

EPA ICR No. 1759.05

OMB Control No. 2070-0148

ATTACHMENT C

**Record of Consultations Between the U.S. Environmental Protection Agency and
Respondents to the Information Collection Request:
“Worker Protection Standard Training and Notification”**

1. Michael J. Weaver; Virginia Tech. Pesticide Programs
2. Marjorie Lewis; New Mexico Department of Agriculture
3. Luis A. Urías; Idaho State Department of Agriculture

Consultation Questions
OPP ICR – Worker Protection Standard Training and Notification

OMB No: 2070-0148; EPA No: 1759.05

Contact information

Please fill in your name, title and contact information (at least e-mail or phone number) where you prefer to be contacted. We are required to include your name and contact information in the next Federal Register notice on this information collection request (ICR).

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Questions regarding the ICR document

(1) Publicly Available Data

Is the information that the Agency requires available from another source, or already required by another office at EPA or by another agency?

Some of the WPS data points can overlap with state and federal pesticide requirements. USDA recordkeeping requirements come to mind here. OSHA requirements also have potential for duplication. Hazard Communication Standards can be confused and duplicate some of the WPS requirements. Basically though there isn't a direct duplication of these requirements.

If yes, where can one find the information?

(2) Frequency

Can the Agency require the information, training, or notifications less frequently and still produce the same outcome (e.g., require training less frequently or worker notification less frequently, etc)?

Although the training seems complicated and is such to end users, reducing this burden would not buy the Agency much. Safety (worker protection) is the major issue here. One thing EPA could do for end users is to make the requirements less complicated. Many end users still do not understand how to comply fully with the

regulations because of the complexity of the requirements. The Agency might get more compliance with less complexity. Somewhere there is a point of diminishing returns with this rule. This should be looked at and at that point is where the rule should be implemented. A big problem that has exasperated this problem is that the WPS requirements have been used by some advocacy groups to push the Agencies involved into other issues related to migrant labor issues. These issues are unrelated to WPS compliance and they only serve to reduce compliance and create resistance by employers. For example, some groups have chosen to blame pesticide regulatory agencies when protesting unrelated worker/family living conditions.

(3) Clarity of Instructions

Based on the regulations and Agency guidance, is it clear what is required and how to comply? If not, what suggestions do you have to clarify the requirements?

Is it understandable what records (e.g., central posting) need to be kept? The recordkeeping requirements are not easily found in the document. They should be provided in a separate heading so that they can stand out and be found easily. The elements are buried in the document but not under the recordkeeping section.

Are formats clear and logical? See comments above.

(4) Electronic Reporting and Record keeping

Are there web-based tools available that can assist in meeting the requirements? If so, what are they?

There are a variety of web-based tools that could be used to collect data. I did not understand the need for electronic reporting. It wasn't clear if this was an end user requirement or part of the document evaluation. Web-based recordkeeping for the end user would likely be looked upon suspiciously as a means to collect user data.

What benefits would electronic tools bring in terms of burden reduction or greater efficiency? Not sure if web-based tools would work here. Electronic recordkeeping tools would be valuable. WPS elements should be compatible with USDA recordkeeping requirements so the end user can keep one set of records that will comply with both requirements.

(5) Burden and Costs

Are the labor rates and burden hour estimates in the ICR supporting statement accurate? Bear in mind that the estimates include only burden hours and costs associated with the paperwork involved with this ICR.

I am not familiar with labor rates in agriculture, but the rates look high. I would guess they would meet most employers rates for farmworkers. For employers they could be low or high dependent upon the operation.

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 Agency has assumed there is no capital cost associated with this activity. Is that correct?

Cost of implementation is often absorbed by the states. Adequate funds should be provided to the states to implement WPS so that end users don't incur costs for WPS compliance materials such as posters and other training materials. At one time EPA provided these materials but after the program was implemented Gemplers commercialized these materials. Although the costs are minimal vs the cost of buying materials from the Superintendent of Documents, the materials should be free to end users. EPA has provided materials more recently. This should continue and the access of these materials should be made more widely known. This is especially important to prevent trainers and Extension services from incurring costs for training media.

Are there other costs that should be accounted for that may have been omitted? Again, the cost of program implementation is incurred by the states. The state Extension services put a great deal of in-kind support into WPS. Funds should be provided to these Agencies to supplement the small amount of funds provided only for applicator training at present. A based source of funding would help sustain these programs so that a resource is always available to the end user at the field level.

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Questions regarding the ICR document

(6) Publicly Available Data

Is the information that the Agency requires available from another source, or already required by another office at EPA or by another agency? **NO**

If yes, where can one find the information?

(7) Frequency

Can the Agency require the information, training, or notifications less frequently and still produce the same outcome (e.g., require training less frequently or worker notification less frequently, etc)? **NO**

(8) Clarity of Instructions

Based on the regulations and Agency guidance, is it clear what is required and how to comply? If not, what suggestions do you have to clarify the requirements?
YES based on the regulations; however the regs are complex and time frame of 30 min. burden for new entrant rule familiarization is not realistic.

Is it understandable what records (e.g., central posting) need to be kept? **YES**

Are formats clear and logical? **YES**

(9) Electronic Reporting and Record keeping

Are there web-based tools available that can assist in meeting the requirements? If so, what are they?

NO not that we are aware of.

What benefits would electronic tools bring in terms of burden reduction or greater efficiency? [Electronic tools like interactive How-To-Comply tutorial, online worker training \(like online CEU courses\), printable posters, recordkeeping forms could reduce burden on employers.](#)

(10) Burden and Costs

Are the labor rates and burden hour estimates in the ICR supporting statement accurate? Bear in mind that the estimates include only burden hours and costs associated with the paperwork involved with this ICR. [Burden hours for New Entrant Rule Familiarization \(30 minutes\) is not even remotely adequate. You can't go through all the employer's required elements of WPS in 30 minutes. One illustration of this is how long it takes to do a WPS inspection, even with an employer who is in complete compliance. The most basic WPS inspection will take at least 2 hours. It takes more than 30 minutes to just read through the HTC manual. Someone coming under the WPS will require at least 4 hours to become familiar with its requirements. WPS workshops we hold for employers are 4 hours.](#)

[Also, not sure that Safe Operation & Repair burden of only 10 minutes is adequate. If this includes callibration, checking for leaks, repairing/replacing parts as needed, training handlers in safe use of equipment, you probably need at least an average of 30 minutes per event.](#)

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. [See above](#)

The Agency has assumed there is no capital cost associated with this activity. Is that correct? [YES](#)

Are there other costs that should be accounted for that may have been omitted? [NO not at this time](#)

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Please fill in your name, title and contact information (at least e-mail or phone number) where you prefer to be contacted. We are required to include your name and contact information in the next Federal Register notice on this information collection request (ICR).

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Questions regarding the ICR document

(11) Publicly Available Data

Is the information that the Agency requires available from another source, or already required by another office at EPA or by another agency?

USDA, as part of its Recordkeeping For Private Pesticide Applicators' Program, requires some information that it is also required under WPS central location required information. There are no other Agencies with these same requirements.

If yes, where can one find the information?

(12) Frequency

Can the Agency require the information, training, or notifications less frequently and still produce the same outcome (e.g., require training less frequently or worker notification less frequently, etc)?

No, on the contrary, EPA should increase the frequency of the training requirement for agricultural workers and pesticide handlers in order to produce a higher level of outcome and more beneficial to all parties involved.

(13) Clarity of Instructions

Based on the regulations and Agency guidance, is it clear what is required and how to comply? If not, what suggestions do you have to clarify the requirements?

Is it understandable what records (e.g., central posting) need to be kept?

Yes, although this could be complicated for individuals who are newly introduced to these regulations.

Are formats clear and logical?

Yes

(14) Electronic Reporting and Record keeping

Are there web-based tools available that can assist in meeting the requirements? If so, what are they?

I am not aware of any web-based tools currently available.

What benefits would electronic tools bring in terms of burden reduction or greater efficiency?

Electronic tools could reduce burden on employers if they have access to computers. The How-to-Comply manual is available on electronic format and includes printable forms that could reduce the burden on employers. USDA Recordkeeping requirements and WPS central location requirements should be compatible that way, the end user would be dealing with just one group of records. The problem here is that USDA Recordkeeping requirements is only for Restricted Use Pesticide applications and does not include General Use Pesticide applications.

(15) Burden and Costs

Are the labor rates and burden hour estimates in the ICR supporting statement accurate? Bear in mind that the estimates include only burden hours and costs associated with the paperwork involved with this ICR.

Agricultural labor rates appear to be high and burden hours does not seem adequate. It takes more than 30 minutes to become familiar with some of the WPS requirements. WPS outreach visits usually takes about an hour to hour-and-half depending upon the end users' knowledge of the requirements.

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. See above

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

Even though EPA has been providing outreach / training materials, some states absorb the cost of implementing the WPS Program and incurring expenses for additional outreach / training materials provided to end users (training videos, pesticide safety posters, field posting signs, etc). EPA should provide adequate funding for implementing WPS so end users do not incur costs for WPS compliance materials.

Are there other costs that should be accounted for that may have been omitted?

No