

ATTACHMENT C

Renewal Consultations -- List of Representatives and Questions Posed

I. List of Representatives Consulted

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II. Sample Consultations Questions for OPP ICR Renewals

EPA Questions Asked in Consultation Regarding ICR the 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?

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)?

(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?

Are formats clear and logical?

(4) Electronic Reporting and Record keeping

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

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

(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.

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?

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

III. Consultations Responses

Response 1

EPA/OPP ICR – Worker Protection Standard - Training and Notification

OMB No: 2070-0148; EPA No: 1759.06

Contact information

Please fill in your name, title, organization, mailing address, 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?

Although not available to the general public, some if not all of the information, that is required to be available to workers at the central location regarding the pesticide applications being made, is required by most states under their state pesticide regulations. However, adapting any state recordkeeping regulations to incorporate information required under the Worker Protection Standards would not be difficult.

If yes, where can one find the information?

A few states have mandatory reporting of pesticide applications and the agency responsible for pesticide regulations would likely be the repository for that 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)?

As indicated in the supporting statement, if the option to provide workers who have been trained is available and practiced, a worker may only require training once every five years. If that is the case, it is not possible to require training less frequently.

As for the frequency of notification, it is a reasonable expectation that this information is provided at a central location where workers have open access.

(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?

The guidance is clear in regard how to comply with training and notification requirements. However, a list of the requirements in a checklist format would not only help clarify the requirements but facilitate compliance.

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

The requirement of what records must be kept at the central location is easily understandable and straightforward.

Are formats clear and logical?

The required poster clearly presents the ten concepts that are outlined in the regulations. The available area for the required medical information provides a consistent format that allows all employees to easily and quickly locate that critical information. To my knowledge there is not a standard format for displaying the required information regarding required information for each application. Some states have developed their own formats and this may be something worth considering.

(4) 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 that are available for meeting the requirements.

Electronic Reporting and Record keeping

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

If an electronic data base for recordkeeping was developed so that required information that does not change would be automatically displayed it may make the record-keeping process more efficient. For example, if when the trade name of a product was typed into a field in the spreadsheet for the product brand name in the spread sheet, the fields for EPA Registration Number, REI and Active Ingredient would automatically populate with the information at is consistent with that product. Although additional fields would be required to be filled in with crop and site specific information, this would also provide a standard format and potential increase the clarity of information to workers and handlers.

(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.

The assumptions made in the burden hour formulas are conflicting and not accurate from several aspects, primarily the burden estimates for notification. However, beyond that, if the assumption is correct that 309,085 agricultural establishments are in the United States that both hire labor and use pesticides, estimating 50,000 new entrants each year would mean over a 15% annual growth which seems unrealistically high.

In regard to the estimates of burden hours for notification:

All calculations are flawed for the non-greenhouse estimates because the estimated number of greenhouse operations (11,350) was not subtracted from the total number of establishments (309,085). The number of establishments in the non-greenhouse calculations should have been 297,735.

In addition:

- The calculation formulas for oral notification only take into consideration the number of establishments, not the number of workers at each establishment that will require being orally notified. Although estimates of the amount of time it takes for oral notification as opposed to posting notification may be accurate, it is not a realistic assumption that only one oral notification per establishment would be required. Not all workers gather in a common location at one specific time to allow for the possibility of a singular oral notification. A minimum of two oral notifications per establishment per

application would even be an unrealistically conservative number for non-greenhouse applications.

- Although some establishments primarily grain and forage crops where there may not be any workers present with-in 1/4 mile of some applications, and assumption of the probability that this occurs in 50% of all applications is unrealistic. A more plausible probability, although still somewhat unrealistic, may be that 35% of all applications are made where no workers will be with-in a ¼ mile of the application site. The same could be said for non-greenhouse posted notifications.

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.

Non-greenhouse oral notification factors:

| | |
|---------|--|
| 297,735 | Estimated number of total establishments – greenhouse establishments |
| 10.5 | Estimated number of treatments annually |
| 2 | Extremely conservative number of oral notifications required per application |
| 35% | Percent of applications where no workers would be present within ¼ mile |

$$(297,735 * 10.5 * 2 * .65) = 4,064,083 \text{ oral notifications}$$

Non-greenhouse posted notifications factors:

| | |
|---------|---|
| 297,735 | Estimated number of total establishments – greenhouse establishments |
| 10.5 | Estimated number of treatment annually |
| 35% | Percent of applications where no workers would be present within ¼ mile |
| 5% | Percent of applications involving pesticides that are Toxicity Class 1 |

$$(297,735 * 10.5 * .65 * .05) = 101,602 \text{ posted notifications}$$

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

Yes, this would be a correct assumption.

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

- There was not any cost burden factored in for workers in regard to treatment-specific worker/handler notification at all. If oral notification is assumed, the worker is being paid for the time the grower is taking for that oral notification. For posted notification, the worker is being paid for the time they must take to read that posted notification.

Additional burden and cost estimates for worker notification:

Oral Notifications: 4,092,458
Non-Greenhouse: 4,064,083
Greenhouse: 28,375

Posted Notifications: 669,102
Non-Greenhouse: 101,602
Greenhouse: 567,500

Total Notifications 4,761,560

Additional worker notification burden cost:
Number of notifications*burden (estimated 3minutes per notification)* cost per minute
(\$19.87/60)

$(4,761,576 * 3 * .33) = \$4,713,944$

Response 2

EPA/OPP ICR – Worker Protection Standard - Training and Notification

OMB No: 2070-0148; EPA No: 1759.06

Contact information

Please fill in your name, title, organization, mailing address, 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?

Not to my knowledge

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)?

I am unaware of any data quantifying frequency of training and quality of outcome

(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?

Given the complexity of the WPS regulations the guidance is likely adequate

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

Yes

Are formats clear and logical?

Yes

(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 not readily available that I am aware of.

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

Increased availability to Web based guidance would bring efficiencies.

(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.

There is great variation across the country of which I am not aware. It appears as though reasonable attempts have been made to determine costs

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?

I would assume there are capital costs involved with complying with the WPS requirements such as training facilities and equipment, decontamination sites, etc, but most of these should be a part of a well run operation regardless of the regulation

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

Likely, but I am not aware of any

Response 3

EPA/OPP ICR – Worker Protection Standard - Training and Notification

OMB No: 2070-0148; EPA No: 1759.06

Contact information

Please fill in your name, title, organization, mailing address, 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?

No, not that I am aware of.

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)?

I do believe that the specific pesticide application information could be posted less frequently, our inspection experience shows that most workers do not rely on the specific application information to learn about pesticide applications that have occurred. Workers seem to depend on the oral and posted warnings to learn of pesticide applications that have taken place. I think the current frequency allowed for notification of applications is appropriate for the beginning of the work period. It allows for proper exceptions for workers who do not go within a ¼ mile of the applications and for workers who are not on the establishment at the time of the application or within the restricted entry period. I don't believe notifications performed less frequently would offer the same protections.

I also believe that the training frequency is adequate.

(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?

The regulations are discussed in a manner to allow for a clear understanding of the requirements. The statement about worker training regarding the requirement to train workers within 5 days of employment on the establishment is clear, but it may be a little misleading to some growers since the regulation is based on number of days of entry into an area that has been treated with pesticides within the last 30 days. You could state that workers must receive full training before the 6th day of entry into an area that has been treated with a pesticide within the last 30 days.

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

Yes

Are formats clear and logical?

Yes

(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 web based tools and programs to assist growers in their pesticide application record keeping, but they are not set up to allow workers access to the records as required by the Worker Protection Standard. Printouts from these

programs would be easier to read and they may also allow for translation into other Languages.

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

Electronic records would be a great time saver for the growers as they could establish known products in the data with set characteristics such as REI, Active ingredients, PPE requirements, and other label restrictions.

(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.

Yes

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.

n/a

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