been missed?

MD: I am not aware of any costs that should be accounted for.

LA: From my evaluation it appears that the major costs have been captured.

WA: Not that I know of.