

**SUPPORTING STATEMENT FOR  
AN INFORMATION COLLECTION REQUEST (ICR)**

**1. IDENTIFICATION OF THE INFORMATION COLLECTION**

**1(a) Title of the Information Collection:**

This is an ICR amendment for the rulemaking entitled “Pesticides; Certification of Pesticide Applicators; Final Rule [RIN 2070-AJ20].”

OMB Control No.: 2070-0196; EPA ICR No.: 2499.02

**1(b) Short Characterization/Abstract**

This Information Collection Request (ICR) amendment covers the revisions from a final rule to the “Certification of Pesticide Applicators” (Certification rule) at 40 Code of Federal Regulations (CFR) Part 171, which regulates the certification of applicators of restricted use pesticides (RUPs). This ICR estimates the incremental burden of revised requirements applicable under the Paperwork Reduction Act (PRA), that are not already included in the ICR “Certification of Pesticide Applicators” (Attachment A) covering 40 CFR Part 171 prior to the new final rule. That ICR, which this ICR amends, was currently-approved by the Office of Management and Budget (OMB) at the time this ICR was submitted to OMB with the final rule, and is termed the “existing ICR” in this document.

The existing regulation (prior to the new final rule) has provisions for states, the District of Columbia (D.C.), tribes, territories, and federal agencies that wish to certify applicators to use RUPs, to submit certification plans to the U.S. Environmental Protection Agency (EPA, or the Agency) for review and approval, and requirements to report specific information related to applicator certification activities annually. The regulation has standards of competency for persons who are certified to apply RUPs, as well as requirements related to noncertified applicators who apply RUPs under the direct supervision of certified applicators. In addition, it already requires pesticide retail dealers to maintain records of RUP sales in areas where the EPA administers an applicator certification program.

The final rule is intended to improve the competency of certified applicators of RUPs and noncertified applicators who apply RUPs under the direct supervision of certified applicators. The final rule includes new and revised standards for certification for commercial and private applicators, provisions for recertification of applicators, and training for noncertified applicators applying RUPs under the supervision of certified applicators. The revisions also include changes to improve the clarity and organization of the rule and overall program operation. The proposed changes to the regulation are intended to ensure that all persons who use RUPs – i.e., private applicators, commercial applicators, and noncertified applicators using RUPs under the direct supervision of certified applicators – are competent to use RUPs in a manner that will not result in unreasonable adverse effects to themselves, others, or the environment.

This amendment ICR estimates the burden and costs of the final rule changes related to information collection and includes: training for noncertified applicators applying RUPs under the direct supervision of certified applicators, recordkeeping of the noncertified applicator training, recordkeeping of RUP sales by pesticide dealerships under certification programs not administered by the EPA, and burden to states, D.C., territories, tribes, and federal agencies to revise certification plans as needed to comply with the revised requirements.

The following sections provide a general overview of the paperwork requirements in the final rule; burden and cost estimates are found in section 6.

## **2. NEED FOR AND USE OF THE COLLECTION**

### **2(a) Need/Authority for the Collection**

The EPA is responsible for the regulation of pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). This responsibility includes protecting applicators, the public, and the environment from exposure to pesticides. FIFRA section 3(d) (Attachment B) sets out requirements for the classification of pesticides, including for restricted use. FIFRA section 11 (Attachment C) addresses certification of applicators. The existing regulation at 40 CFR Part 171, “Certification of Pesticide Applicators,” (Attachment D) establishes the regulatory requirements for applicators of RUPs. RUPs are pesticides that the EPA classifies as restricted use because they may pose unreasonable adverse effects to human health or the environment without additional regulatory restrictions. To mitigate the risks of unreasonable adverse effects, RUPs must only be applied by applicators who have demonstrated a sufficient level of competency, as outlined in the regulations at 40 CFR part 171.

In accordance with FIFRA Section 25, the EPA issued a final rule to revise 40 CFR 171, to improve these protections.

RUP applicators, including certified applicators and noncertified applicators using RUPs under the direct supervision of certified applicators, may be exposed to a wide range of pesticides and pesticide residues, with different toxicities and risks, as part of their occupation. Such exposure can pose significant long- and short-term health risks. RUPs, in particular, pose risks of unreasonable adverse effects to the health of the applicators, bystanders, and the public, as well as to the environment, if not applied properly. There is strong general evidence that such risks can occur and that they can be reduced; the activities subject to this ICR are designed to help reduce these risks by ensuring the competency of applicators applying RUPs, thereby reducing exposure. Overall, the weight of evidence suggests that these revised paperwork activities included in the final rule should result in reduced incidents of negative effects from RUP exposure to applicators, the public, and the environment.

The final rule requires specific training for noncertified applicators on proper application of RUPs and how to protect themselves, their families, and the environment from RUP exposure. Without the required training, affected noncertified applicators may be unaware of the risks of pesticide exposure or how to protect themselves and others from RUP exposure. The final rule also requires that a commercial applicator supervising a noncertified applicator maintains records of the training provided. The training and recordkeeping are intended to improve protections for noncertified applicators, the public, and the environment.

The regulations are enforced by state agencies, D.C., tribes, and territories. The EPA has received feedback from our regulatory partners indicating difficulty enforcing some requirements, due primarily to a lack of records. Recordkeeping of training and RUP sales, required in the final rule, is

designed to improve enforcement capability as a means of fostering compliance, thereby improving protections.

## **2(b) Practical Utility/Users of the Data**

Training of noncertified applicators is necessary to ensure that persons using RUPs under the direct supervision of certified applicators have received the proper instruction and are prepared adequately to use RUPs in a manner that should not cause unreasonable risk to human health or the environment. Records of this training, for applicators under the supervision of commercial applicators, should increase the likelihood of appropriate training occurring, thereby reducing misuse and exposure.

Dealer records of sales of RUPs are necessary to ensure that access to RUPs is limited to certified applicators. Recordkeeping of both training and sale of RUPs enhances the enforceability of these requirements.

State, D.C., tribal, territory, and federal agency certification plans and annually reported data related to applicator certification under these programs are used for several purposes. When a certification plan is created or modified, the EPA approves it when its review concludes that the plan satisfies the requirements for certification and recertification under 40 CFR part 171. When a state receives a request to issue a reciprocal certification based on a certification issued by another state, it may review the certification plan of the issuing state to ensure the standards for certification are sufficiently similar to its own to warrant granting the reciprocal certification. The annually reported data from state certification programs is used in a formula to appropriately distribute federal funding to states under the State and Tribal Assistance Grants program.

## **3. NON DUPLICATION, CONSULTATIONS, AND OTHER COLLECTION CRITERIA**

### **3(a) Non duplication**

The EPA is the only federal agency with the authority to certify applicators of RUPs. However, the United States Department of Agriculture (USDA) also has regulations that impact certified applicators. The records required by USDA under 7 CFR 110, "Recordkeeping on Restricted Use Pesticides by Certified Applicators; Surveys and Reports," are more specific than those required by the EPA under 40 CFR 171.

USDA's regulations require private applicators to maintain records regarding the application of RUPs. FIFRA prohibits the EPA from requiring private applicators to keep records or make reports, so there is no duplication of recordkeeping with regard to private applicators. Only the EPA requires recordkeeping for commercial applicators. The required recordkeeping for training of noncertified applicators only applies to commercial applicators. Consequently, no duplication of requirements exists.

The regulation provides for an exemption from the requirements of training for noncertified applicators using RUPs under the direct supervision of a certified applicator who have a currently valid training qualification as a handler under the Worker Protection Standard found in 40 CFR Part 170. Therefore, no duplication of training is imposed.

### **3(b) Public Notice Required Prior to ICR Submission to OMB**

EPA developed proposed changes to the Certification rule and published them in the Federal Register for public comment (80 FR 51356, August 24, 2015). The proposed rulemaking served as the

public notice for this ICR amendment, which is available in the public docket. Interested parties were directed to submit comments referencing Docket ID No. EPA-HQ-OPP-2011-0183. The final rule, Economic Analysis, and ICR were developed with consideration of comments received from the public in response to the notice of proposed rulemaking. EPA has developed a Response to Comments document that summarizes the comments received and EPA's responses that were not included and responded to in the preamble. This document is available in the docket for the rulemaking (EPA-HQ-OPP-2011-0183). In addition, a summary of the comment received on the ICR and EPA's response are summarized below. One organization commented specifically on the ICR.

The commenter requested that the Office of Information and Regulatory Affairs require EPA to produce a public record that demonstrates that the ICR for the final rule complies with information quality guidelines. The commenter suggested that such compliance could be demonstrated by a written EPA statement noting the portions of the rulemaking record that demonstrate compliance with the IQA guidelines. The commenter also requests that the Certification rule ICR add a statement that pesticides can be safely used in accordance with their label restrictions, and asserts that statement is supported by EPA's FIFRA registration records and decisions for each individual pesticide product. EPA notes that the analysis for the revisions to the Certification rule and this amendment to the ICR are based on the best and most appropriate data available and meets the Agency's "Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by the Environmental Protection Agency" as well as OMB's "Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies".

Although each Agency decision to grant a pesticide registration represents a context-specific determination that the product will not generally cause unreasonable adverse effects, this does not mean that unreasonable adverse effects will never occur. EPA's registration decisions reflect an effort to allow society the expected benefits of the pesticide use to the fullest extent that is consistent with keeping the frequency and severity of adverse effects reasonably low. Individual behaviors and actions are the focus of the Certification rule, pursuant to EPA's mandate to impose other regulatory restrictions pursuant to 7 USC §§ 136a(d) and 136w(a). EPA prohibits claims regarding the safety of a pesticide or its ingredients (see 40 CFR § 156.10(a)(5)(ix)), and EPA generally avoids describing any pesticide product or pesticide use as "safe," because such statements may lead users to misjudge the risks of pesticide use. Accordingly, EPA disagrees with the commenter's request that the rule include an explicit safety assurance. Although many people use "safe" as a shorthand for "not causing unreasonable adverse effects," the latter is the appropriate standard for most FIFRA actions, and EPA endeavors not to resort to the shorthand. EPA appreciates the commenter drawing attention to this point and EPA has attempted to minimize its use in the preamble to the final rule.

### **3(c) Consultations**

Formal and informal consultations have occurred regarding the EPA's regulation of activities performed by firms in the course of training and certifying persons who apply RUPs. Regulations under 40 CFR 171 were published in the **Federal Register** in 1974, 1975, and 1978 with minor modifications in 1983 and 1984. The EPA has engaged in continuous consultation and/or dialogue with industry and states on an informal and ongoing basis since beginning consideration of changing the regulation.

The Agency developed the proposed rule over a number of years and chose to convene a Panel under the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). The Panel Report, all assembled materials, and the comments from small entities potentially affected by the rule are in the docket for this rulemaking (EPA-HQ-2011-0183 at [www.regulations.gov](http://www.regulations.gov)).

Consistent with the EPA's Indian policy, the Agency's Office of Pesticide Programs conducted a consultation with tribes in April 2010 during the rule development process to inform tribal governments of the EPA's rule proposals. The consultation was carried out via a series of scheduled conference calls with tribal representatives. The purpose of the consultation was to make tribes aware of and solicit input on the proposals that could affect tribes.

The changes to the information to be submitted to the EPA by states, D.C., tribes, territories, and federal agencies that administer RUP applicator certification programs approved by the Agency will be included in EPA's outreach materials directed to these agencies. Also, the EPA encouraged industry and states to consult with the Agency during the public comment period following the proposed rule.

### **3(d) Effects of Less Frequent Collection**

Training for noncertified applicators is required annually under the final rule, as specified in 40 CFR 171. Recordkeeping of the training is only required once per event. Consequently, the possibility for less frequent recordkeeping does not exist under the proposed amendments. Less frequent training would increase risk of unreasonable adverse effects from RUP use.

States, D.C., tribes, territories, and federal agencies that currently have certification plans approved by the EPA (called "authorized agencies" in this ICR, and termed "certifying authorities" in the final rule) will be required to revise these certification plans to incorporate the final rule revisions. Current certification plans include plans from the 50 states, the District of Columbia, American Samoa, Cheyenne River Sioux, Guam, Commonwealth of the Northern Mariana Islands, Oglala Sioux, Republic of Palau, Shoshone-Bannock Three Affiliated Tribes, and U.S. Virgin Islands, as well as the U.S. Department of Defense, the U.S. Department of the Interior, the U.S. Department of Energy, the U.S. Department of Agriculture (USDA) (USDA, APHIS/PPQ, and USDA Forest Service). In addition, the Agency administers two Tribal certification plans (the Navajo Nation Certification Plan and the Federal Certification Plan for Indian Country). This submission is anticipated as a one-time event. As required under the existing regulation, an authorized agency that makes significant changes to its plan, separate and distinct from the changes to comply with the final rule, would be required to submit the revised plan to the EPA for approval.

### **3(e) General Guidelines**

This information collection adheres to OMB's guidelines at 5 CFR 1320.5(d).

### **3(f) Confidentiality**

The activities or records proposed in this information collection do not include any confidential business information (CBI) and will not involve any confidentiality concerns or information.

The Agency does not collect recordkeeping on the third-party training and RUP sales requirements. Further, this activity complies with the provisions of the Privacy Act of 1974 and OMB circular A-108.

### **3(g) Sensitive Questions**

No information of a sensitive or private nature is requested in conjunction with this collection activity. Further, this information collection activity complies with the provisions of the Privacy Act of 1974 and OMB circular A-108 (as amended), "Responsibilities for the Maintenance of Records about

Individuals by Federal Agencies.”

#### **4. THE RESPONDENTS AND THE INFORMATION REQUESTED**

##### **4(a) Respondents/NAICS codes**

The North American Industrial Classification System (NAICS) codes have been provided below to help identify potentially affected categories and entities. This listing is not, however, intended to be exhaustive.

##### Pesticide Applicators:

111 Agricultural Establishments (Crop Production)  
112 Animal Production  
115112 Agricultural Pest Control  
111421 Nursery and Tree Production  
115210 Animal Production  
115310 Forestry and Logging  
561730 Ornamental & Turf, Rights-of-Way Pest Control  
321114 Wood Preservation Pest Control  
541712 Research & Demonstration Pest Control

##### Support activities for agriculture and forestry

115310 Support Activities for Forestry - Pesticide Handling in Forestry  
115112 Soil Preparation, Planting, and Cultivating - Pesticide Handling on Farms

##### Commercial Services - Pesticide Applicators:

561710 Exterminating and Pest Control Services  
541690 Agricultural Consulting Services

##### Administration of Certification Programs by States/Tribal Lead Agencies:

924110 Environmental Protection Program Administration  
926140 Governmental Pest Control Programs, Agricultural Extension

##### Pesticide Dealers:

444220 Retail Nursery, Lawn, and Garden Supply stores  
424910 Agricultural Chemicals Merchant Wholesalers  
424690 Other Chemical and Allied Products Merchant Wholesalers

##### Pesticide and Other Agricultural Chemical Manufacturing:

325320 Individuals or entities engaged in activities related to the registration of a pesticide product

##### **4(b) Respondent Activities**

###### *(i) Information Collections (ICs)*

The overall estimated potential economic impact of the final rule changes to the regulation is presented in the document entitled “Economic Analysis of Final Amendments to 40 CFR Part 171: Certification of Pesticide Applicators” (Economic Analysis) (Attachment E), which is available as a part of the official public record for the rulemaking. This ICR amendment describes the information

collection activities, along with the estimated burden and costs, contained in the final rule, which are not included in the existing ICR covering 40 CFR Part 171 prior to the final rule.

In order to comply with the revisions in the final rule, all certification plans will need to be revised and submitted to the EPA for review and approval. The final rule requires training for noncertified applicators applying RUPs under the direct supervision of a certified applicator, recordkeeping of this training, and recordkeeping of RUP sales by pesticide retail dealerships.

(ii) *Data items, including reporting and recordkeeping requirements*

This section describes the additional and revised paperwork requirements under 40 CFR Part 171 that would impact the burden and costs.

(1) Revision and submission of certification plans for Agency review and approval.  
(§§ 171.303, 171.305, 171.307, and 171.311)

The regulations at 40 CFR part 171 establish competency standards for applicators of restricted use pesticides. Authorized agencies must have an EPA-approved certification plan in place in order to assess applicator competency to use or supervise the use of restricted use pesticides within the jurisdiction. Authorized agencies with existing certification plans that intend to continue administering an applicator certification program would be required to revise and submit their certification plans to the EPA to be in compliance with the revised regulations. Authorized agencies include states, D.C., tribes, territories, and federal agencies authorized by the EPA to administer a plan to certify applicators.

Certification plans currently approved by the EPA as of the effective date of the final rule will be valid until a revised plan is submitted to the Agency within the required 3-year period, the Agency subsequently makes a determination of its approval, and the authorized agency implements their approved plan, generally within another two years after EPA approval. Authorized agencies that wish to continue administering a certification program that complies with the revised regulation must submit revised pesticide applicator certification plans for review and approval to the EPA within 3 years after the effective date of the final rule. The EPA will then review and make an approval determination of the revised plan. Development and submission of revised certification plans would be a one-time burden. States, D.C., and territories may also need to make legislative and regulatory changes in order to implement these changes.

EPA-administered certification plans must be revised by the Agency. These plans are for any state or area of Indian country where the Agency administers a plan for the certification of applicators of RUPs because there is no approved certification plan in effect. Currently, the EPA administers two certification plans: one for Navajo Indian Country, and one for Indian Country across the United States. The currently-approved plans will be effective until after the EPA revises and approves them.

Authorized agencies may make modifications to their EPA-approved certification program plans. However, substantial modifications to plans need to be approved by the EPA prior to making the change. The final rule outlines what types of plan changes constitute a substantially modified plan. The authorized agency must notify the EPA within 90 days after the modifications become effective or submit the notification along with the annual report, whichever date occurs first.

(2) Noncertified Applicator Training (§ 171.201(c)-(d))

Certified applicators under programs administered by authorized agencies and EPA-administered

programs must provide training to noncertified applicators using RUPs under their direct supervision. At a minimum, the training program must include:

- Potential hazards from toxicity and exposure that pesticides present to noncertified applicators and their families, including acute and chronic effects, delayed effects, and sensitization.
- Routes through which pesticides can enter the body.
- Signs and symptoms of common types of pesticide poisoning.
- Emergency first aid for pesticide injuries or poisonings.
- Routine and emergency decontamination procedures, including emergency eye flushing techniques. Noncertified applicators must be instructed that if pesticides are spilled or sprayed on the body, to immediately wash or to rinse off in the nearest clean water. Noncertified applicators must also be instructed to wash or shower with soap and water, shampoo hair, and change into clean clothes as soon as possible.
- How and when to obtain emergency medical care.
- After working with pesticides, wash hands before eating, drinking, using chewing gum or tobacco, or using the toilet.
- Wash or shower with soap and water, shampoo hair and change into clean clothes as soon as possible after working with pesticides.
- Potential hazards from pesticide residues on clothing.
- Wash work clothes before wearing them again and wash them separately from other clothes.
- Do not take pesticides or pesticide containers used at work to your home.
- Potential hazards to children and pregnant women from pesticide exposure.
- After working with pesticides, remove work boots or shoes before entering your home, and remove work clothes and wash or shower before physical contact with children or family members.
- How to report suspected pesticide use violations to the appropriate State or Tribal agency responsible for pesticide enforcement.
- Format and meaning of information contained on pesticide labels and in labeling applicable to the safe use of the pesticide, including the location and meaning of the restricted use product statement, how to identify when the labeling requires the certified applicator to be physically present during the use of the pesticide, and information on personal protective equipment.
- Need for, and appropriate use and removal of, personal protective equipment.
- How to recognize, prevent, and provide first aid treatment for heat-related illness.
- Safety requirements for handling, transporting, storing, and disposing of pesticides, including general procedures for spill cleanup.
- Environmental concerns such as drift, runoff, and wildlife hazards.
- Restricted use pesticides may be used only by a certified applicator or by a noncertified applicator working under the direct supervision of a certified applicator.
- The certified applicator's responsibility to provide to each noncertified applicator instructions specific to the site and pesticide used. These instructions must include labeling directions, precautions, and requirements applicable to the specific use and site, and how the characteristics of the use site (e.g., surface and ground water, endangered species, local population, and risks) and the conditions of application (e.g., equipment, method of application, formulation, and risks) might increase or decrease the risk of adverse effects. The certified applicator must provide these instructions in a manner the noncertified applicator can understand.
- The certified applicator's responsibility to ensure that each noncertified applicator has



- access to the applicable product labeling at all times during its use.
- The certified applicator's responsibility to ensure that where the labeling of a pesticide product requires that personal protective equipment be worn for mixing, loading, application, or any other use activities, each noncertified applicator has clean, labeling-required personal protective equipment in proper operating condition and that the personal protective equipment is worn and used correctly for its intended purpose.
  - The certified applicator's responsibility to ensure that before each day of use equipment used for mixing, loading, transferring, or applying pesticides is in proper operating condition as intended by the manufacturer, and can be used without risk of reasonably foreseeable adverse effects to the noncertified applicator, other persons, or the environment.
  - The certified applicator's responsibility to ensure that a means to immediately communicate with the certified applicator is available to each noncertified applicator using restricted use pesticides under his or her direct supervision.

In programs administered by authorized agencies, the training includes what the EPA requires, as well as any additional requirements by the authorized agency. Some states may prohibit the use of RUPs by anyone other than a certified applicator. In these states, no training would be conducted. The EPA is aware of 4 states that prohibit the use of RUPs by any person other than a certified applicator (both commercial and private applicators); in those states, no training for noncertified applicators would be conducted because they are not permitted to use RUPs.

This training must take place before any noncertified applicator applies an RUP under the direct supervision of the certified applicator. The training qualification must be met annually. Noncertified applicators must be qualified to use RUPs under the direct supervision of certified applicators through the training described above, or through either of 3 alternate ways:

- Met training requirements for an agricultural handler under the Worker Protection Standard at § 170.501 within the last year.
- Satisfied a state program that is at least equivalent.
- Be a currently certified applicator (although is either not certified to perform the type of application being conducted or is not certified in the jurisdiction where the use will take place).

### (3) Commercial Applicator Records of Noncertified Applicator Training (§171.201(e))

Commercial applicators who supervise noncertified applicators using RUPs must create or verify the existence of a record of training for any noncertified applicators being supervised before allowing the noncertified applicator to use an RUP. The record must be maintained at the commercial applicator's principal place of business for two years from the date of the RUP use. The records must include the following: 1) the trained noncertified applicator's printed name, and signature; 2) the date of the training; 3) the name of the person who provided the training; and 4) the title or description of the training. In programs established by the authorized agencies to satisfy the training requirements, the record contains the information required by the authorized agency. If the requirement for supervision and training is triggered because the applicator, although certified, is not certified to perform the type of application being conducted or not certified in the jurisdiction where the use will take place, the record must include the following: 1) the noncertified applicator's name; 2) certification number; 3) expiration date of the certification; and 4) the certifying authority that issued the certification. As discussed above, the EPA is aware of four states that prohibit the use of RUPs by anyone other than a certified applicator. In these states, no information would be recorded because no training would be conducted.

The commercial applicator supervising a noncertified applicator must have access to the records.

Records are not required to be submitted, but they must be made available to the EPA or officials of authorized agencies upon request. Records collected may become part of an enforcement action or investigation.

(4) Pesticide Retail Dealer Recordkeeping in Programs Administered by Authorized Agencies (§§ 171.303(b)(vii) and 171.311(f)(1))

In EPA-administered certification programs, restricted use pesticide retail dealers (RUP dealers) are required to keep records of RUP sales; this requirement existed prior to the final rule and is included in the existing ICR. State-administered certification programs use state authority to require RUP dealers to maintain sales records for RUPs, and therefore, are not included in the existing ICR's paperwork burden estimates.

The final rule requires RUP dealers in all certification programs, including state-administered programs, to keep records of the sale of RUPs for 2 years. RUP dealer records would be maintained at the pesticide dealership. Recordkeeping requirements include:

- Name and address of the residence or principal place of business of each certified applicator to whom the restricted use pesticide was distributed or sold, or if applicable, the name and address of the residence or principal place of business of each noncertified person to whom the restricted use pesticide was distributed or sold for application by a certified applicator.
- The certification number on the certification document presented to the seller evidencing the valid certification of the certified applicator authorized to purchase the restricted use pesticide, the state, tribe or federal agency that issued the certification document, the expiration date of the certified applicator's certification, and the categories in which the applicator is certified.
- The product name and EPA registration number of the RUP(s) distributed or sold in the transaction, including any applicable emergency exemption or state special local need registration number.
- The quantity of the RUP(s) distributed or sold in the transaction.
- The date of the transaction.

Records of RUP sales are necessary for the EPA to ensure that access to RUPs is limited to certified applicators, or those under their direct supervision. Without the ability to limit access to RUPs, there would be little purpose in certifying applicators or classifying pesticides for restricted use.

Records are not required to be submitted, but they must be made available to the EPA or officials of authorized agencies upon request. Records collected may become part of an enforcement action or investigation.

(iii) *Respondent Activities*

- *Rule Familiarization* – authorized agencies, certified applicators and RUP dealers read and understand 40 CFR 171.
- *Revise Certification Plans*– authorized agencies make necessary changes to their certification plans to comply with the final rule, including regulatory and legislative changes if necessary.
- *Submit Certification Plans*– authorized agencies submit revised certification plans to the EPA for review and approval using electronic submission and reporting portal (Certification Plan and Reporting Database).

- *Update Database* – authorized agencies make necessary modifications to their existing systems used to track the certification of applicators.
- *RUP Dealer Recordkeeping in Programs Administered by Authorized Agencies* – record, collect, maintain records of sales of RUPs for a period of two years at the pesticide dealership.
- *Commercial Applicator Records of Noncertified Applicator Training* – commercial applicators who supervise noncertified applicators using RUPs must record, collect and maintain at the principal place of business, for two years, records of training for any noncertified applicators being supervised.
- *Noncertified Applicator Training* – certified applicators must ensure that noncertified applicators using RUPs under their direct supervision receive specified training.

## **5. THE INFORMATION COLLECTED - AGENCY ACTIVITIES, COLLECTION METHODOLOGY, AND INFORMATION MANAGEMENT**

### **5(a) Agency Activities**

Agency activities relate to certification plans as follows:

- *Answer Respondent Questions* – provide information to those requesting it.
- *Review and Approve Certification Plans from Authorized Agencies* – collect information from authorized agencies, review plans, document any formal decisions made.
  - FR notices
  - Review legislative changes
- *Revise EPA-Administered Certification Plans*
- *Store, File, Maintain, and Distribute Information* – compile information into appropriate databases and archive.

### **5(b) Collection Methodology and Management**

This information collection amendment applies to authorized agencies and individuals who are certified applicators or dealers of RUPs. The EPA does not require the submission of records kept by RUP dealers or commercial applicators, but rather requires that they furnish records for inspection and copying upon request. Authorized agencies have an obligation for a one-time submission to the EPA of updated certification plans. Agencies submit revised certification plans for review and approval using an electronic submission and reporting portal (Certification Plan and Reporting Database).

### **5(c) Small Entity Flexibility**

Most affected entities (certified applicators, RUP dealers) are small entities. The information collected and the recordkeeping required is the minimum required by regulation and that is necessary to implement a successful certification program. The EPA believes that the records required of certified pesticide applicators and RUP dealers are minimal and would generally be kept by the affected entities for their own use even in the absence of this regulation.

## **5(d) Collection Schedule**

There is no set collection schedule for commercial applicators to create or check records of training of noncertified applicators they supervise, or dealers of RUPs to create records of sales. These records are created for each occurrence. Commercial applicators must generate, or verify the existence of, records of the training of noncertified applicators under their direct supervision immediately after training, or prior to each RUP use. These records are required to be maintained for 2 years from the date of an RUP application. Similarly, dealer records of RUP sales are required to be maintained for two years. Although the commercial applicator records and the RUP dealer records are maintained locally and are not required to be submitted to the EPA or the authorized agencies, they must be made available for the EPA or authorized agency officials upon request. Records collected may become part of an investigation or enforcement action.

Certification plans to meet the requirements as revised by the final rule are required to be submitted for review and approval by the Agency. Authorized agencies must submit plans for review and approval to the EPA within 3 years after the effective date of the final rule. All certification plans approved as of the effective date of the final rule will be valid until a revised plan is submitted to the EPA within the required 3-year period, the Agency subsequently makes a determination of its approval, and the authorized agency implements their approved plan, generally within another two years after EPA approval. This submission is anticipated as a one-time event, unless an authorized agency makes significant changes to their plan at another time. Significant changes to the plans must be approved by the Agency prior to making the changes.

## **6. ESTIMATING THE BURDEN AND COST OF COLLECTION**

This ICR amendment requests approval of the additional and revised information collection activities resulting from the new final rule. Section 6(a) discusses the assumptions, methods, and data sources used to estimate burdens. Section 6(b) presents estimated respondent burden and cost for the baseline requirements existing prior to the final rule, adjustments to the baseline, and the incremental changes due to the final rule. Section 6(c) provides estimates of baseline, adjusted baseline, and incremental burden and cost to the EPA. Section 6(d) summarizes the estimated incremental burden and cost to both respondents and the Agency, as well as the total burden and cost when incremental burden and cost are added to the baseline. Sections 6(e) and (f) present the reasons for change in burden and the required burden statement.

The estimated incremental burden and cost for this amendment, over and above the estimated burden and cost in the existing ICR for 40 CFR 171 prior to the final rule, are presented below. The estimated burden and cost in the existing ICR is considered the baseline, with two sources of incremental burden and cost:

- Adjustments to baseline – These are revisions to burden and cost estimates due to available updates in factors used in their estimation. For example, updated numbers of respondents and updated wage rates have become available and are used in the Economic Analysis for the final rule. These updates are included in this section as part of the incremental burden and costs relative to the baseline estimates in the existing ICR.
- Program changes – These are changes in requirements for information collection activities from the new final rule, relative to the existing ICR for the existing regulations.

### **6(a) Estimating Respondent Burden**

In this section, the Agency provides the source of the baseline burden and cost estimates, gives

the basis of the adjusted baseline, and describes the assumptions and methods used to estimate the incremental burden estimates for the final rule requirements that are subject to the PRA. In section 6(b), Table 1 provides the baseline and adjusted baseline estimates; Tables 2-7 list the estimated incremental burden hours and costs from program changes made in the final rule associated with this ICR amendment. The incremental burden and cost estimates are based on the information and figures contained in the Economic Analysis (Attachment E), as well as information obtained by the Agency from the U.S. Department of Labor's Bureau of Labor Statistics (BLS) for wage rates (Attachment F), and U.S. Department of Agriculture's special tabulation for the number of farms that hire workers and use pesticides based on the number of farms in the 2007 Agricultural Census.

This section addresses only the incremental burden imposed upon respondents for compliance with the paperwork requirements established in the final rule. Section 6(b) presents the baseline paperwork burden for compliance with the existing regulation at 40 CFR 171 prior to the final rule, along with an adjusted baseline burden and cost estimates. The baseline burden and cost estimates are taken directly from the existing ICR; those baseline estimates are adjusted, using the updated numbers of respondents and wage rates that are used in this ICR amendment, to get the "adjusted baseline" estimates. The EPA assumes that authorized agencies and applicators are already in compliance with the existing regulation at 40 CFR 171, and therefore, believes that there is no additional burden imposed upon these respondents for complying with the requirements from the existing regulation that are also included in the final rule. The existing ICR includes certified applicator recordkeeping of RUP applications, recordkeeping and reporting of RUP sales by pesticide dealerships within EPA-administered programs, and annual reporting of certification programs to the Agency. The final rule retains these requirements and any changes to these requirements are of negligible effect on burden and costs.

Respondents affected by the collection activities under this ICR amendment are:

- Certified applicators; private and commercial. The number of applicators is based on the Certification Plan and Reporting Database for the years 2009 to 2014 (CPARD, 2015); there are 420,999 commercial applicators and 482,925 private applicators.
- Noncertified applicators under the direct supervision of certified applicators. It is estimated that there are 929,065 noncertified applicators who apply RUPs under the direct supervision of commercial applicators, and there are 80,587 noncertified applicators under the direct supervision of private applicators.
- RUP dealers. The EPA estimates that there are approximately 10,000 pesticide retail dealers. According to the Agricultural Retailers Association, there are approximately 9,000 agricultural retailers in the United States. Not all are licensed to sell RUPs. The EPA estimates that there are far fewer nonagricultural pesticide retailers licensed to sell RUPs, given that RUPs are generally not labeled for use in residential and other public areas, even by a certified applicator.
- Authorized agencies. Authorized agencies are the entities that are authorized by the EPA to administer applicator certification plans under 40 CFR 171. Authorized agencies include states, territories, federally recognized tribes and federal agencies. Authorized agencies administer certification plans in 50 states, the District of Columbia, 6 territories, 4 tribes, and 5 federal agencies. In this ICR, Agency burden is estimated apart from respondent burden; see section 6(c) for EPA-administered plans and other Agency burden.

Respondent activities that are within the scope of this amendment ICR include:

- Rule familiarization
- Revision and submission of RUP certification plans, and modify databases to track certification
- Training of noncertified applicators under the direct supervision of commercial or private applicators
- Record keeping of training of noncertified applicators under the direct supervision of commercial applicators
- Record keeping of RUP sales by pesticide retail dealers

The respondent activities are covered in more detail in section 4(b)(iii). The following section, 6(b), includes burden and cost estimates for these respondent activities.

### **6(b) Estimating Incremental Respondent Costs from Final Rule**

The wages and the estimated benefits and overhead for all labor categories for affected industries, state government, and EPA employees are based on publicly available data from the US Bureau of Labor Statistics (BLS). The formulas used to estimate the labor rates and formulas used to derive the fully loaded wage rates and overhead costs for this ICR amendment are listed in Attachment F.

Methodology	The methodology uses data on each sector and labor type for an <i>Unloaded wage rate</i> (hourly wage rate), and calculates the <i>Loaded wage rate</i> (unloaded wage rate + benefits), and the <i>Fully loaded wage rate</i> (loaded wage rate + overhead). Loaded and fully loaded wage rates are used to calculate respondent costs. This amendment uses 2014 BLS data.
Unloaded Wage Rate	Wages are estimated for labor types (management, technical, and clerical) within applicable sectors. The Agency uses average wage data for the relevant sectors available in the National Industry-Specific Occupational Employment and Wage Estimates from the Bureau of Labor Statistics (BLS) at <a href="http://www.bls.gov/oes/current/oes_nat.htm">http://www.bls.gov/oes/current/oes_nat.htm</a> .
Sectors	The specific North American Industry Classification System (NAICS) code and website for each sector is included in that sector’s wage rate table (see Attachment F). Within each sector, the wage data are provided by Standard Occupational Classification (SOC). The SOC system is used by Federal statistical agencies to classify workers into occupational categories for the purpose of collecting, calculating, or disseminating data (see <a href="http://www.bls.gov/oes/current/oes_stru.htm">http://www.bls.gov/oes/current/oes_stru.htm</a> ).
Loaded Wage Rate	Unless stated otherwise, all benefits represent 46.3% of unloaded wage rates, based on benefits for all civilian nonfarm workers, from <a href="http://www.bls.gov/news.release/ecec.t01.htm">http://www.bls.gov/news.release/ecec.t01.htm</a> . However, if other sectors are listed for which 46.3% is not applicable, the applicable percentage will be stated.
Fully Loaded Wage Rate	We multiply the loaded wage rate by 50% (EPA guidelines 20-70%) to get overhead costs.

(i) Existing ICR for 40 CFR 171; Baseline Burden and Costs

The estimated burden and costs associated with the information collection activities of the existing 40 CFR 171 prior to the final rule is estimated in the existing ICR “Certification of Pesticide Applicators” (Attachment A) that was published in the Federal Register on February 25, 2015, and approved by OMB on November 2, 2015. The total estimated annual burden in the existing ICR for annual report activities by all authorized agencies is 1,320,254 hours and the total cost is \$42,637,865 (Table 1).

Since the time when burden and cost were estimated for the existing ICR, newer data for factors used in their estimation have become available. For example, updated numbers of respondents and updated wage rates have become available, and are used in the Economic Analysis for the final rule (Attachment E). These updates are adjustments included in this section as the incremental burden and costs relative to the baseline estimates in the existing ICR, as the adjusted baseline. Both the baseline burden and costs from the existing ICR, and the adjusted baseline estimates, are presented in Table 1.

**Table 1. Respondent Annual Burden and Cost Table from the Existing ICR as Baseline, and Adjustments to that Baseline**

Respondent	Current ICR Burden Hours	Current ICR Cost (\$)	Incremental Change in Burden Hours	Incremental Change in Burden Cost (\$)	Adjusted Baseline Burden Hours	Adjusted Baseline Cost (\$)
States (Table 1)**	4,409	213,156	696	41,317	5,105	254,473
Federal program - certified applicators (Tables 2 and 3)**						
Table 2a	470	15,163	0	-180	470	14,983.03
Table 2b	121	3,901	0	-47	121	3,854.14
Table 3	10,044	323,806	0	-3,880	10,044	319,925.11
State-administered programs - commercial applicators (Table 4)**	1,305,100	42,074,740	-3	-504,323	1,305,097	41,570,417
RUP dealer burden for recordkeeping of RUP sales (Table 5a)**	20	896	0	-7	20	889
RUP dealer burden for reporting informational changes (Table 5b)**	3	153	0	-1	3	152
Anthrax-related products - registrants (Tables 6 and 7)**						
Table 6	50	3,437	0	136	50	3,573
Table 7	37	2,613	0	102	37	2,715
<b>Respondent TOTAL</b>	<b>1,320,254</b>	<b>\$42,637,865</b>	<b>693</b>	<b>-466,884</b>	<b>1,320,947</b>	<b>\$42,170,982</b>

Source: existing ICR (OMB No.: 2070-0029; EPA No.: 0155.12 – Certification of Pesticide Applicators)

\*\*Table numbers refer to tables in the above-mentioned existing ICR. Please refer to the existing ICR (Attachment A) for more information regarding these tables and estimates.

The baseline comparison from the existing ICR is adjusted as follows:

- Row 1: States - an increase of 696 burden hours and an increase in cost of \$41,317. This change was due to an increase in the number of jurisdictions (respondents) from 57 to 66 and a 3.1% increase in the general wage rate.
- Row 2: Federal program - a cumulative decrease in cost of \$4,108 due to a -1.22% decrease in the general wage rate.
- Row 3: State-administered programs- a decrease in cost of \$504,323 due to a -0.82% decrease in the general wage rate.
- Rows 4 & 5: RUP dealers – a decrease in cost of \$7 due to a -0.82% decrease in the general wage rate.
- Row 6: Anthrax-related products - a cumulative increase in cost of \$238 due to an increase in the wage rate of 3.9% for technical labor and 5.4% for clerical labor.

Overall, in the respondent adjusted baseline burden, hours increased by 693 and costs decreased by \$466,884 due to changes in the numbers of respondents and wage rates.

(ii) *Burden and Costs Due to the Final Rule*

The following discussion and tables provide calculations of the estimated burden and costs associated with the additional and revised information collection activities of this program resulting from the final rule.

(1) Rule Familiarization

The estimated average annual burden in terms of hours and cost for respondents to familiarize themselves with the new rule changes varies by respondent. The estimate is a 3-year average; the EPA assumes that the respondents will spend more time in the first year to fully familiarize themselves with the revised requirements for the certification programs. The total burden for all respondents to familiarize themselves with the new rule is estimated to be 457,094 hours and the total cost is \$17,200,297 (Table 2).

There are three groups of respondents:

- Authorized Agencies with EPA-approved applicator certification plans (includes 50 state, District of Columbia, 6 US territory, 4 tribal, and 5 federal agency plans). The Agency estimates that the authorized agencies will spend 4 hours in the first year to familiarize themselves with the revised regulation, and 1 hour each for the second and third year covered by this ICR. The average time spent annually is 2 hours.
- Certified applicators: both private and commercial. Certified applicators are assumed to review only the requirements for certified applicators. It is estimated that they will spend 1 hour the first year, and 15 minutes each for the second and third years. The average time spent annually is 30 minutes.
- RUP dealers. RUP dealers are assumed to review only the requirements for dealers. It is estimated that they will spend 1 hour the first year, and 15 minutes each for the second and third years. The average time spent annually is 30 minutes.

**Table 2. Burden of Rule Familiarization for Authorized Agencies, Certified Applicators, and RUP Dealers\***



Activity	Respondent Group	Number of Respondents	Total Responses Annually	Wage Rate (\$/hour, Fully Loaded)	Per Event Average		Totals	
					Burden (hours)	Cost (\$)	Burden (hours)	Cost (\$)
Rule Familiarization	Authorized Agencies	66	66	\$81.53	2.00	\$163.07	132	\$10,762
Rule Familiarization	Private Applicators	482,925	482,925	\$51.45	0.50	\$25.73	241,463	\$12,423,246
Rule Familiarization	Commercial Applicators	420,999	420,999	\$21.56	0.50	\$10.78	210,500	\$4,538,369
Rule Familiarization	RUP Dealers	10,000	10,000	\$45.58	0.50	\$22.79	5,000	\$227,920
<b>Totals</b>		<b>913,990</b>	<b>913,990</b>				<b>457,094</b>	<b>\$17,200,297</b>

Source: EPA estimates of respondents and responses; wage rates from 2014 (BLS updated 2015). \*Estimates may not add due to rounding. Respondents (authorized agencies, certified applicators and RUP dealers) are counted only once.

## (2) Annual Respondent Burden and Cost Estimates to Revise and Submit Certification Plans to EPA for Review and Approval

Authorized agencies with existing certification plans are required to revise and submit their certification plans to be in compliance with the regulations as revised by the final rule.

In order to implement the revised regulations, state laws and regulations relevant to the certification plans may also need to be revised. The Agency assumes that all states with currently EPA-approved certification plans will update their laws and regulations, in addition to revising the certification plan. For each state plan revised, and the territory of Puerto Rico, 5,000 hours per year or about the equivalent of five full-time employees for a year (2080 hours as full-time for a year) is estimated to be necessary to make legislative and regulatory revisions and to develop the revised certification plan. The Agency estimates that submitting each plan to the EPA for review and approval through the CPARD database would take 8 hours per plan. Certifying authorities will also need to update their databases to track the certification status of applicators, which EPA estimates to cost about \$53,000 a year, which is the average annual cost per jurisdiction. For the smaller certification programs usually included in “Other Jurisdictions,” this cost is further subdivided and the average is about \$3,200 a year.

For states and Puerto Rico, the total burden is estimated to be 300,136 hours and the total cost is \$18,810,223 (Table 3a).

The Agency estimated less burden for the remaining 15 authorized agencies (territories, tribes, D.C., and federal agencies) to revise their certification plans, because the number of certified applicators in each of them was small. Combined, these other programs have fewer commercial and private applicators than Puerto Rico and most of the States. In addition, federal agencies and most tribes will not have to make legislative or regulatory changes, and thus, less time and cost is assumed to revise the certification plans. In terms of the cost to update their databases, these 15 authorized agencies and the 2 EPA-administered plans have an average annual cost of about \$3,200 a year. Tribes and federal agencies, however, must revise their existing certification plans to comply with the revised regulations, resulting in administrative burden. Tribes base their certification plans on recognizing an existing state certification program. Therefore, the tribes will rely on the state regulatory and legislative changes made in order to comply with the rule changes. Federal agencies and tribes also must submit the updated

certification plans to the EPA for review and approval.

For federal agencies, D.C., tribes, and territories authorized to certify applicators, the total burden is estimated to be 1,979 hours and the total cost is \$141,009 (Table 3b).

In addition to the authorized agency certification plans, the EPA directly administers 2 certification programs, a national certification plan for Indian country (79 FR 7185; February 6, 2014) and a certification plan for the Navajo Nation (72 FR 32648; June 13, 2007). The burden and costs to revise these plans is to the Agency and is shown in Table 7b. The burden and costs to Indian country and the Navajo Nation are negligible.

**Table 3a. Burden to States and Puerto Rico to Revise Regulations, Certification Plans and Update Databases\***

Collection Activities	Annual Burden Hours Per Respondent			TOTALS	
	Senior Technical \$89.72/ hour	Jr. Technical \$61.01/hour	Administrative \$42.07/hour	Hours	Cost \$
Revise State Regulations and Plans	1000	3000	1000	5000	\$314,830
Submit Plans	0	8	0	8	\$488
Update Database	0	877	0	877	\$53,510
<b>TOTAL</b>	<b>1,000</b>	<b>3,885</b>	<b>1,000</b>	<b>5,885</b>	<b>\$368,828</b>

Source: EPA estimates; wages from BLS (2014). \*Estimates may not add due to rounding. Respondents (states) are counted only once.

State TOTAL ANNUAL BURDEN: 5,885 hours/respondent x 51 respondents = **300,136 hours**

State TOTAL ANNUAL COST: \$368,828/respondent x 51 respondents = **\$18,810,223**

**Table 3b. Burden to Federal Agencies, D.C., Territories and Tribes Authorized to Certify Applicators to Revise, Submit Certification Plans and Update Databases\***

Collection Activities	Annual Burden Hours Per Respondent			TOTALS	
	Senior Technical \$98.48/hour	Jr. Technical \$71.68/hour	Administrative \$41.46/hour	Hours	Cost \$
Revise Agency Regulations and Plans	16	48	16	80	\$5,680
Submit Plans	0	8	0	8	\$573
Update Database	0	44	0	44	\$3,148
<b>TOTAL</b>	<b>16</b>	<b>100</b>	<b>16</b>	<b>132</b>	<b>\$9,401</b>

Source: EPA estimates; wages from BLS (2014). \*Estimates may not add due to rounding. Respondents (federal agencies, D.C., territories and tribes) are counted only once.

Respondent TOTAL ANNUAL BURDEN: 132 hours/respondent x 15 respondents = **1,979 hours**

Respondent TOTAL ANNUAL COST: \$9,401/respondent x 15 respondents = **\$141,009**

- (3) Training of Noncertified Applicators – Commercial and Private Applicators  
Training of Noncertified Applicators and Commercial Applicator Recordkeeping

Under the final rule revisions, noncertified applicators that apply RUPs under the direct supervision of certified applicators are required to receive pesticide safety training. This requirement can be fulfilled in 4 ways – by attending special RUP noncertified applicator training, satisfying pesticide safety training requirements for handlers under the Worker Protection Standard (WPS) (40 CFR 170), attending a relevant training program defined by the state/jurisdiction that is at least equivalent, or being a certified applicator (but is applying as a noncertified applicator due to lacking the certification for the type of application or not certified in the jurisdiction where the use will take place). It is assumed that all noncertified applicators who work as agricultural handlers will have taken the WPS handler training, and therefore, would not take any additional training to meet this requirement. Certified applicators who have not met the certification requirements for the specific application, and therefore, may only use under the RUP supervision of a certified applicator who meets the requirements, are not required to attend the noncertified applicator training. There is also an option to take state/jurisdiction specified equivalent training in jurisdictions where available. Although these alternative options are available, it is assumed that all other noncertified applicators besides agricultural handlers, including the certified applicators who have not met the certification requirements for the specific application type or jurisdiction, would take the noncertified applicator training.

To calculate burden and costs, the respondents are separated into private and commercial applicator categories.

The EPA estimates that there are 929,065 noncertified applicators under the supervision of commercial applicators. Of these, the EPA estimates that 10,174 are employed by firms serving the agricultural sector and will likely receive pesticide handler training under the Worker Protection Standard. Therefore, it is assumed that all other noncertified applicators (918,892) will likely receive one hour of training per year (trainees). The EPA estimates that there are about 420,999 commercial applicators (trainers) providing the training. The total annual estimated respondent burden for commercial applicators to train noncertified applicators and to record and maintain records of the training is 1,367,957 hours at a total cost of \$25,926,727 (Table 4a). Commercial applicators are also required to create and maintain records of RUP applications; this requirement exists under the existing 40 CFR 171 and, therefore, is not included in this ICR amendment but is included in the baseline burden for the existing ICR (Table 1). Changes to application recordkeeping requirements in the final rule, and any resulting incremental burdens, are negligible.

For private applicators supervising RUP applications, the EPA estimates there are approximately 28,092 noncertified applicators (trainees) receiving 1 hour of training per year, and that the ratio of trainer to trainee is 1:1. The EPA estimates that there are a total of 80,587 noncertified applicators who apply RUPs under the supervision of private applicators, but the majority (52,495) are employed on farms that produce crops and will receive pesticide handler training under the Worker Protection Standard, thereby satisfying the training requirement. The total annual respondent burden for private applicators to train noncertified applicators applying RUPs under their supervision, is 56,183 hours and total cost of \$2,051,097. For private applicators training noncertified applicators there is no record keeping requirement (Table 4b).

**Table 4a. Training of Noncertified Applicators under the Supervision of Commercial Applicators**

Activity	Respondent Group	Number of Respondents	Total Responses Annually (estimates from EA)	Wage Rate (\$/hour)	Per Event Average		TOTALS	
					Burden	Cost	Burden	Cost (\$)

					(hours)	(\$)	(hours)	
Train noncertified applicators	Noncertified Applicators	918,892	918,892	17.72	1	17.72	918,892	\$16,279,937
	Commercial Applicators	420,999	420,999	21.56	1	21.56	420,999	\$9,043,866
Record and maintain records of noncertified applicator training	Commercial Applicators	420,999	420,999	21.56	0.067	1.43	28,067	\$602,924
<b>TOTALS</b>		<b>1,339,891</b>	<b>1,339,891</b>				<b>1,367,957</b>	<b>\$25,926,727</b>

Source: EPA estimates; wages from BLS (2014). Estimates may not add due to rounding. Respondents (noncertified applicators under the supervision of commercial applicators) are counted only once.

**Table 4b: Training of Noncertified Applicators under the Supervision of Private Applicators**

Activity	Respondent Group	Number of Respondents	Total Responses Annually (3-year average)	Wage Rate (\$/hour)	Per Event Average		TOTALS	
					Burden (hours)	Cost (\$)	Burden (hours)	Cost (\$)
Train noncertified applicators	Private applicators	28,092	28,092	51.45	1	51.45	28,092	\$1,445,313
Attend noncertified applicator training	Noncertified applicators	28,092	28,092	21.56	1	21.56	28,092	\$605,785
<b>Totals</b>		<b>56,183</b>	<b>56,183</b>				<b>56,183</b>	<b>\$2,051,097</b>

Source: EPA estimates; wages from BLS (2014). Estimates may not add due to rounding. Respondents (noncertified applicators under the supervision of private applicators) are counted only once.

#### (4) Record Keeping for RUP Dealers

The EPA estimates that there are approximately 9,000<sup>1</sup> agricultural retail establishments that sell RUPs and an additional 1,000 retail establishments that sell RUPs to non-agricultural establishments. The Agency assumes for this estimate that all 10,000 establishments are licensed to sell RUPs. On average, each RUP dealer is estimated to have approximately 5 RUP sales per week for 9 months of the year, for a total of 195 RUP sales transactions per year. Each transaction requires recordkeeping that is estimated to take approximately 3 minutes. The estimated average annual burden in terms of hours and cost per RUP dealer to comply with new record keeping requirements is approximately 10 hours and \$450. The total burden for all RUP dealer respondents is estimated to be 97,500 hours and the total cost is \$4,444,436 (Table 5).

In federal programs for Indian country, where the EPA administers the certification program, RUP dealers are also required to keep records; this requirement existed under 40 CFR 171 prior to the

<sup>1</sup> Personal communication: 9,000 agricultural retailers per Richard Gupton, Agricultural Retailers Association (personal communication to N. Fitz at EPA sent via email 07/14)

final rule, and therefore is not costed in this ICR amendment but is included in the baseline burden for the existing ICR (Table 1).

**Table 5. Recordkeeping for RUP Dealers\***

Collection Activities	Respondent Group	Number of Respondents	Total Responses Annually	Wage Rate (\$/hour)	Per Event Average		Totals	
					Burden (hours)	Cost (\$)	Burden (hours)	Cost (\$)
Create information	RUP dealers	10,000	195	\$45.58	0.02	\$0.91	39,000	\$1,777,774
Store, file or maintain the information	RUP dealers	10,000	195	\$45.58	0.03	\$1.37	58,500	\$2,666,662
<b>Totals</b>		<b>10,000</b>			<b>0.05</b>	<b>\$2.28</b>	<b>97,500</b>	<b>\$4,444,436</b>

\*NAICS code: 444200 Sales Managers Retail Nursery, Lawn and Garden Supply Stores.

Source: EPA estimates; wages from BLS (2014). Estimates may not add due to rounding. Respondents (RUP dealers) are counted only once.

TOTAL ANNUAL BURDEN: (0.05 hours/respondent x 10,000 respondents) x 195 responses per respondent = **97,500 hours**

TOTAL ANNUAL COST: (\$2.28/respondent x 10,000 respondents) x 195 responses per respondent = **\$4,444,436.**

### 6(c) Estimating Agency Burden and Cost

#### (i) *The Existing ICR; Baseline Burden and Costs to EPA*

The Agency has estimated the annual burden to the EPA to review the submissions of annual reports from authorized agencies, applications for certification in EPA-administered programs, as well as registrants' training material submissions for anthrax-related products. Adjustments to the baseline of the existing ICR are revisions to burden and cost estimates due to available updates in factors used in their estimation. For example, updated wage rates are available from the Bureau of Labor Statistics. These adjustments are included in this section as part of the incremental change in burden and costs to the baseline of the existing Certification of Pesticide Applicators ICR.

Overall, in the Agency adjusted baseline, burden hours stayed the same and costs increased by \$3,188 (Table 6). The adjusted baseline for Agency costs changed due to an increase in the wage rate of 2.2% for managerial labor, 1.7% for technical labor and 2.7% for clerical labor. The total burden hours in this final rule ICR appear to decrease about 50% from the proposed rule ICR, but this is due to a typo\*\*. The Agency burden hours are the same from the original ICR under the adjusted baseline for this final rule ICR.

**Table 6. Existing ICR; Baseline Annual Burden and Cost to EPA, and Adjustments to that Baseline\***

Agency	Baseline Burden Hours (Existing ICR)	Baseline Cost (Existing ICR) (\$)	Incremental Change in Burden Hours	Incremental Change in Cost (\$)	Adjusted Baseline Burden Hours	Adjusted Baseline Cost (\$)
EPA Regional Offices (Table 8a*)	1,998	161,015	0.00	2,732	1,998	163,747

EPA Headquarters (Table 8b*)	2620**	21,007	0.00	355	262**	21,362
EPA Headquarters – review of registrant training materials for anthrax-related products (Table 8c*)	75	6,014	0.00	101	75	6,115
<b>Agency TOTAL</b>	<b>4,693***</b>	<b>\$188,035</b>	<b>0.00</b>	<b>\$ 3,188</b>	<b>2,335***</b>	<b>\$ 191,223</b>

Source: existing ICR (OMB No.: 2070-0029; EPA No.: 0155.12 – Certification of Pesticide Applicators)

\* Please refer to existing ICR, Table 9, and Tables 8a, 8b, and 8c, for more information regarding the existing Agency burden and cost estimates.

\*\* Typographical error in existing ICR that added a 0. Corrected to 262 here in adjusted baseline, to reflect correct burden in the existing ICR.

\*\*\* Error in Agency Total in existing ICR, Table 9, resulting from typographical error explained in \*\* above. Corrected to 2,335 here in adjusted baseline, to reflect correct burden in the existing ICR.

(ii) *Incremental Burden and Cost to EPA Due to Final Rule*

(1) Burden to EPA Headquarters for Review and Approval of Revised Certification Plans by Authorized Agencies

The EPA’s burden to review and approve the revised certification plans is shown below. There are 66 authorized agencies (50 states plus D.C., 6 territories, 4 tribes and 5 federal agencies) that are required to submit revised plans to the EPA for the Agency to review. The burden for the EPA to review and approve revised certification plans submitted by states, territories and tribes is estimated at 80 hours per plan. The EPA’s burden to review revised federal agency certification plans is estimated at 40 hours because federal plans cover fewer applicators and have a more narrow focus than do state plans. This review and approval of certification plans would be a one-time activity, not an annual one. The total Agency burden to review all authorized agency revised certification plans is 5,080 hours and the total cost is \$414,172 (Table 7a).

**Table 7a. Agency Burden and Cost Estimates - Burden to Headquarters for Review and Approval of Revised Certification Plans Submitted by Authorized Agencies**

Collection Activities	Number of Respondents*	Tech. Hours \$81.53/hour	Total Burden Hours	Total Cost \$
Review State, D.C., Territory and Tribal Plans	61	80	4,880	\$397,866
Review Federal Agency Plans	5	40	200	\$16,306
<b>TOTAL</b>	<b>66</b>		<b>5,080</b>	<b>\$414,172</b>

\*NAICS 999100 - Federal Executive Branch: Technical: 19-0000, Life, Physical, and Social Science Occupations

Source: EPA estimates; wages from BLS (2014). Estimates may not add due to rounding

TOTAL ANNUAL BURDEN: (80 hours/state, D.C., territory or tribal plan x 61 states, D.C., territories and tribes = 4,640 hours) + (40 hours / federal agency plan x 5 federal agencies = 200 hours). Total hourly burden = **5,080 hours**

TOTAL ANNUAL COST: (\$6,523/state, D.C., territory or tribal plan x 61 states, D.C., territories and

tribes= \$397,866) + (\$3,261/federal agency plan x 5 federal agencies = \$16,306). Total cost = **\$414,172**

**(2) Burden to EPA Headquarters for Revision of EPA-Administered Certification Plans**

Currently there are 2 EPA-administered certification plans (Indian Country and Navajo Nation) that the Agency would need to revise. All certifying authorities will also need to update their databases to track the certification status of applicators, which EPA estimates to take about 79 hours a year for EPA-administered plans. The total burden to perform this activity is 157 hours and the cost is approximately \$12,967 (Table 7b).

**Table 7b. Agency Burden and Cost Estimates – Headquarters to Revise EPA-Administered Certification Plans and Update Database**

Collection Activities	Annual Burden Hours Per Respondent			TOTALS	
	Senior Technical \$124.09/hour	Jr. Technical \$81.53/hour	Administrative \$46.42/hour	Hours	Cost \$
Revise EPA-Administered Certification Plans	10	12	10	32	\$2,683
Submit Plans	0	8	0	8	\$652
Update Database	0	39	0	39	\$3,148
<b>TOTAL</b>	<b>10</b>	<b>59</b>	<b>10</b>	<b>79</b>	<b>\$ 6,483</b>

Source: EPA estimates; wages from BLS (2014). Estimates may not add due to rounding. Respondents are counted only once.

Agency TOTAL ANNUAL BURDEN: 79 hours/response x 2 responses = **157 hours**

Agency TOTAL ANNUAL COST: \$6,483 /respondent x 2 responses = **\$12,967**

**6(d) Change in Burden Hours and Cost**

The estimated average annual paperwork burden to respondents due to the amendments to the Certification rule is 2,280,849 hours and the average annual estimated cost is \$68,573,790 (Table 8a).

**Table 8a. Incremental Increase in Annual Burden and Cost to Respondents\***

Respondent	Total Burden Hours	Total Cost (\$)
Rule Familiarization (Table 2)	457,094	\$17,200,297
Revision of State Certification Plans (Table 3a)	300,136	\$18,810,223
Revision of Other Authorized Agency Certification Plans – Federal Agencies, Territories and Tribes (Table 3b)	1,979	\$141,009
Noncertified Applicator Training and Recordkeeping – Commercial Applicators (Table 4a)	1,367,957	\$25,926,727
Noncertified Applicator Training - Private Applicator (Table 4b)	56,183	\$2,051,097
RUP Sales Recordkeeping (Table 5)	97,500	\$4,444,436
<b>New Respondent Total</b>	<b>2,280,849</b>	<b>\$68,573,790</b>

\*Estimates may not add due to rounding.

The Agency’s change in burden from the existing Certification ICR to include the certification rule

amendments is an increase of 5,237 hours and the cost is \$427,155 (Table 8b).

**Table 8b. Incremental Increase in Annual Burden and Cost to EPA\***

Agency	Total Burden Hours	Total Cost (\$)
Agency Review and Approval of Certification Plans (Table 7a)	5,080	\$414,189
EPA-Administered Plans Agency Plans (Table 7b)	157	\$12,967
<b>Agency Total</b>	<b>5,237</b>	<b>\$427,155</b>

\*Estimates may not add due to rounding.

The total respondent burden and respondent costs from the existing ICR and the certification rule amendment ICR is 3,601,796 hours and the cost is \$110,744,772. Total burden and costs to the Agency are 7,572 hours and \$618,379 (Table 9).

**Table 9. Summary of Total Annual Burden and Cost after Final Rule Changes\***

Respondent	Total Burden Hours	Total Cost (\$)
Current ICR Respondent Burden (Table 1)	1,320,947	42,170,982
Rule Respondent Burden (Table 8a)	2,280,849	68,573,790
<b>TOTAL Respondent Burden and Cost</b>	<b>3,601,796</b>	<b>\$110,744,772</b>
<b>Agency</b>		
Agency	Total Burden Hours	Total Cost (\$)
Current Agency (Table 6)	2,335	191,223
Agency Burden Rule (Table 8b)	5,237	427,155
<b>TOTAL Agency Burden and Cost</b>	<b>7,572</b>	<b>\$618,379</b>

\*Estimates may not add due to rounding.

### 6(e) Reasons for Change in Burden

The change in the total estimated respondent burden is a net increase of 2,280,849 hours. This increase in burden reflects the addition of programmatic changes from the final rule. The baseline burden estimate is from the existing ICR prior to the final rule, with adjustments to the burden estimates, including changes in the number of respondents and the number of responses provided by those respondents, to capture changes and updates since the existing ICR was published.

### 6(f) Burden Statement

The total annual respondent burden associated with this ICR amendment is estimated to be 2,280,849 hours, and the total annual respondent cost associated is \$68,573,790. The analysis for the ICR amendment is based on the best and most appropriate data available and meets the Agency's and OMB's quality guidelines.

According to the Paperwork Reduction Act, "burden" means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a federal agency. For this collection, it is the time reading the regulations, revising and submitting certification plans, conducting or attending noncertified applicator training, generating recordkeeping, and storing, filing, and maintaining the data. The 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 OMB control number for this information collection appears at the beginning and end of this document. In addition, OMB control numbers for the EPA's regulations, after initial display in the final rule, are listed in 40 CFR Part 9.

This ICR amendment is included in the public docket for the rulemaking entitled Certification of Pesticide Applicators Rule Revision (40 CFR 171), which the Agency established under Docket ID No. EPA-HQ-OPP-2011-0183. The docket is available for online viewing at [www.regulations.gov](http://www.regulations.gov), or in person at the Office of Pesticide Programs Regulatory Public Docket Center (EPA/DC), EPA West Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460-0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPP Docket is (703) 305-5805. You may submit comments regarding the Agency's need for this information, the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden, including the use of automated collection techniques.

Submit your comments, referencing Docket ID No. EPA-HQ-OPP-2011-0183 and OMB Control No. 2070-0196, to (1) EPA online using [www.regulations.gov](http://www.regulations.gov) (our preferred method), or by mail to: OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001, and (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

## **ATTACHMENTS TO THE SUPPORTING STATEMENT**

Attachments to the supporting statement are available for online viewing as noted below with the links provided.

- Attachment A:** Existing ICR, “Certification of Pesticide Applicators” covering 40 CFR Part 171 prior to the new final rule (OMB No.: 2070-0029; EPA No.: 0155.12) – Available online at the Office of Management and Budget’s RegInfo.gov website at [http://www.reginfo.gov/public/do/PRAViewICR?ref\\_nbr=201502-2070-002](http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201502-2070-002)
- Attachment B:** **7 U.S.C. 136a(d) - FIFRA Section 3(d)** – Available at online at the US House of Representatives’ [US Code website](#)
- Attachment C:** **7 U.S.C. 136i - FIFRA Section 11** – Available at online at the US House of Representatives’ [US Code website](#)
- Attachment D:** **40 CFR 171 - Certification of Pesticide Applicators** – Available online at the National Archives and Records Administration’s [Electronic CFR Website](#)
- Attachment E:** Economic Analysis of the Final Rule, entitled “Economic Analysis of Final Amendments to 40 CFR Part 171: Certification of Pesticide Applicators” – Available online in the public docket for the final rule: Certification of Pesticide Applicators Rule Revision (40 CFR 171), Docket ID: EPA-HQ-OPP-2011-0183 at [www.regulations.gov](http://www.regulations.gov)
- Attachment F:** Wage Rate Tables (Authorized Agencies, Private Applicators, Commercial Applicators, RUP Dealers, State Government, Government and EPA) These tables are the source of wage rates used in this ICR amendment. – Available online in the public docket for the final rule: Certification of Pesticide Applicators Rule Revision (40 CFR 171), Docket ID: EPA-HQ-OPP-2011-0183 at [www.regulations.gov](http://www.regulations.gov)