

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

1. Identification of the Information Collection

1(a). Title of the Information Collection

Title: **Standards for Pesticide Containers and Containment**

EPA ICR No. **1632.05**

OMB Control No. **2070-0133**

1(b). Short Characterization/Abstract

This is a reinstatement of an Information Collection Request (ICR) that covers the information collection activities under the Pesticide Container and Containment Regulations found at 40 CFR Parts 156 and 165. The ICR expired on July 1, 2017 due to an administrative error. The regulations were finalized August 16, 2006 (71 FR 47330), and amended October 29, 2008 (73 FR 64215). (See Attachments B and C).

The entities affected by the container regulations are different than the entities affected by the containment regulations, so this ICR document provides separate discussions of the primary activities and the related burden estimates for each. Where necessary to distinguish the discussion of these two primary activities within each section of this ICR, the Agency has identified the discussion of the information collection activities associated with the container design and residue removal requirements with this header: "**Container,**" and the information collection activities related to the containment structure requirements with this header: "**Containment.**" Where the discussion applies equally to both sets of activities, there is no distinction.

1(b)(i). Container. These portions of the ICR cover the information collection activities associated with the **container design and residue removal requirements**. Specifically, the requirement that businesses subject to the container regulations (pesticide registrants) and repackaging regulations (pesticide registrants and refillers and swimming pool supply companies) maintain records of test data, cleaning procedures, certain data when a container is refilled and other supporting information. These records are subject to both call-in by EPA and on-site inspection by EPA and its representatives. EPA has not established a regular schedule for the collection of these records, and there is no reporting.

1(b)(ii). Containment. These portions of the ICR cover the information collection activities associated with the **containment structure requirements**. Specifically, the requirement that businesses subject to the containment structure regulations maintain records of the: 1) monthly inspection and maintenance of each containment structure and all stationary bulk containers; 2) duration over which non-stationary bulk containers holding pesticides and not protected by a secondary containment unit remain at the same location; and 3) construction date of the containment structure. The businesses subject to the containment structure regulations include agricultural retailers and refilling establishments, custom blenders and

commercial applicators of agricultural pesticides. The records have to be maintained by the owners and operators of such businesses. There is no regular schedule for the collection of either of these records, nor does EPA anticipate a call-in of records at some future date. Instead, the records would be available to inspectors to ensure that businesses are in compliance with containment requirements. These inspections are generally conducted by the states, which enforce FIFRA regulations through cooperative agreements with EPA.

2. Need for and Use of the Collection

2(a). Need/Authority for the Collection

The statutory authority for these collection activities are found in sections 3, 8, 19 and 25 of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 7 U.S.C. 136f, 136q and 136w. See Attachment A.

The 1988 amendments to FIFRA section 19 significantly expanded and strengthened EPA's authority in the areas of pesticide storage, disposal and transportation and authorized the administrator, in conjunction with the registration and reregistration of a pesticide, to establish:

- data requirements to determine methods of safe storage and disposal of pesticides [FIFRA section 19(a)(1)(A)]; and
- labeling requirements for the storage, transportation and disposal of pesticides, excess pesticides, rinsates, and containers [FIFRA section 19(a)(1)(B)].

Furthermore, section 19 mandates the issuance of regulations for:

- pesticide container design standards [FIFRA section 19(e)]; and
- pesticide residue removal standards and procedures [FIFRA section 19(f)].

The collection (record keeping) of information covered by this ICR is needed to ensure that EPA's statutory requirement to develop regulations for pesticide container design and residue removal is implemented. Together with the requirements for containment of large pesticide tanks, the container requirements for design and residue removal are essential to ensure the safe use, reuse and refill of containers as required by FIFRA section 19.

2(a)(i). Container. The container design and residue removal regulations are contained in Title 40 of the Code of Federal Regulations (CFR) Parts 156 and 165.

The container design and residue removal standards are intended to protect human health during container handling, refilling, storage, use, reuse, disposal and recycling. The standards include design and construction requirements to ensure that containers are durable and that breakage and leakage will not occur during these operations. The standards adopt and refer to certain Department of Transportation (DOT) standards regarding container integrity and marking. There are also

requirements to include specific instructions on labels regarding residue removal procedures, and specific procedures for refilling refillable containers for sale or distribution. The standards are also intended to promote recycling and the use of refillable containers so that the number of pesticide containers in the waste stream will be reduced.

2(a)(ii). Containment. The containment structure regulations are contained in 40 CFR Part 165.

The containment standards are intended to prevent pesticide contamination of soil, ground water and surface water at specified sites where pesticides are stored in refillable bulk containers and where container refilling operations occur. There are a number of potential sources of pesticide spills at refilling operations and bulk pesticide handling facilities ranging from small leaks to container failures. In many cases, environmental contamination may be caused by chronic small leaks of concentrated pesticides from containers and appurtenances (e.g., hoses, pipes, valves, pumps) and from improper management of container rinsates or equipment wash water. Larger releases occur less frequently but can result in significant environmental contamination. Major spills can result from bulk container failure, operator error and vandalism. Facilities are required to maintain specific records so that the Agency can verify compliance.

2(b). Practical Utility/Users of the Data

EPA or its representative (i.e., the states) will use records that are required to be maintained to verify compliance with the regulations. Although records maintained under the regulations are subject to call-in by EPA, the Agency does not expect to conduct routine call-ins. Instead, the records will be reviewed during routine establishment inspections. These inspections are generally conducted by the states, which enforce FIFRA regulations through cooperative agreements with EPA. In addition, the requirement to keep records should foster regulatory compliance because facilities know they could be inspected and would need to furnish the records. Improved compliance with these regulations will reduce risk to human health and the environment by decreasing the likelihood of pesticide spills from containers and releases from containment structures.

2(b)(i). Container. EPA will use the records of test data and other information collected or submitted under the pesticide container design and residue removal regulations to assess compliance with the regulations and to evaluate their effectiveness.

The data will be used by the Registration Division, the Antimicrobial Division, the Biopesticides and Pollution Prevention Division and the Field and External Affairs Division of OPP, as well as the Office of Compliance and the Office of Civil Enforcement in EPA's Office of Enforcement and Compliance Assurance. The specific users within the divisions include chemists, economists, and product and project managers. The data may also be used by EPA Regions and state enforcement officials.

2(b)(ii). Containment. Records of the inspection and maintenance of containment structures and stationary bulk agricultural pesticide containers will assist EPA, states or political subdivisions duly designated by EPA to assess the integrity of bulk containers and containment structures.

Records documenting the duration over which a pesticide remains in a bulk container not protected by secondary containment at the same location will allow EPA or its representatives to determine whether the bulk container has exceeded the 30-day residence criterion which triggers requirements for secondary containment of stationary bulk containers.

Records of the construction date of the secondary containment structure will allow EPA or its representatives to determine whether the structure must comply with the standards for existing structures or for new structures (according to the definitions of existing and new in the final rule).

3. Non Duplication, Consultations, and Other Collection Criteria

3(a). Non duplication

Duplication is not an issue because these records are generally unique to the requirements of the federal pesticide law (FIFRA) and to specific pesticide products. EPA is the primary Federal agency that regulates pesticide chemicals, pesticide containers and disposal. To the extent that companies may already retain these records as part of its management practices, any potential duplication will facilitate their compliance with the regulation. Therefore, there is no duplication of effort.

In addition, EPA maintains files on all pesticide chemicals, as well as correspondence and information/data submitted. These files are referenced to determine whether the necessary data are already on hand, thereby eliminating duplicative data requests. The list of data submitters that EPA publishes enables the industry to act cooperatively in the development and/or use of data. Further, EPA allows cost-sharing agreements among manufacturers of specific pesticide chemicals in order to minimize the duplication of laboratory tests conducted for this program.

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

Pursuant to 5 CFR 1320.8(d) in proposing to renew this ICR, EPA published a notice in the Federal Register (81 FR186) on September 26, 2016 that provided a 60-day public comment period. No comments were received. This notice allows an additional 30 days for public comments. The materials related to the ICR may be accessed in the public docket as described in section 6(e) of this supporting statement.

3(c) Consultations

In addition to the public notice that EPA published in the Federal Register concerning the extension of this ICR, the Agency consulted with stakeholders who actively interact with the Agency through the use of this collection instrument. EPA staff contacted three relevant stakeholders and received two responses. EPA asked for their

assessment of the regulatory burden and cost estimates expressed by the Agency in this ICR, the clarity of instructions for respondents, the method and frequency of collection, etc. The respondents generally agreed with assumptions about labor rates and capital costs. One respondent essentially agreed with the burden estimates. Another respondent thought the burden estimates were too low, did not provide alternative estimates, and suggested the burden hour estimates were more appropriate for each product refilled, rather than the total burden. EPA agrees that the time an individual facility spends on these activities depends on how many pesticide products it repackages, in addition to other variables, such as how many customers it has and how much product is repackaged. However, EPA believes the estimates in the ICR are reasonable as an average burden per response across all respondents. The ICR assumes that all 16,795 agricultural retailers estimated in the 2006 Economic Analysis of the final container-containment regulations repackage pesticides and therefore incur the associated burdens and costs. Information from the American Agronomic Stewardship Alliance (AASA) indicates that there are fewer than 4,700 retailers who actually repackage pesticides. While the 7.5 hours may be an underestimate for retailers who repackage multiple pesticides, it is an overestimate for over 10,000 retailers who do not repackage at all. In the absence of specific data about how many pesticide products are repackaged by the approximately 4,700 retailers who repackage pesticides, EPA believes the current estimates are reasonable.

The consultation responses stated that the instructions are clear, and had no suggestion for changing the collection methodology or frequency, although one respondent suggested that some small businesses do not know where or how to find regulatory information and that there are some isolated incidents where it is difficult to get clarification. When the container-containment regulations were being phased in from 2006 to 2011, EPA conducted extensive outreach with national and state industry associations (registrants and retailers). This developed a wide reservoir of knowledge about the rule and a national network, where state and national associations know who to contact at EPA if they cannot provide the information themselves. Additionally, knowledgeable inspectors from the AASA inspect repackagers every three years on behalf of the registrants of the pesticide products. So EPA believes there are industry-based resources available for small businesses if they do not want to contact state or federal regulators themselves. The full consultation responses from the two entities and the questions asked are in Attachment H.

3(d). Effects of Less Frequent Collection

Not applicable. There is no collection activity. Records are generated when certain activities take place, such as repackaging pesticide into refillable container or inspecting a containment structure, and, if necessary, information will be collected periodically without a set schedule for compliance assurance.

3(e). General Guidelines

The only guideline established under the Paperwork Reduction Act (PRA) that may be exceeded in this collection is the time period for retaining records. The PRA guidelines specify that an agency must provide justification when requiring data other than health, medical or tax records be retained for more than three years. This is

discussed separately for container and containment below.

In addition, OMB's regulations require agencies to provide a statement indicating whether the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and an explanation of the decision (5 CFR 1320.5(a)(iii)(E)). EPA is leaving the selection of an information storage method for the records to the regulated community. The records must be made available on request by EPA or its representatives, and may be stored by means of automated, electronic, mechanical or other forms of information technology.

3(e)(i). Container. The following time periods for retaining records under the container design and residue removal regulations exceed the three-year guideline for record retention established under the PRA:

- 1) for nonrefillable containers, the registrant must maintain the required records for as long as the nonrefillable container is used with the pesticide product and for three years thereafter;
- 2) for refillable containers, each registrant who distributes or sells a pesticide product to a refiller for repackaging into refillable containers and each registrant who distributes or sells a pesticide product in refillable containers must maintain the required records for the current operating year and for three years thereafter;
- 3) for refillable containers, each refiller must maintain the required informational records for the current operating year and for three years thereafter. Information about actual repackaging must be recorded and kept for three years.

EPA is requiring that the information described above be retained by registrants or refillers for more than three years so that risks presented by pesticide containers can be thoroughly evaluated. Most container designs and many refillable containers are in use for more than three years. Further, even when a design is discontinued, containers of that design type may remain on the market for a number of years. Therefore, if EPA is to be able to thoroughly evaluate risks presented by pesticide containers it requires access to information on these containers designs and containers for as long as they remain in commerce.

3(e)(ii). Containment. The only guideline established under the PRA that is exceeded is the time period for retaining records relating to the construction date of the secondary containment structure. The regulations require that records documenting the construction date of the containment structure be retained as long as the containment structure is in use, and for three years thereafter. EPA requires retention of records documenting the age of the containment facility because the standards for structures built before promulgation of the containment rule differ slightly from the standards for structures built after promulgation of the rule. The two sets of standards apply to "existing" and "new" containment structures, terms which are defined in the rule. EPA is requiring that the records be retained for a period in excess of that proposed by PRA guidelines because containment structures are typically in use for much longer than three years.

3(f). Confidentiality

In some cases, the nonrefillable container records may contain confidential business information (CBI) as defined in FIFRA, but the other records do not contain CBI. If registrants submit CBI, such information is protected from disclosure under FIFRA Section 10. CBI data submitted to the EPA is handled strictly in accordance with the provisions of the FIFRA Confidential Business Information Security Manual.

Since EPA does not anticipate a collection or call-in of the retained records covered by this ICR, the information in those records would not leave the possession of the affected businesses.

3(g). Sensitive Questions

Not applicable. No information of a sensitive or private nature is requested in this information collection activity.

4. The Respondents and the Information Requested

4(a). Respondents/NAICS Codes

4(a)(i). Container. The regulated community affected by the container design and residue removal regulations includes businesses that formulate pesticide products or repackage pesticide products into refillable pesticide containers. The affected businesses are pesticide registrants, classified as North American Industry Classification System (NAICS) code 325320 - Pesticide and Other Agricultural Chemical Manufacturing, NAICS code 422910 - Farm Supplies Wholesalers, and Swimming Pool Applicators, classified under 3 different NAICS codes shown in the table below.

Potentially Affected Entities Under Container Regulations

Category	NAICS codes	Examples of potentially affected entities
Pesticide and other agricultural chemical manufacturing	325320	Pesticide registrants and businesses who formulate pesticide products or pesticide formulation intermediates.
Farm Supply Wholesalers	422910	All agricultural pesticide refillers whose principal business is retail sale of agricultural pesticides.
Other services to buildings & dwellings	561790	Swimming pool applicators.
All other miscellaneous store retailers (except tobacco stores)	453998	
All other special trade contractors	235990	

4(a)(ii). Containment. The regulated community affected by the containment regulations includes facilities that utilize one or more stationary bulk agricultural pesticide containers, mobile bulk agricultural pesticide containers that remain in one

location for at least 30 consecutive days, and containment pads for agrichemical pesticide dispensing areas. The majority of such facilities are classified in the farm supplies industry under one NAICS code, 422910 - Farm Supplies Wholesalers. NAICS 422910 includes both farm supply dealers and fertilizer dealers, (frequently referred to as agrichemical facilities or businesses), as well as other establishments engaged in the distribution of animal feeds, fertilizers, agricultural chemicals, pesticides, seeds and other farm supplies, except grains. Agricultural (aerial and ground) commercial applicators are also affected by the rule. Most of these industries are classified under NAICS 115112 - Soil Preparation, Planting and Cultivating. A number of agricultural services such as cultivation, pollination, detasseling of corn, hoeing, and pruning are included under this NAICS code.

Potentially Affected Entities Under Containment Regulations Category	NAICS codes	Examples of potentially affected entities
Farm Supplies Wholesalers	422910	All agricultural pesticide refillers whose principal business is retail sale of agricultural pesticides. Retail dealers that have bulk indoor or outdoor agricultural pesticide storage.
Independent commercial applicators	115112	Businesses that apply pesticides for compensation (by aerial and/or ground application) and that are not affiliated with agrichemical dealers.

4(b). Information Requested

4(b)(i). Data Items, Including Record Keeping Requirements

4(b)(i)(1). Container. In order to comply with the container design and residue removal requirements, respondents must undertake a number of recordkeeping activities (see tables below) for as long as the product is used and for three years after that. There are no reporting requirements for these regulations. However, the required records must be furnished and made available for inspection and copying upon request of EPA or its designee. In addition, registrants must inform EPA by notification of the label changes made to comply with the requirements of §156.

Recordkeeping Requirements for Nonrefillable and Refillable Containers

	Recordkeeping
Nonrefillable Containers	For as long as a nonrefillable container is used for the product and for 3 years thereafter: <ul style="list-style-type: none"> • The name and EPA registration number of the product. • A description of the container(s) used to distribute or sell the product. • Documentation of compliance with the closure requirement, if applicable. • Documentation of compliance with the dispensing requirement, if applicable. • Documentation of compliance with the residue removal requirement, if applicable.

<p>Repackaging</p>	<p>(a) These “informational” records must be kept for the current operating year and for three years after that (see the table below which identifies which businesses (registrants and/or refillers)) must comply:</p> <ul style="list-style-type: none"> • The written contract between the pesticide product’s registrant and the refiller for the pesticide product. • The written refilling residue removal procedure for the pesticide product. • The written description of acceptable containers for the pesticide product. <p>(b) Each time a registrant or refiller repackages pesticide product into a refillable container for distribution or sale, the following records must be generated and maintained for at least three years after the date of repackaging:</p> <ul style="list-style-type: none"> • The EPA registration number of the pesticide product distributed or sold in the refillable container. • The date of the repackaging. • The serial number or other identifying code of the refillable container. <p>As shown in the following table, antimicrobial products used in swimming pools and closely-related sites do not have to comply with these section (b) repackaging requirements.</p>
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Recordkeeping Requirements in the Repackaging Regulations

Product-Specific Record	Registrants who d/s directly in refillables ¹		Registrants who d/s to refillers for repackaging into refillables ¹	Refillers who aren’t registrants	
	Swim pool products ²	All other products	All products	Swim pool products ²	All other products
Informational Records					
Contract to repackage	No	No	Yes	Yes	Yes
Refilling residue removal procedure	Yes	Yes	Yes	Yes	Yes
Description of acceptable containers	Yes	Yes	Yes	Yes	Yes
Repackaging Records					
EPA registration # d/s in the container	No	Yes	No	No	Yes
Date of the repackaging	No	Yes	No	No	Yes
Serial # of the container	No	Yes	No	No	Yes

(1) “d/s” = distribute or sell. (2) Swim pool products = antimicrobial products used in swimming pools and closely related sites, that are subject to the pesticide container-related regulations.

Registrants may request waivers from or modifications to the nonrefillable container standards and to some of the refillable container standards.

There are no forms associated with this record keeping.

4(b)(i)(2). Containment.

Recordkeeping Requirements in the Containment Regulations

(a) Records of inspection and maintenance for each containment structure and for each stationary bulk container and its appurtenances must be kept for 3 years and must include the following information: (1) name of the person conducting the inspection or maintenance; (2) date the inspection or maintenance was conducted; (3) conditions noted; (4) specific maintenance performed.
(b) Records for any non-stationary dry or liquid bulk container that holds pesticide but is not protected by a secondary containment unit meeting the regulations must be kept for 3 years. Records on non-stationary bulk containers must include the time period that the container remains at the same location.
(c) Records of the construction date of the containment structure must be kept for as long as the pesticide containment structure is in use, and for 3 years afterwards.

There are no forms associated with this record keeping.

4(b)(ii). Respondent Activities for Regulated Entities.

4(b)(ii)(1). Container

Registrant Activities for Nonrefillable Containers

Respondent Paperwork Activity	Description
1. Read instructions	Read container regulations.
2. Plan activities	<ul style="list-style-type: none"> - Determine whether your products are subject to the container requirements, and if so which ones. - Determine what subset of the DOT regulations your products are subject to. - Develop plan to comply.
3. Gather information	<ul style="list-style-type: none"> - Determine if the containers holding your products dispense properly and have standard closures. - Develop residue removal data for dilutable pesticides in rigid containers. - Prepare waiver request (if desired).
4. Record information	<ul style="list-style-type: none"> - Develop and maintain a recordkeeping system of test data and documentation for container/formulation combinations. - Submit waiver request.
5. Store/maintain data	File and maintain copies of all container records for as long as the container is used and for 3 years afterwards.

Registrant Activities for Refillable Containers

Respondent Paperwork Activity	Description
1. Read instructions	Read container regulations.
2. Plan activities	<ul style="list-style-type: none"> - Determine what standards your refillable containers must meet. - Develop plan to comply.
3. Gather information	<ul style="list-style-type: none"> - Determine if your refillable containers meet the specified DOT regulations. - Determine if your refillable containers are marked with a serial number and have a one-way valve or tamper-evident device on each opening.
4. Store/maintain data	No refillable container records are required.

Registrant Activities for Distributing to Refillers for Repackaging

Respondent Paperwork Activity	Description
1. Read instructions	Read container regulations.
2. Plan activities	Develop plan to comply.
3. Record information	<ul style="list-style-type: none"> - Develop a recordkeeping system for contracts with refillers. - Develop residue removal procedures. - Develop a written list of acceptable containers.
4. Store/maintain data	Maintain records of contracts with refillers and "informational" records for current operating year and for 3 years afterwards.

Registrant Activities for Repackaging Directly into Refillable Containers

Respondent Paperwork Activity	Description
1. Read instructions	Read container regulations.
2. Plan activities	Develop plan to comply.
3. Gather information	Gather labeling, written residue removal procedures and description of acceptable containers at each producing establishment that fills refillable containers
4. Record information	- Record specified information each time product is repackaged.
5. Enforce & monitor	Inspect and relabel containers.
6. Store/maintain data	<ul style="list-style-type: none"> - File and maintain copies of all "informational" container records for the current operating year and for 3 years afterwards. - File and maintain copies of all repackaging records for 3 years (all products other than swimming pool chemicals).

Refiller (non-registrant) Activities for Repackaging

Respondent Paperwork Activity	Description
1. Read instructions	Read container regulations.
2. Plan activities	Determine what repackaging requirements you must comply with and plan compliance.
3. Gather information	Gather labeling, written residue removal procedures and description of acceptable containers.
4. Record information	<ul style="list-style-type: none"> - Develop and maintain a recordkeeping system for contracts with registrants who allow you to repack their pesticide for distribution and sale and all required container information. - Record specified information each time product is repackaged.
5. Enforce & monitor	Inspect and relabel containers.

6. Store/maintain data	<ul style="list-style-type: none"> - File and maintain copies of all "informational" container records for the current operating year and for 3 years afterwards. - Record and maintain repackaging records for 3 years.
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Swimming Pool Supply Company Activities for Repackaging

Respondent Paperwork Activity	Description
1. Read instructions	Read container regulations.
2. Plan activities	Determine what repackaging requirements you must comply with and plan compliance.
3. Gather information	Gather labeling, written residue removal procedures and description of acceptable containers.
4. Record information	Develop and maintain a recordkeeping system for contracts with registrants who allow you to repackage their pesticide for distribution and sale and all required container information. (No repackaging recordkeeping is required.)
5. Enforce & monitor	Inspect and relabel containers.
6. Store/maintain data	File and maintain copies of "informational" container records for the current operating year and for 3 years afterwards. (No repackaging recordkeeping is required.)

Respondent Activities for Labeling Requirements

All registrants are required to comply with the labeling requirements, and the Agency allowed label changes to be submitted by notification. Because the deadline for compliance with the container labeling requirements was August 16, 2011, there will not be any new notifications associated with these requirements. The required container instructions will be included in newly submitted labels, covered under the ICR for the registration of pesticides under FIFRA section 3.

4(b)(ii)(2). Containment - Respondent Activities for Regulated Entities

Respondent Paperwork Activity	Description
1. Read instructions	Read containment regulations.
2. Plan activities	Plan activities
3. Record information	<ul style="list-style-type: none"> - Inspect and maintain each containment structure and each stationary bulk container and its appurtenances monthly. Record the following information: (1) name of the person conducting the inspection or maintenance; (2) date the inspection or maintenance was conducted; (3) conditions noted; (4) specific maintenance performed. - Inspect and maintain each non-stationary bulk container and record the time period that it remains at the same location in the facility.

<p>4. Store/maintain data</p>	<ul style="list-style-type: none"> - File and maintain copies of all inspection and maintenance records for 3 years. - File and maintain data on time-in-location for all non-stationary bulk containers which are not protected by secondary containment for 3 years. - File and maintain documents proving the construction date of the facility (to demonstrate whether it is subject to the standards for new or existing structures) for as long as the structure is in use and for 3 years afterwards.
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5. The Information Collected - Agency Activities, Collection Methodology, and Information Management

5(a) EPA Activities.

EPA does not anticipate collecting or calling-in the records retained to comply with the container regulations. The data maintained by registrants, refillers and swimming pool applicators will be available for review by EPA or its designee to ensure compliance with the regulations and in the event that a problem arises with a particular type of container. However, EPA anticipates that there may be waiver requests from some or all of the container design and residue removal requirements.

EPA Activities - Containers

Agency Activity	Description
<p>1. Receive Waiver Requests and Inquiries</p>	<p>There are approximately 15,000 pesticide products registered by EPA, and waiver requests may be submitted for some products. Submissions will have to be screened for confidentiality and protected accordingly.</p>
<p>2. Plan activities</p>	<p>FEAD will coordinate with the 3 divisions who make registration decisions: RD, AD and BPPD to respond to waiver requests. Records of waivers will be maintained as usual by the registering divisions, and possibly in an additional database unique to container issues.</p>
<p>3. Record information</p>	<p>EPA will use existing databases to store and track incoming information.</p>
<p>4. Complete paperwork</p>	<p>FEAD and registering divisions will coordinate to prepare responses to waiver requests stating approval/disapproval with comments.</p>
<p>5. Monitor DOT regulatory actions and publish FRNs</p>	<p>FEAD will have to monitor FR Notices issued by DOT to determine if the DOT regulations referred to in the container rule have been changed, and if so, must publish an EPA FR notice informing the regulated community of any changes.</p>
<p>6. Store/maintain data</p>	<p>Store, file, and maintain copies of waiver requests and responses/authorizations.</p>

5(b). Collection Methodology and Management

EPA expects to receive and review waiver requests for new products as they are submitted. The correspondence may be submitted in printed or electronic format, including e-mail, according to the respondent's preference. As itemized in 5(a), EPA will receive and manage these waiver requests in accordance with its existing and

standard procedures for the receipt and management of information submitted to it under the pesticide laws.

5(c). Small Entity Flexibility

Small entities are generally subject to the same requirements as large entities. The information to be recorded is straightforward and can be maintained by facilities in the manner they see fit, as long as the records are available for review during routine establishment inspections by EPA or the states. The notifications and waiver requests involve the use of existing forms and processes, which reflect the consideration of small entity flexibility in their establishment. No new forms are being established for these regulations.

5(d). Collection Schedule

Not applicable. The activity is conducted only as needed by EPA or state inspections, or upon the determination of the respondent. There is no set schedule for the collection of this information.

6. Estimating the Burden and Cost of the Collection

6(a). Estimating Regulated Community Burden and Costs

The respondent burden reflected in this ICR is based on the two Economic Analyses (EAs) that were prepared for the final regulations. (See Attachments E and F). For ease in presentation, the burden and costs for the container design and residue removal requirements are discussed separately from those related to the containment requirements. After discussing the burden and costs separately for each, the burden and cost estimates are totaled in section 6(c) of this ICR.

The burden on the regulated community considered in this analysis is the administrative burden associated with the time spent to record and maintain the necessary records. There is no requirement to submit the records to the Agency. The burden also includes a review of the applicable requirements and a determination of how the regulations affect the respondent, which were expected to occur in the first year of compliance with the regulations, but that may occur when new pesticides are registered and as a periodic review of compliance.

6(a)(i). Container. The ICR estimates all recordkeeping and reporting burden and costs associated with the regulations. A separate analysis is provided below for each of the three regulated industries for the pesticide container regulations.

The labor rates used in the analysis are the standard rates used in EPA ICRs and include both fringe benefits and overhead. This ICR will use wage rates for an administrative labor category and a professional labor category. The current wage rates for registrants are \$42.97 for the administrative labor category and \$126.56 for managerial labor.

6(a)(i)(1). Container Requirements - Pesticide Registrants. There are three

separate sets of paperwork burden activities for pesticide registrants. Tables 6.1, 6.2, and 6.3 describe the estimated burden and costs associated with these activities.

For nonrefillable containers, the burden is associated with creating records documenting that new formulations and containers meet the requirements and submitting waiver requests. As with any change in labeling or registration requirements, a certain number of waiver requests is to be expected, and processing waivers is an ongoing activity. The Agency estimates that if a registrant wishes to submit an application for a waiver from some of the requirements of the rule, professional labor will be used. The burden for the application of a waiver is estimated to be the same in each year, which is likely an overestimate. It is estimated that one percent of pesticide registrants may apply for a waiver. To simplify the analysis, the burden and costs estimated for the application of a waiver are applied to the nonrefillable container burden and cost estimates (registrants can apply for a waiver for a subset of both nonrefillable and refillable requirements).

It is estimated that each respondent will spend three hours on the paperwork activities associated with new formulations and new nonrefillable containers (Table 6.1).¹ At a cost of \$42.97 per hour for the administrative labor, the cost, per respondent, is estimated to be \$129. In addition, it is estimated that 1% of the respondents will spend an additional four hours preparing and processing waivers. At costs of \$126.56 per hour for the professional labor associated with this activity, the cost per respondent is estimated to be \$506.

Table 6.1 Average Annual Burden Estimates per Registrant Respondent to Comply with the Requirements for Nonrefillable Containers

Activity	Ensuring that New Formulations and Containers Comply (All Registrants)		Preparing and Processing Waiver Requests (1% of Registrants)	
	Burden Hours (per Year)	Costs (\$ per Year)	Burden Hours (per Year)	Costs (\$ per Year)
	Administrative		Professional	
1. Read instructions	0	0	0.5	63
2. Plan activities	0	0	0.5	63
3. Gather information	1	43	2	253
4. Record information	1	43	0.5	63
5. Store/maintain data	1	43	0.5	63
Total Burden	3	129	4	506

Administrative labor costs \$42.97/hour, professional labor costs \$126.56/hour.

¹ The amount of time estimated for these activities depends on the size of the facility. For this analysis, since there are relatively more small pesticide registrants and agricultural pesticide refillers potentially impacted by the regulations than large registrant and agricultural pesticide refillers, estimates of burden are based on small facilities -

The total annual paperwork burden across all respondents, assuming that 1,804² registrants will be affected by the requirement, is 5,484 hours (Table 6.1), with a total annual cost estimated to be \$241,686.

ANNUAL BURDEN:

(3 hours per registrant X 1,804 registrants) + (4 hours per registrant X (1,804 registrants X 1% of registrants)) = 5,412 hours + 72 hours = 5,484 hours per year

ANNUAL COST:

(3 hours per registrant X \$42.97/hour X 1,804 registrants) + (4 hours per registrant X \$126.56/hour X (1,804 registrant X 1% of registrants)) = \$232,554 + \$9,133 = \$241,686

For the paperwork burden activities associated with registrants distributing pesticide to refillers for repackaging into refillable containers, it is estimated that 2 hours will be spent per registrant respondent (Table 6.2). These burden estimates include both the activities associated with refillable containers and for registrants distributing pesticides to refillers for repackaging. At a cost of \$42.97 per hour for the administrative labor, the estimated cost now that the contracts are in place, assuming two hours of time spent on information collection, per respondent, is estimated to be \$86. The total annual paperwork burden across all respondents, assuming that 1,804 registrants will be affected by the requirement, is 3,608 hours (Table 6.2).

Table 6.2 Average Annual Burden Estimates per Registrant Respondent to Comply with the Requirements for Refillable Containers and Distributing Pesticide to Refillers for Repackaging

Activity	Burden Hours (per Year)		Costs (\$ per Year) (\$42.97 per hour)
	Administrative	Total Hours	
1. Read instructions	0	0	0
2. Plan activities	0	0	0
3. Record information	1	1	43
4. Store/maintain data	1	1	43
Total Burden	2	2	86

ANNUAL BURDEN:

2 hours per registrant X 1,804 registrants = 3,608 hours per year

ANNUAL COST:

2 hours per registrant X \$42.97/hour X 1,804 registrants = \$155,036

It is estimated that 7.5 administrative hours, at a cost of \$42.97 per hour will be spent for each registrant for the paperwork activities associated with repackaging directly into refillable containers (Table 6.3). The total annual paperwork burden across all respondents, assuming that 1,804 registrants will be affected by the requirement, is 13,530 hours (Table 6.3).

² Estimate of the number of pesticide registrants estimated to be impacted by the rulemaking. See the Economic Analysis of the Pesticide Container Design and Residue Removal Standards.

Table 6.3 Average Annual Burden Estimates per Registrant Respondent for Registrants that Repackage Directly into Refillable Containers

Activity	Burden Hours (per Year)		Costs (\$ per Year) (\$42.97 per hour)
	Administrative	Total Hours	
1. Read instructions	0.5	0.5	21
2. Plan activities	0.5	0.5	21
2. Gather Information	1.0	1.0	43
3. Record information	1.0	1.0	43
4. Enforce & Monitor	4.0	4.0	172
5. Store/maintain data	0.5	0.5	21
Total Burden	7.5	7.5	322

ANNUAL BURDEN:

7.5 hours per registrant³ X 1,804 facilities = 13,530 hours per year

ANNUAL COST:

7.5 hours per registrant X \$42.97/hour X 1,804 facilities = \$581,384

The estimated annual burden per pesticide registrant respondent associated with nonrefillable pesticide container record keeping activities is 3 hours per year, although 1% of registrants have an additional 4 hours of burden associated with preparing and processing waiver requests (See Table 6.1). The estimated annual burden per registrant associated with distributing pesticides to refillers for repackaging and distributing pesticide directly in refillable containers is 2 hours per year and 7.5 per year (Tables 6.2 and 6.3), respectively. Based on an estimated 1,804 pesticide registrants affected by the requirement per year, the total annual burden is estimated to be 22,622 hours per year. (See Tables 6.1, 6.2 and 6.3)

TOTAL ANNUAL BURDEN:

5,484 + 3,608 + 13,530 = 22,622 hours per year

The estimated annual cost per pesticide registrant respondent associated with nonrefillable pesticide containers record keeping activities is \$134 per year. The estimated annual cost per registrant associated with refillable containers and repackaging is \$86 and \$322, respectively. Based on an estimated 1,804 pesticide registrants affected by the requirement per year, the total annual cost is estimated to be \$978,106. (See Tables 6.1, 6.2 and 6.3)

TOTAL ANNUAL COSTS:

\$241,686 + \$155,036 + \$581,384 = \$978,106

6(a)(i)(2). Container Requirements - Agricultural Pesticide Refillers. The paperwork burden activities that affect agricultural pesticide refillers are associated with the repackaging of agricultural pesticides directly into refillable containers. It is

³ This requirement actually applies to each producing establishment, and here assumes that the average registrant has one facility that refills containers

estimated that 7.5 hours will be spent per year for the paperwork activities associated with repackaging agricultural pesticides directly into refillable containers (Table 6.4).

Table 6.4 Average Annual Burden Estimates per Agricultural Pesticide Refiller Respondent for Repackaging Directly into Refillable Containers

Activity	Burden Hours (per Year)		Costs (\$ per Year) (\$42.97 per hour)
	Administrative	Total Hours	
1. Read instructions	0.5	0.5	21
2. Plan activities	0.5	0.5	21
3. Gather Information	1.0	1.0	43
4. Record information	1.0	1.0	43
5. Enforce and Monitor	4.0	4.0	172
6. Store/maintain data	0.5	0.5	21
Total Burden	7.5	7.5	322

The estimated annual burden per agricultural pesticide refiller associated with record keeping activities is 7.5 hours per year. Based on an estimated 16,795 agricultural pesticide refillers affected by the requirements per year, the total annual burden is estimated to be 125,963 hours per year. The estimated annual cost per agricultural pesticide refiller associated with record keeping is \$322. Assuming 16,795 agricultural pesticide refillers and a labor cost of 42.97, the estimated total annual cost is \$5,412,609 per year (See Table 6.4).

ANNUAL BURDEN:

7.5 hours per refiller X 16,795 refillers = 125,963 hours per year

ANNUAL COST:

7.5 hours per refiller X \$42.97/hour X 16,795 refillers = \$5,412,609 per year

6(a)(i)(3). Container Requirements - Swimming Pool Supply Companies.

The paperwork activities that affect swimming pool supply companies are associated with repackaging antimicrobial pesticides into refillable containers. It is estimated that 7.5 hours will be spent per year for the paperwork activities associated with refillable containers (Table 6.5).

Table 6.5 Average Annual Burden Estimates per Swimming Pool Supply Company for Repackaging Directly into Refillable Containers

Activity	Burden Hours (per Year)		Costs (\$ per Year) (\$42.97 per hour)
	Administrative	Total Hours	
1. Read instructions	0.5	0.5	21
2. Plan activities	0.5	0.5	21
3. Gather Information	1.0	1.0	43
4. Record information	1.0	1.0	43
5. Enforce and Monitor	4.0	4.0	172

6. Store/maintain data	0.5	0.5	21
Total Burden	7.5	7.5	322

Based on an estimated 322 swimming pool supply companies affected by the requirements per year, the total annual burden is estimated to be 2,415 hours per year. At a cost of \$42.97 per hour for the administrative labor, the estimated cost per respondent is \$322 per year. (Table 6.5) Assuming 322 swimming pool supply companies, the estimated total annual cost per year is \$103,377.

ANNUAL BURDEN:

7.5 hours per company x 322 companies = 2,415 hours per year

ANNUAL COST:

7.5 hours per company X \$42.97/hour X 322 companies = \$103,377

6(a)(i)(4). Total Respondent Burden and Costs for the Container Regulations. The bottom line estimates for the container regulations represent the total annual burden and costs estimates per year. Table 6.6 provides the total estimated annualized burden and costs for respondents, as well as the total estimated annualized burden and costs for the Agency:

Table 6.6 Annual Bottom Line Burden and Costs for Container Regulations

Collection Activity	Annual Burden	
	Hours	Cost
Respondent Burden and Costs		
Registrants (see 6(a)(i)(1))	22,622	\$978,106
Ag Refillers (see 6(a)(i)(2))	125,963	\$5,412,609
Swimming Pool Suppliers (see 6(a)(i)(3))	2,415	\$103,773
Total:	151,000	\$6,494,488
Annual Agency Burden and Costs		
Agency Total (See Table 6.8)	232	\$15,062

6(a)(ii). Containment.

An administrative labor category was assigned with an average rate of \$42.97 per hour to inspect containment structures and to maintain records of inspection and maintenance. The main on-going activities include inspecting facilities monthly and recording the required information, which is estimated to take an average of 15 minutes per month, or three hours a year. The activity associated with storing and maintaining this information and the records of the age of the containment structure and any large mobile containers (if applicable) is estimated to take an average of five minutes per month, or one hour per year, for a total burden of 4 hours per year (see Table. 6.7).

Table 6.7 Annual Average Burden Estimates per Respondent to Comply with the Containment Regulations

Activity	Burden Hours (per Year)		Costs (\$ per Year) (\$42.97 per hour)
	Administrative	Total Hours	
1. Read instructions	0	0	0

2. Plan activities	0	0	0
3. Record information	3	3	129
4. Monitor & enforce	1	1	43
Total Burden	4	4	172

At a cost of \$42.97 per hour for administrative labor, the estimated cost per year for four hours of time spent on the information collection, per respondent, is \$172. The total annual paperwork burden across all respondents, assuming that 4,665⁴ facilities will be affected by the requirement, is 18,660 hours per year. Based on an estimated 4,665 facilities affected by the requirement per year, the total annual cost is estimated to be \$801,820 per year.

ANNUAL BURDEN:

4 hours per facility x 4,665 facilities = 18,660 hours per year

ANNUAL COSTS:

4 hours X \$42.97/hour X 4,665 facilities = \$801,808

These figures represent the total industry burden and cost for the paperwork activities under the containment structures regulations.

6(b). Estimating EPA Burden and Cost

EPA does not anticipate collecting or calling-in the records retained to comply with the container regulations. The data maintained by registrants, refillers and swimming pool applicators will be available for review by EPA or its designee to ensure compliance with the regulations and in the event that a problem arises with a particular type of container. However, EPA anticipates that, as with most registration requirements and label amendments, there may be waiver requests from some of the container requirements. There are no regular burden impacts to EPA in the containment regulations. Agency labor rates are based on Office of Personnel Management salary tables for federal employees and include benefits and overhead costs, as well as locality pay for the Washington, DC-Baltimore area. For management, the wage rate is \$124.89 per hour; for technical workers, the wage rate is \$81.37; for clerical workers, the wage rate is \$46.41. Estimates for the Agency's burden and costs are provided below.

Table 6.8 Average Annual EPA Burden Estimates for EPA to Implement the Container and Containment Regulations

	BURDEN HOURS (per year)	COSTS (\$ per year)
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⁴ Estimate of the number of bulk pesticide containment facilities estimated to be impacted by the rulemaking. See the Economic Analysis of the Bulk Pesticide Containment Structures.

COLLECTION ACTIVITIES	Management \$125/hr.	Technical \$81/hr.	Clerical \$46/hr.	Total Hours	Total Costs
1) Receive notifications, waiver requests and inquiries	2	90	10	112	8,037
2) Plan activities	5	20	5	30	2,484
3) Record information	0	20	10	30	2,092
4) Complete paperwork	0	30	15	45	3,137
5) Monitor DOT regulatory actions and publish FRNs	0	10	5	15	1,046
6) Store/maintain data	0	0	10	10	464
TOTAL BURDEN	7	170	55	232	17,260

(a) Management - 7 hours X \$125	=	\$874
(b) Technical - 170 hours x \$81	=	\$13,833
(c) Clerical - 55 hours x \$46	=	<u>\$2,553</u>
TOTAL		\$17,260

6(c). Bottom Line Burden Hours and Costs for this ICR – Combined Container and Containment Regulations

The total combined bottom line burden for both the container design and residue removal regulations and the containment structure regulations are discussed in this section. The Agency's estimates are detailed earlier in Section 6, and are briefly summarized as follows:

- *Estimated total number of potential respondents:* 23,586. This includes 1,804 registrants + 16,795 agricultural pesticide refillers + 322 swimming pool supply companies + 4,665 facilities requiring pesticide containment structures.
- *Frequency of response:* On occasion. There is no regular reporting involved. This ICR only involves recordkeeping requirements.
- *Estimated total average number of responses for each respondent:* 1.
- *Estimated total respondent annual burden hours:* 169,660 hours (151,000 for the container regulations and + 18,660 for the containment regulations).
- *Estimated total respondent annual costs:* \$7,296,308. This includes an estimated burden cost of \$6,494,488 for container regulations and an estimated cost of \$801,820 for containment regulations for maintenance and operational costs.

Table 6.9 Annual Bottom Line Hours and Costs / Master Table

Collection Activity	Annual Burden	
	Hours	Cost
<i>Respondent (Regulated Community) Burden and Costs</i>		
Container Design and Residue Removal (Table 6.6)	151,000	\$6,494,488
Containment Structures (Table 6.7):	18,660	\$801,820
Total Respondent Burden and Cost for Container and Containment Regulations Combined	169,660	\$7,296,308
<i>Annual Agency Burden and Costs – Container Design and Residue Removal</i>		
Container Design and Residue Removal (See Table 6.8)	232	\$17,260
Containment Structures (See Subsection 6(b))	0	0
Total Agency Burden and Cost for Container and Containment Regulations Combined	232	\$17,260

6(d). Reasons for Change in Burden for this ICR

There were no changes to the overall estimated burden (hours) for this ICR. The changes in cost reflect updated wage rates.

In addition, several minor editorial corrections were made to improve the clarity and accuracy of the ICR.

6(e). Burden Statement for this ICR

The total estimated annual respondent paperwork burden to comply with the information collection activity is 169,660 hours. The respondent burden includes 151,000 hours associated with the container design and residue removal regulations and 18,660 hours associated with the containment structure regulations. The respondent burden hours for the container regulations represents an estimated per respondent burden of 12.5 hours per Pesticide Registrant, 7.5 hours per Agricultural Refiller and 7.5 hours per Swimming Pool Supplier. The respondent burden hours for containment regulations represents an estimated burden of 4 hours per respondent.

As defined by the PRA and 5 CFR 1320.3(b), “burden” means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The OMB control numbers for certain EPA regulations codified in Chapter 40 of the CFR, after appearing in the preamble of the final rule, are listed in 40 CFR part 9, displayed either by publication in the Federal Register or by other appropriate means, such as on the related collection instrument or form, if applicable. For this ICR activity,

in addition to displaying the applicable OMB control number in the final rule, the Agency has amended the table in 40 CFR §9.1 to list the OMB control number assigned to this ICR activity.

The Agency has established a public docket for this ICR under Docket ID No. EPA-HQ-OPP-2016-0446, which is available for on-line viewing at www.regulations.gov, or in person viewing at the Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001. 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.

Comments may be submitted to EPA electronically through <http://www.regulations.gov> or by mail addressed to Director, Collection Strategies Division, U.S. Environmental Protection Agency (28221T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. You can also send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503, Attention: Desk Office for EPA. Include docket ID No. EPA-HQ-OPP-2016-0446 and OMB control number 2070-0133 in any correspondence.

List of Attachments for this Supporting Statement

- Attachment A** **FIFRA Sections 3, 8, 19 and 25**
This attachment is available as part of the electronic docket EPA HQ-OPP-2016-0446 and electronically at <http://www.epa.gov/opp00001/regulating/fifra.pdf>.
- Attachment B** **Pesticide Management and Disposal; Standards for Pesticide Containers and Containment; Final Rule (August 16, 2006)**
This attachment is available as part of the electronic docket EPAHQ-OPP-2016-0446.
- Attachment C** **Pesticide Management and Disposal; Standards for Pesticide Containers and Containment [Amendments]; Final Rule (October 29, 2008)**
This attachment is available as part of the electronic docket EPAHQ-OPP-2016-0446.
- Attachment D** **Display Related to OMB Control #2070-0133 - *Listings of Related Regulations in 40 CFR 9.1.***
This attachment is available as part of the electronic docket EPAHQ-OPP-2016-0446.
- Attachment E** **Economic Analysis of the Bulk Pesticide Container Design and Residue Removal Standards**
This attachment is available as part of the electronic docket EPAHQ-OPP-2016-0446.
- Attachment F** **Economic Analysis of the Bulk Pesticides Containment Structures Final Regulation**
This attachment is available as part of the electronic docket EPAHQ-OPP-2016-0446.
- Attachment G** **Work Sheets to Calculate Industry and EPA Labor Costs**
This attachment is available as part of the electronic docket EPAHQ-OPP-2016-0446.
- Attachment H** **Record of Consultations and Responses**
This attachment is available as part of the electronic docket EPAHQ-OPP-2016-0446.