

**SUPPORTING STATEMENT FOR
EPA INFORMATION COLLECTION REQUEST NUMBER 1189.19
REVISIONS TO THE RCRA DEFINITION OF SOLID WASTE
(PROPOSED RULE)**

October 2, 2006

Office of Solid Waste
United States Environmental Protection Agency
Washington, D.C. 20460

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1. IDENTIFICATION OF THE INFORMATION COLLECTION

1(a) Title and Number of the Information Collection

This Information Collection Request (ICR) is entitled “Revisions to the RCRA Definition of Solid Waste,” EPA ICR Number 1189.19, OMB Control Number 2050-0053.

1(b) Short Characterization

The U.S. Environmental Protection Agency (EPA) is proposing revisions to the definition of solid waste that would exclude certain hazardous secondary materials from regulation under Subtitle C of the Resource Conservation and Recovery Act (RCRA), as amended. Specifically, EPA is proposing to amend 40 CFR Part 261 to provide that hazardous secondary materials reclaimed under the control of the generator are not solid wastes if specified conditions are met. EPA also is proposing that hazardous secondary materials that are generated and then transferred to another person for the purpose of reclamation are not solid waste, provided that specified conditions are met. In addition, EPA is proposing requirements for the export of excluded materials, as specified. Finally, EPA is proposing other amendments to address particular issues (e.g., it is proposing standards in Part 260 to enable a person to apply to EPA for a formal determination that a material is clearly not discarded and therefore not a solid waste). The purpose of the proposed amendments is to encourage recycling and resource conservation and to respond to several court decisions concerning the definition of solid waste. The proposed action is a supplement to the Agency’s proposal of October 28, 2003 (68 FR 61558).

In Sections 1 through 5 of this document, EPA presents a comprehensive description of the new information collection requirements of the proposed rule. In Section 6, EPA estimates the total annual hour and cost burden to respondents associated with these new paperwork requirements. In addition, EPA estimates the total annual burden savings to generators and subsequent handlers for no longer being subject to the existing RCRA information collection requirements for the excluded materials.

In the following paragraphs, EPA describes the new information collection requirements in the proposed rule.

PETITIONS FOR NON-WASTE DETERMINATIONS

40 CFR 260.34, as proposed, provides that an applicant may apply to EPA for a formal determination that a material is clearly not discarded and therefore not a solid waste. The determinations will be based on the criteria contained in either paragraph 260.34(b) or (c). If a determination is denied, the material might still be eligible for a solid waste variance or exclusion. Proposed section 260.34(b) provides that EPA may grant a non-waste determination for those materials which are recycled in a continuous industrial process if the applicant demonstrates that the materials are an essential part of the production process and are not

discarded. The determination will be based on the criteria specified at paragraph 260.34(b)(1)-(4). Proposed section 260.34(c) provides that EPA may grant a non-waste determination for those materials which are indistinguishable in all relevant aspects from a product or intermediate if the applicant demonstrates that the materials are comparable to a product or intermediate and are not discarded. The determination will be based on the criteria specified at paragraph 260.34(c)(1)-(4).

EXCLUSIONS FROM THE DEFINITION OF SOLID WASTE

Proposed Exclusion at 40 CFR 261.2(a)(2)(ii)

40 CFR 261.2(a)(2)(ii), as proposed, provides that a material is not discarded if it is generated and reclaimed within the United States or its territories, provided that the conditions of section 261.2(a)(2)(ii)(A)-(G) are met. Section 261.2(a)(2)(ii)(A) provides that the material must be contained in a non-land-based unit (e.g., a tank, container, or drip pad as defined in section 260.10, or in a building with a roof, floor, and walls). Section 261.2(a)(2)(ii)(B)-(D) provides that the material must be generated and reclaimed at the generating facility (261.2(a)(2)(ii)(B)); **or** generated and reclaimed by the same **Aperson@** as defined in section 260.10, if the generator makes a certification as specified (261.2(a)(2)(ii)(C)); **or** generated and reclaimed pursuant to a written contract between a tolling contractor and tolling manufacturer, if the tolling contractor or manufacturer retains ownership of, and liability for, the recyclable secondary material that is generated during the course of the production of the product (261.2(a)(2)(ii)(D)). Section 261.2(a)(2)(ii)(E) provides that the material must not be speculatively accumulated, as defined in section 261.1(c)(8). Section 261.2(a)(2)(ii)(F) provides that generators of hazardous secondary materials that have previously been subject to regulation as hazardous wastes, but which will be excluded from regulation under this paragraph, must send a one-time notification to the Regional Administrator. A revised notice must be sent to the Regional Administrator in the event of a change to the name, address or EPA ID number of the generator, or a change in the type of material generated. Section 261.2(a)(2)(ii)(G) provides that, if reclamation takes place at a facility other than the generating facility, the reclaimer must send a one-time notification to the Regional Administrator. A revised notice must be sent to the Regional Administrator in the event of a change to the name, address or EPA ID number of the reclamation facility, or a change in the type of material reclaimed.

Proposed Exclusion at 40 CFR 261.4(a)(23)

40 CFR 261.4(a)(23), as proposed, provides that hazardous materials generated and reclaimed within the United States or its territories are not solid wastes if they meet the conditions of section 261.4(a)(23)(i)-(vii). Section 261.4(a)(23)(i) provides that, if the materials are managed in a land-based unit as defined in section 260.10, the materials must be contained. Section 261.4(a)(23)(ii)-(iv) provides that the materials must be generated and reclaimed at the generating facility (261.4(a)(23)(ii)); **or** generated and reclaimed by the same person as defined in section 260.10, if the generator makes a certification as specified (261.4(a)(23)(iii)); **or** generated and reclaimed pursuant to a written contract between a tolling contractor and tolling manufacturer, if the tolling contractor or manufacturer retains ownership of, and liability for, the

recyclable secondary materials that are generated during the course of the production of the product (261.4(a)(23)(iv)). Section 261.4(a)(23)(v) provides that the materials must not be speculatively accumulated, as defined in section 261.1(c)(8). Section 261.4(a)(23)(vi) provides that generators of hazardous secondary materials that have previously been subject to regulation as hazardous wastes, but which will be excluded from regulation under this paragraph, must send a one-time notification to the Regional Administrator. A revised notice must be sent to the Regional Administrator in the event of a change to the name, address or EPA ID number of the generator, or a change in the type of material generated. Section 261.4(a)(23)(vii) provides that, if reclamation under section 261.4(a)(23)(ii) or (iii) takes place at a facility other than the generating facility, the reclaimer must send a one-time notification to the Regional Administrator. A revised notice must be sent to the Regional Administrator in the event of a change to the name, address or EPA ID number of the reclamation facility, or a change in the type of material reclaimed.

Proposed Exclusion at 40 CFR 261.4(a)(24)

40 CFR 261.4(a)(24), as proposed, provides that hazardous secondary materials that are generated and then transferred to another person for the purpose of reclamation are not solid wastes, provided that the requirements of section 261.4(a)(24)(i)-(v) are met. Section 261.4(a)(24)(i) provides that the materials must not be speculatively accumulated, as defined in section 261.1(c)(8). Section 261.4(a)(24)(ii) provides that the materials must not be handled by any entity or facility other than the generator, the transporter, or the person who reclaims the material. Section 261.4(a)(24)(iii) provides that both the generator and the reclaimer must send a one-time notice to the Regional Administrator. A revised notice must be sent to the Regional Administrator in the event of a change to the name, address or EPA ID number of the generator or the reclamation facility.

Generators of hazardous secondary materials that are eligible for this exclusion must satisfy the conditions in section 261.4(a)(24)(iv)(A)-(C). Section 261.4(a)(24)(iv)(A) provides that the generator must maintain at the generating facility for no less than three years records of all off-site shipments of excluded hazardous secondary materials. Section 261.4(a)(24)(iv)(B) provides that, prior to arranging for transport of excluded materials to a reclamation facility that is not operating under a RCRA Part B permit, the generator must make reasonable efforts to ensure that the materials will be recycled legitimately (as determined according to the provisions of section 261.2(g)), and otherwise managed in a manner that is protective of human health and the environment. Section 261.4(a)(24)(iv)(C) provides that the generator must maintain at the generating facility for no less than three years records documenting the reasonable efforts made in accordance with the condition specified in paragraph (B) of this section. For each reclamation facility to which the generator has transferred excluded materials, such documentation must include a certification signed and dated by a responsible corporate official of the generator.

Reclaimers of hazardous secondary materials excluded from regulation under this exclusion must satisfy the conditions in section 261.4(a)(24)(v)(A)-(D). Section 261.4(a)(24)(v)(A) provides that the reclaimer must maintain at the reclamation facility for no less than three years records of all shipments of excluded hazardous secondary materials that were received at

the facility. Section 261.4(a)(24)(v)(B) provides that the reclaimer must store excluded hazardous secondary materials in the same manner that analogous raw materials are stored, except that if analogous raw materials are stored in land-based units as defined in section 260.10, the units must be contained. Section 261.4(a)(24)(v)(C) provides that any residuals that are generated from reclamation processes must be managed as specified (e.g., in a manner that is protective of human health and the environment). Section 261.4(a)(24)(v)(D) provides that the reclaimer must comply with the financial requirements of existing 40 CFR Part 264, Subpart H.

Proposed Export Requirements at 40 CFR 261.4(a)(25)

40 CFR 261.4(a)(25), as proposed, provides that exporters of hazardous secondary materials that are recycled under section 261.4(a)(24) must also comply with the requirements of 261.4(a)(25)(i) through (ix). Section 261.4(a)(25)(i) requires the exporter to notify EPA of an intended export before the hazardous secondary materials are scheduled to leave the United States. Section 261.4(a)(25)(ii) provides the address for submittal of the notice. Section 261.4(a)(25)(iii) provides that, upon request by EPA, the exporter shall furnish to EPA any additional information which a receiving country requests in order to respond to a notification. Section 261.4(a)(25)(iv) and (v) set forth procedures and requirements for the review and consent of the export. Section 261.4(a)(25)(vi) provides that, when the conditions specified on the original notification change, the exporter must provide EPA with a written renotification of the change, except for changes to the telephone number in paragraph (a)(5)(i)(A) of this section and decreases in the quantity indicated pursuant to paragraph (a)(5)(i)(C) of this section. Section 261.4(a)(25)(vii) requires a copy of the Acknowledgment of Consent to Export to accompany the shipment. Section 261.4(a)(25)(viii) provides that, if a shipment cannot be delivered for any reason to the recycler or the alternate recycler, the exporter must renotify EPA of a change in the conditions of the original notification to allow shipment to a new recycler in accordance with paragraph (a)(5)(vi) of this section and obtain another Acknowledgment of Consent to Export. Section 261.4(a)(25)(ix) requires exporters to keep copies of notifications and Acknowledgments of Consent to Export for a period of three years following receipt of the Acknowledgment.

2. NEED FOR AND USE OF THE COLLECTION

2(a) Need and Authority for the Collection

The regulations are proposed under the authority of sections 2002, 3001, 3002, 3003, 3004, and 3017 of RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA).

PETITIONS FOR NON-WASTE DETERMINATIONS

The intent of the non-waste determination petition process is to provide petitioners with an administrative procedure for receiving a formal determination that their material is clearly not a solid waste. This process would be available in addition to the proposed solid waste exclusions. Facilities may choose to continue to self-implement the waste determination requirements of 40 CFR Part 261 and, for the vast majority of cases, self-implementation will still be the most appropriate approach. However, for cases where there is ambiguity about whether a secondary material is a solid waste, this process may be needed to provide regulatory certainty for both the facility and Agency.

EXCLUSIONS FROM THE DEFINITION OF SOLID WASTE

EPA is proposing conditional exclusions from the definition of solid waste for hazardous secondary materials as specified. Since there is some potential for mismanagement of these materials in the absence of any regulatory controls, the proposed exclusions specify certain conditions that must be satisfied by the generator facility and, if applicable, the reclaimer to whom the materials are transferred. EPA's assessment that conditions are needed for recycling of excluded material has been influenced by its analysis of recycling studies that EPA conducted (e.g., analyses of environmental problems associated with recycling of hazardous secondary materials). These studies are described in the preamble to the proposed rule and contained in the administrative record.

Proposed Exclusions at 40 CFR 261.2(a)(2)(ii) and 261.4(a)(23)

EPA is proposing the certification requirement for materials that are generated and reclaimed by the same person (e.g., 261.2(a)(2)(ii)(C)) because of existing complexities in corporate ownership and liability. The certification is needed to increase the company's awareness and accountability for ensuring that the generator and reclamation facilities are in fact under its ownership. The certification also may be needed by regulators (e.g., on-site inspectors) to verify compliance.

EPA is proposing the notification requirements for generators and reclaimers (e.g., 261.2(a)(2)(ii)(F) and (G)) to provide basic information to regulatory agencies about who would be managing hazardous secondary materials under the exclusion, and the types of materials that would be reclaimed. EPA believes its right to require such information is inherent in its

authority to determine whether a material is discarded. EPA considers this to be the minimum information needed to enable credible evaluation of the status of a material under RCRA.

Proposed Exclusion at 40 CFR 261.4(a)(24)

EPA is proposing the one-time notification requirement for generators and reclaimers (e.g., 261.4(a)(24)(iii)) to provide basic information to regulatory agencies about who would be managing hazardous secondary materials under the exclusion, and the types of materials that would be recycled. This information is needed to enable credible evaluation of the status of a material under RCRA.

EPA is proposing recordkeeping under 261.4(a)(24)(iv)(A) so that the generator can demonstrate to regulators (e.g., in an on-site inspection) that it is in compliance with the conditions (e.g., that its excluded material is being sent to the reclamation facility). The records enable regulators to evaluate the generator's compliance (e.g., a regulator can use the records to track shipments from generator to reclaimer).

The reasonable efforts required under 261.4(a)(24)(iv)(B) are needed to ensure that the generator's materials will be recycled legitimately, and otherwise managed in a manner that is protective of human health and the environment. The generator must keep specified documentation (e.g., certification) of its efforts. Based on its study of current good recycling practices for hazardous materials, EPA believes that these proposed conditions for reasonable efforts reflect, and are needed to reinforce, the methods that responsible generators of hazardous recyclable materials now routinely use to maintain their commitment to sound environmental stewardship, and to minimize their potential regulatory and liability exposures. The requirements are needed to ensure that a generator considers important questions in light of reasonably good information in deciding who should reclaim its recyclables.

EPA is proposing the certification requirement at 261.4(a)(24)(iv)(B) because the Agency believes there is some potential for abuse of the condition requiring documentation of reasonable efforts. Requiring a certification is a needed precaution against abuses. To illustrate, it is possible that a generator could try to document his reasonable efforts with an audit report that he knew to be well outdated or that otherwise contained inaccurate information. Such cases would not, in EPA's view, constitute a truly Reasonable effort.® The certification is needed to hold the generator accountable for making a good faith effort.

EPA is proposing that reclaimers keep records of their receipt of excluded materials under 261.4(a)(24)(v)(A), to enable the effective oversight of their activities. The records would enable regulators (e.g., on-site inspectors) to learn about the reclamation of the excluded materials. For example, the records would be important in identifying the generators of the excluded materials received by the facility.

EPA is proposing financial assurance requirements for reclamation facilities under 261.4(a)(24)(v)(D) because it believes this is reasonable and consistent with the findings of the recycling studies it has conducted as part of the rulemaking effort. Its study of current good recycling practices, for example, indicated that one of the main reasons that generators audit recyclers is to make sure that the recyclers are financially healthy and have adequate resources to respond to accidents or other problems that could cause environmental or human health consequences. This is primarily because of the joint-and-several liability provisions of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Under CERCLA, a generator can become a "responsible party" obligated to help pay for remediation expenses if (in this example) a recycler to whom he sent recyclable materials were to create contamination problems but lacked the resources to pay for their cleanup. The need for financial assurance is also supported by its study of recycling-related environmental problems. The study indicates that business failure is a primary causative factor associated with these damage cases. This further supports the need for some type of financial assurance condition for the regulatory exclusion.

Proposed Export Requirements at 40 CFR 261.4(a)(25)

The proposed export requirements would provide notice-and-consent procedures for the export shipments. Such procedures help ensure, for example, that the materials will not be discarded and give the receiving country an opportunity to respond to the intended shipment (e.g., request additional information).

2(b) Practical Utility and Users of the Data

PETITIONS FOR NON-WASTE DETERMINATIONS

Petitioners will use the non-waste determination petition process to request a formal determination that their material is clearly not a solid waste. For cases where there is ambiguity about whether a secondary material is a solid waste, this process may be used to provide regulatory certainty for both the facility and Agency.

EXCLUSIONS FROM THE DEFINITION OF SOLID WASTE

Proposed Exclusions at 40 CFR 261.2(a)(2)(ii) and 261.4(a)(23)

EPA is proposing the certification requirement for materials that are generated and reclaimed by the same person (e.g., 261.2(a)(2)(ii)(C)) because of existing complexities in corporate ownership and liability. The certification will be used by the company to demonstrate its compliance with the proposed conditions.

The regulatory agencies will use the notifications from the generator and reclamation facility (e.g., 261.2(a)(2)(ii)(F) and (G)) to learn basic information about who would be

managing hazardous secondary materials under the exclusion and the types of materials that would be recycled. The information will help the agencies evaluate the status of the material under RCRA.

Proposed Exclusion at 40 CFR 261.4(a)(24)

The one-time notification required under 261.4(a)(24)(iii) will be used by the generator and reclaimer to provide basic information to regulatory agencies about who would be managing hazardous secondary materials under the exclusion, and the types of materials that would be recycled. EPA will use this information to evaluate the status of the material under RCRA.

The recordkeeping required under 261.4(a)(24)(iv)(A) will be used by the generator to demonstrate to regulators (e.g., in an on-site inspection) that it is in compliance with the conditions (e.g., that its excluded material is being sent to the reclamation facility). The records will be used by regulators to evaluate the generator's compliance.

The requirement for Reasonable efforts under 261.4(a)(24)(iv)(B) must be carried out by generators before shipping excluded material to an unpermitted reclamation facility. EPA believes the questions laid out in the regulations are normally considered by responsible generators. However, the questions will reinforce the need for generators to ask these questions. Generators must keep records of their reasonable efforts, including certifications, to demonstrate their compliance with the regulations.

The records required under 261.4(a)(24)(v)(A) will be used by the reclaimer to demonstrate it compliance with the regulations. The records will be used by EPA to confirm the reclaimer's compliance and track the shipment of excluded material if needed.

The financial assurance required under 261.4(a)(24)(v)(D) will be used by non-permitted reclaimers to obtain the resources needed to operate in an environmentally responsible manner. The need for financial assurance is supported by recycling-related environmental problems. An EPA study indicates that business failure is a primary causative factor associated with these damage cases. This supports the need for some type of financial assurance condition for the regulatory exclusion.

Proposed Export Requirements at 40 CFR 261.4(a)(25)

The proposed requirements at 261.4(a)(25) would provide notice-and-consent procedures for export shipments. For example, the receiving country will have the opportunity to review the exporter's notification and approve or deny the export shipment. Export of the material is prohibited unless the receiving country consents to the intended export.

3. NONDUPLICATION, CONSULTATIONS, AND OTHER COLLECTION CRITERIA

3(a) Nonduplication

None of the information required by the proposed rule is duplicative with any information required by the existing Federal regulations.

3(b) Public Notice

In compliance with the Paperwork Reduction Act of 1995, EPA issued a public notice in the Federal Register on October 28, 2003 (68 FR 61558) proposing revisions to the definition of solid waste. In light of the comments and concerns raised, as well as EPA's continued research and examination, EPA has issued a supplemental proposal that lays out a modified approach.

EPA solicited public comments on the supplemental proposal through an announcement in the Federal Register on [specify date and FR citation and describe the comments received on the ICR and how they were addressed].

3(c) Consultations

In August 2006, EPA contacted representatives of three large hazardous waste reclamation companies to collect additional information on their expected paperwork activities and burdens under the rule. They provided consultative input to this ICR according to three paperwork burden issues potentially affected by this rulemaking:

- Use of shipping papers instead of the RCRA manifest: The representatives speculated that, in the absence of a requirement for a RCRA manifest, they would use a multi-part shipping paper to ship their excluded materials. This would enable the reclaimer to send a copy to the generator to confirm receipt of shipment.
- Use of reasonable efforts to evaluate the reclaimer: The representatives believe that responsible generator customers currently make an effort to evaluate prospective reclamation facilities (e.g., to determine if the facilities have adequate equipment and procedures to reclaim their waste in a manner that is protective of human health and the environment). This may include a visit to the facility by generator employees or contracted auditor and/or a review of facility documentation.
- Relief from RCRA permit: The representatives provided feedback on whether they believe their reclamation facilities could see some relief from the RCRA

permitting requirements under the rule. They believe such relief would depend on a number of factors (e.g., whether a facility would manage only excluded materials under the rule or whether it would continue to receive and manage hazardous wastes in addition to excluded materials).

In addition, EPA contacted a representative of CHWMEG, an organization that provides facility review services to the hazardous waste industry. The representative agreed with the waste management companies that generators will make reasonable efforts using their own employees or a third-party auditor. The decision to use either in-house employees or a third-party auditor to perform the audit will depend on a number of considerations (e.g., trade-offs between cost and desired quality/thoroughness of the audit report).

The table below identifies the organizations contacted. Their feedback is reflected in the burden assumptions of this ICR, as appropriate.

Organizations EPA Contacted for ICR Preparation (August 2006)

Name of Organization	Name of Representative	Phone Number
CHWMEG	Jeff Sacre	412-826-3056
Giant Resource Recovery	Stan Ray	803-773-1400
Safety Kleen Systems, Incorporated	Mike Fusco and Lin Longshore	610-558-3186
Veolia ES Technical Solutions (formerly Onyx Environmental Services)	Thomas Baker	973-691-7330

3(d) Effects of Less Frequent Collection

EPA has carefully considered the information collection burden imposed by the proposed rule. EPA is confident that those activities required of respondents are necessary, and to the extent possible, the Agency has attempted to minimize the burden imposed. A number of the required activities, for example, would be performed once (e.g., one-time notifications to EPA and one-time certifications). In addition, a number of other requirements in the rule can be satisfied by activities already being undertaken by respondents. For example, EPA has found that responsible generators currently make reasonable efforts to evaluate prospective reclaimers, as required by the rule. EPA believes strongly that, if the minimum information collection requirements of the proposed rule are not met, EPA would not be able to ensure that the secondary materials are being properly managed and do not pose a threat to human health and the environment.

3(e) General Guidelines

This ICR adheres to the guidelines stated in the Paperwork Reduction Act of 1995, OMB's implementing regulations, EPA's ICR Handbook, and other applicable OMB guidance.

3(f) Confidentiality

Participation under the exclusions is voluntary. EPA does not expect to deem any information collected under the rule to be CBI (Confidential Business Information). If such a claim were asserted, EPA must and will treat the information in accordance with the applicable regulations (e.g., 40 CFR Part 2, Subpart B). EPA also will assure that this information collection complies with the Privacy Act of 1974 and OMB Circular 108.

3(g) Sensitive Questions

No questions of a sensitive nature are included in the information collection requirements associated with the rule.

4. THE RESPONDENTS AND THE INFORMATION REQUESTED

4(a) Respondents and NAICS Codes

The following is a list of North American Industry Classification System (NAICS) codes associated with industries most likely affected by the information collection requirements covered in this ICR.

Table of NAICS Codes of Potentially Affected Industries

Industry Sector	NAICS Codes
Mining	21
Utilities	22
Construction	23
Manufacturing	31
Manufacturing	32
Manufacturing	33
Wholesale Trade	42
Retail Trade	44, 45
Transportation	48, 49
Information	51
Professional, Scientific & Technical Services	54
Administrative Support, Waste Management & Remediation	56
Educational Services	61
Health Care & Social Assistance	62
Other Services	81
Source: Exhibit 6A of EPA's 2006 "Economics Background Document" for this rulemaking.	

4(b) Information Requested

PETITIONS FOR NON-WASTE DETERMINATIONS

40 CFR 260.34(a), as proposed, provides that an applicant may apply to EPA for a formal determination that a material is clearly not discarded and therefore not a solid waste. The determinations will be based on the criteria contained in either paragraph (b) or (c). If a determination is denied, the material might still be eligible for a solid waste variance or

exclusion. Section 260.34(b) provides that EPA may grant a non-waste determination for those materials which are recycled in a continuous industrial process if the applicant demonstrates that the materials are an essential part of the production process and are not discarded. The determination will be based on the criteria specified at section 260.34(b)(1)-(4). Section 260.34(c) provides that EPA may grant a non-waste determination for those materials which are indistinguishable in all relevant aspects from a product or intermediate if the applicant demonstrates that the materials are comparable to a product or intermediate and are not discarded. The determination will be based on the criteria specified at section 260.34(c)(1)-(4).

(i) Data Items

\$ An application for a non-waste determination for those materials which are recycled in a continuous industrial process. The application must demonstrate that the materials are an essential part of the production process and are not discarded, and address the following criteria identified at section 260.34(b)(1)-(4):

- How integrated the management of the material is into the continuous primary production process;
- Whether the capacity of the production process would use the material in a reasonable timeframe and ensure that the material will not be abandoned (for example, based on past practices, market factors, the nature of the material, and any contractual arrangements);
- Whether the hazardous constituents in the secondary materials are recycled rather than discarded to the air, water or land at significantly higher levels than would otherwise be released by the primary production process; and
- Other relevant factors that demonstrate the material is not discarded.

\$ An application for a non-waste determination for those materials which are indistinguishable in all relevant aspects from a product or intermediate. The application must demonstrate that the materials are comparable to a product or intermediate and are not discarded, and address the following criteria identified at section 260.34(c)(1)-(4):

- Whether market participants treat the materials like products rather than wastes (for example, based on the current positive value of the material, stability of demand, and any contractual arrangements);
- Whether the chemical and physical identity of the material is comparable to commercial products or intermediates;
- Whether the hazardous constituents in the materials are recycled rather than discarded to the air, water or land at significantly higher levels than would otherwise be released by the production process; and
- Other relevant factors that demonstrate the material is not discarded.

(ii) Respondent Activities

§ An applicant would prepare and submit an application.

EXCLUSIONS FROM THE DEFINITION OF SOLID WASTE

Proposed Exclusion at 40 CFR 261.2(a)(2)(ii)

40 CFR 261.2(a)(2)(ii), as proposed, provides that a material is not discarded if it is generated and reclaimed within the United States or its territories, provided that the conditions of section 261.2(a)(2)(ii)(A)-(G) are met. Section 261.2(a)(2)(ii)(A) provides that the material must be contained in a non-land-based unit (e.g., a tank, container, or drip pad as defined in section 260.10, or in a building with a roof, floor, and walls). Section 261.2(a)(2)(ii)(B)-(D) provides that the material must be generated and reclaimed at the generating facility (261.2(a)(2)(ii)(B)); **or** generated and reclaimed by the same **Aperson@** as defined in section 260.10, if the generator makes a certification as specified (261.2(a)(2)(ii)(C)); **or** generated and reclaimed pursuant to a written contract between a tolling contractor and tolling manufacturer, if the tolling contractor or manufacturer retains ownership of, and liability for, the recyclable secondary material that is generated during the course of the production of the product (261.2(a)(2)(ii)(D)). Section 261.2(a)(2)(ii)(E) provides that the material must not be speculatively accumulated, as defined in section 261.1(c)(8). Section 261.2(a)(2)(ii)(F) provides that generators of hazardous secondary materials that have previously been subject to regulation as hazardous wastes, but which will be excluded from regulation under this paragraph, must send a one-time notification to the Regional Administrator. A revised notice must be sent to the Regional Administrator in the event of a change to the name, address or EPA ID number of the generator, or a change in the type of material generated. Section 261.2(a)(2)(ii)(G) provides that, if reclamation takes place at a facility other than the generating facility, the reclaimer must send a one-time notification to the Regional Administrator. A revised notice must be sent to the Regional Administrator in the event of a change to the name, address or EPA ID number of the reclamation facility, or a change in the type of material reclaimed.

(i) Data Items

§ A certification under 261.2(a)(2)(ii)(C) for materials that are generated and reclaimed by the same “person” as defined in section 260.10 that states the following: **Aon behalf of [insert company name] I certify that the indicated hazardous recyclable material will be sent to [insert company name], that the two companies are under the same ownership, and that the parent corporation [insert company name] has accepted full responsibility for the safe management of the hazardous recyclable material.@**

§ A one-time notification under section 261.2(a)(2)(ii)(F) from the generator to EPA that identifies the following:

- The name, address, and EPA ID number of the generator (if applicable);
- The name and phone number of a contact person; and
- The type of material that will be managed according to the exclusion, and when the materials will begin to be managed in accordance with this conditional exclusion.

§ A one-time notification under section 261.2(a)(2)(ii)(G) from the reclamation facility to EPA that identifies the following:

- The name, address, and EPA ID number of the reclamation facility (if applicable);
- The name and phone number of a contact person; and
- The type of material that will be managed according to the exclusion, and when the materials will begin to be managed in accordance with this conditional exclusion.

- A revised notice under section 261.2(a)(2)(ii)(F) or (G), as specified.

(ii) Respondent Activities

§ A generator must perform the following:

- Prepare a certification for material that is generated and reclaimed by the same person.
- Send a one-time notification to the Regional Administrator.
- Send a revised notice if required.

§ A reclaimer must perform the following:

- Send a one-time notification to the Regional Administrator if reclamation takes place at a facility other than the generator facility.
- Send a revised notice if required.

Proposed Exclusion at 40 CFR 261.4(a)(23)

40 CFR 261.4(a)(23), as proposed, provides that hazardous materials generated and reclaimed within the United States or its territories are not solid wastes if they meet the conditions of section 261.4(a)(23)(i)-(vii). Section 261.4(a)(23)(i) provides that, if the materials are managed in a land-based unit as defined in section 260.10, the materials must be contained. Section 261.4(a)(23)(ii)-(iv) provides that the materials must be generated and reclaimed at the generating facility (261.4(a)(23)(ii)); **or** generated and reclaimed by the same person as defined in section 260.10, if the generator makes a certification as specified (261.4(a)(23)(iii)); **or** generated and reclaimed pursuant to a written contract between a tolling contractor and tolling manufacturer, if the tolling contractor or manufacturer retains ownership of, and liability for, the recyclable secondary materials that are generated during the course of the production of the product (261.4(a)(23)(iv)). Section 261.4(a)(23)(v) provides that the materials must not be speculatively accumulated, as defined in section 261.1(c)(8). Section 261.4(a)(23)(vi) provides

that generators of hazardous secondary materials that have previously been subject to regulation as hazardous wastes, but which will be excluded from regulation under this paragraph, must send a one-time notification to the Regional Administrator. A revised notice must be sent to the Regional Administrator in the event of a change to the name, address or EPA ID number of the generator, or a change in the type of material generated. Section 261.4(a)(23)(vii) provides that, if reclamation under section 261.4(a)(23)(ii) or (iii) takes place at a facility other than the generating facility, the reclaimer must send a one-time notification to the Regional Administrator. A revised notice must be sent to the Regional Administrator in the event of a change to the name, address or EPA ID number of the reclamation facility, or a change in the type of material reclaimed.

(i) Data Items

§ A certification under 261.4(a)(23)(iii) for hazardous secondary materials that are generated and reclaimed by the same person as defined in section 260.10. The certification must state the following: Aon behalf of [insert company name] I certify that the indicated hazardous recyclable materials will be sent to [insert company name], that the two companies are under the same ownership, and that the parent corporation [insert company name] has accepted full responsibility for the safe management of the hazardous recyclable materials. @

§ A one-time notification under 261.4(a)(23)(vi) from the generator to EPA that identifies the following:

- The name, address, and EPA ID number of the generator (if applicable);
- The name and phone number of a contact person; and
- The type of material that will be managed according to the exclusion, and when the materials will begin to be managed in accordance with this conditional exclusion.

§ A one-time notification under 261.4(a)(23)(vii) from the reclamation facility to EPA that identifies the following:

- The name, address, and EPA ID number of the reclamation facility (if applicable);
- The name and phone number of a contact person; and
- The type of material that will be managed according to the exclusion, and when the materials will begin to be managed in accordance with this conditional exclusion.

- A revised notice under section 261.4(a)(23)(vi) or (vii), as specified.

(ii) Respondent Activities

- § A generator must perform the following activities:
- Prepare a certification for material that is generated and reclaimed by the same person.
 - Send a one-time notification to the Regional Administrator.
 - Send a revised notice if required.

- § A reclaimer must perform the following activities:
- Send a one-time notification to the Regional Administrator if reclamation takes place at a facility other than the generator facility.
 - Send a revised notice if required.

Proposed Exclusion at 40 CFR 261.4(a)(24)

40 CFR 261.4(a)(24), as proposed, provides that hazardous secondary materials that are generated and then transferred to another person for the purpose of reclamation are not solid wastes, provided that the requirements of section 261.4(a)(24)(i)-(v) are met. Section 261.4(a)(24)(i) provides that the materials must not be speculatively accumulated, as defined in section 261.1(c)(8). Section 261.4(a)(24)(ii) provides that the materials must not be handled by any entity or facility other than the generator, the transporter, or the person who reclaims the material. Section 261.4(a)(24)(iii) provides that both the generator and the reclaimer must send a one-time notice to the Regional Administrator. A revised notice must be sent to the Regional Administrator in the event of a change to the name, address or EPA ID number of the generator or the reclamation facility.

Generators of hazardous secondary materials that are eligible for this exclusion must satisfy the conditions in section 261.4(a)(24)(iv)(A)-(C). Section 261.4(a)(24)(iv)(A) provides that the generator must maintain at the generating facility for no less than three years records of all off-site shipments of excluded hazardous secondary materials. Section 261.4(a)(24)(iv)(B) provides that, prior to arranging for transport of excluded materials to a reclamation facility that is not operating under a RCRA Part B permit, the generator must make reasonable efforts to ensure that the materials will be recycled legitimately (as determined according to the provisions of section 261.2(g)), and otherwise managed in a manner that is protective of human health and the environment. Section 261.4(a)(24)(iv)(C) provides that the generator must maintain at the generating facility for no less than three years records documenting the reasonable efforts made in accordance with the condition specified in paragraph (B) of this section. For each reclamation facility to which the generator has transferred excluded materials, such documentation must include a certification signed and dated by a responsible corporate official of the generator.

Reclaimers of hazardous secondary materials excluded from regulation under this exclusion must satisfy the conditions in section 261.4(a)(24)(v)(A)-(D). Section 261.4(a)(24)(v)(A) provides that the reclaimer must maintain at the reclamation facility for no less than three

years records of all shipments of excluded hazardous secondary materials that were received at the facility. Section 261.4(a)(24)(v)(B) provides that the reclaimer must store excluded hazardous secondary materials in the same manner that analogous raw materials are stored, except that if analogous raw materials are stored in land-based units as defined in section 260.10, the units must be contained. Section 261.4(a)(24)(v)(C) provides that any residuals that are generated from reclamation processes must be managed as specified (e.g., in a manner that is protective of human health and the environment). Section 261.4(a)(24)(v)(D) provides that the reclaimer must comply with the financial requirements of existing 40 CFR Part 264, Subpart H.

(i) Data Items

\$ A notice from the generator and the reclaimer under 261.4(a)(24)(iii) that identifies the following:

- The name, address, and EPA ID number of the generator or reclamation facility (as applicable);
- The name and phone number of a contact person;
- The type of material that will be managed according to the exclusion; and
- When the materials will begin to be managed in accordance with this conditional exclusion.

- A revised notice under section 261.4(a)(24)(iii), as specified.

\$ For each shipment, records maintained by the generator that must at a minimum contain the following information, as required by 261.4(a)(24)(iv)(A):

- Name of the transporter and date of the shipment;
- Name and address of the reclamation facility to which it was sent, and documentation confirming the receipt of the shipment by the reclamation facility; and
- The type and quantity of excluded material in the shipment.

\$ Records maintained by the generator under section 261.4(a)(24)(iv)(C):

- Records documenting the reasonable efforts made in accordance with the condition specified in 261.4(a)(24)(iv)(B). Such reasonable efforts must, at a minimum, address the following questions:
 - Is the recycler technically capable of reclaiming the material, and of managing hazardous materials safely?
 - Does the recycler's compliance history and current practices indicate a record of, and a continuing commitment to, sound environmental stewardship?
 - Is there a reliable market for the products or intermediaries that are made from recycling the material?
 - Will residuals generated from recycling the materials, if any, be managed in a manner that is protective of human health and the environment?

- For each reclamation facility to which the generator has transferred excluded materials, a certification signed and dated by a responsible corporate official of the generator, which states: " I hereby certify in good faith and to the best of my knowledge that prior to arranging for transport of excluded materials to [insert name of reclamation facility], that reasonable efforts were made to ensure that the materials would be recycled legitimately, and otherwise managed in a manner that is protective of human health and the environment, and that such efforts were based on information that I believed was current and accurate."

\$ Records maintained by the reclaimer of all shipments of excluded hazardous secondary materials that were received by the facility, as required under 261.4(a)(24)(v)(A). For each shipment, these records must at a minimum contain the following information:

- Name of the transporter and date the shipment was received;
- Name and address of the generating facility from which it was sent; and
- The type and quantity of excluded material in the shipment.

(ii) Respondent Activities

\$ The generator must perform the following activities:

- Send one-time notice to the Regional Administrator;
- Send a revised notice to the Regional Administrator if required;
- Maintain records of all off-site shipments of excluded hazardous secondary materials;
- Make reasonable efforts to ensure that the materials will be recycled legitimately, and otherwise managed in a manner that is protective of human health and the environment, and maintain records documenting the reasonable efforts; and
- For each reclamation facility to which the generator has transferred excluded materials, include a certification in onsite documentation that is signed and dated by a responsible corporate official of the generator.

\$ The reclamation facility must perform the following activities:

- Send one-time notice to the Regional Administrator;
- Send a revised notice to the Regional if required; and
- Maintain records of all shipments of excluded hazardous secondary materials that were received at the facility; and
- Transmit confirmation to the generator that the shipment has been received.

Proposed Export Requirements at 40 CFR 261.4(a)(25)

40 CFR 261.4(a)(25), as proposed, provides that exporters of hazardous secondary materials that are recycled under section 261.4(a)(24) must also comply with the requirements of 261.4(a)(25)(i) through (ix). Section 261.4(a)(25)(i) requires the exporter to notify EPA of an intended export before the hazardous secondary materials are scheduled to leave the United States. Section 261.4(a)(25)(ii) provides the address for submittal of the notice. Section 261.4(a)(25)(iii) provides that, upon request by EPA, the exporter shall furnish to EPA any additional information which a receiving country requests in order to respond to a notification. Section 261.4(a)(25)(iv) and (v) set forth procedures and requirements for the review and consent of the export. Section 261.4(a)(25)(vi) provides that, when the conditions specified on the original notification change, the exporter must provide EPA with a written renotification of the change, except for changes to the telephone number in paragraph (a)(5)(i)(A) of this section and decreases in the quantity indicated pursuant to paragraph (a)(5)(i)(C) of this section. Section 261.4(a)(25)(vii) requires a copy of the Acknowledgment of Consent to Export to accompany the shipment. Section 261.4(a)(25)(viii) provides that, if a shipment cannot be delivered for any reason to the recycler or the alternate recycler, the exporter must renotify EPA of a change in the conditions of the original notification to allow shipment to a new recycler in accordance with paragraph (a)(5)(vi) of this section and obtain another Acknowledgment of Consent to Export. Section 261.4(a)(25)(ix) requires exporters to keep copies of notifications and Acknowledgments of Consent to Export for a period of three years following receipt of the Acknowledgment.

(i) Data Items

\$ A written notification under 261.4(a)(25)(i), signed by the exporter, that includes the following information:

- Name, mailing address, telephone number and EPA ID number (if applicable) of the exporter;
- The estimated frequency or rate at which the materials are to be exported and the period of time over which they are to be exported;
- The estimated total quantity of materials specified in kilograms;
- All points of entry to and departure from each foreign country through which the materials will pass;
- A description of the means by which each shipment of the materials will be transported (e.g., mode of transportation vehicle (air, highway, rail, water, etc.), type(s) of container (drums, boxes, tanks, etc.));
- The name and address of the recycler and any alternate recycler;
- A description of the manner in which the materials will be recycled in the foreign country that will be receiving them; and
- The name of any transit country through which the materials will be sent and a description of the approximate length of time they will remain in such country and the nature of their handling while there.

- \$ Any additional information under 261.4(a)(25)(iii) which a receiving country requests in order to respond to a notification.
- \$ A written renotification under 261.4(a)(25)(vi) of the change, when the conditions specified on the original notification change.
- \$ A renotification to EPA under 261.4(a)(25)(viii) of a change in the conditions of the original notification, if a shipment cannot be delivered for any reason to the recycler or the alternate recycler.
- \$ Copies of notifications and Acknowledgments of Consent to Export.

(ii) Respondent Activities

- \$ An exporter must perform the following activities:
 - Submit a written notification to EPA;
 - Furnish any additional information which a receiving country requests in order to respond to a notification;
 - Provide a written renotification of the change, when the conditions specified on the original notification change;
 - Transmit an Acknowledgment of Consent with the shipment;
 - Provide a renotification if a shipment cannot be delivered for any reason to the recycler or the alternate recycler and transmit a new Acknowledgment of Consent; and
 - Keep copies of notifications and Acknowledgments of Consent to Export.

5. THE INFORMATION COLLECTED: AGENCY ACTIVITIES, COLLECTION METHODOLOGY, AND INFORMATION MANAGEMENT

5(a) Agency Activities

PETITIONS FOR NON-WASTE DETERMINATIONS

§ EPA will evaluate and either approve or deny the petition.

EXCLUSIONS FROM THE DEFINITION OF SOLID WASTE

Proposed Exclusion at 40 CFR 261.2(a)(2)(ii)

§ EPA will perform the following activities:

- Receive and review one-time notifications from generators and reclaimers; and
- Receive and review updates of notifications from generators and reclaimers.

Proposed Exclusion at 40 CFR 261.4(a)(23)

§ EPA will perform the following activities:

- Receive and review one-time notifications from generators and reclaimers; and
- Receive and review updates of notifications from generators and reclaimers.

Proposed Exclusion at 40 CFR 261.4(a)(24)

§ EPA will perform the following activities:

- Receive and review one-time notice from generators and reclaimers; and
- Receive and review updated notice from generators and reclaimers.

Proposed Export Requirements at 40 CFR 261.4(a)(25)

§ EPA will perform the following activities:

- Receive and review written notifications from exporters;
- Request any additional information which a receiving country requests in order to respond to a notification;
- Provide a complete notification to the receiving country and any transit countries;
- Forward specified information to exporter (e.g., Acknowledgment of Consent) from receiving country and transit countries;

- Receive and review written renotification of the change; and
- Receive and review a renotification if a shipment cannot be delivered for any reason to the recycler or the alternate recycler.

5(b) Collection Methodology and Management

In collecting and analyzing the information associated with this ICR, EPA may use a telephone system, personal computers, and applicable database software. EPA will ensure the accuracy and completeness of collected information by reviewing each submittal. EPA will keep records of this information in its file cabinets and/or computer systems.

5(c) Small Entity Flexibility

The proposed rule would be voluntary as well as deregulatory. As such, there would be no adverse burden impact to large or small entities.

5(d) Collection Schedule

PETITIONS FOR NON-WASTE DETERMINATIONS

- There is no schedule for collecting petitions.

EXCLUSIONS FROM THE DEFINITION OF SOLID WASTE

Proposed Exclusions at 40 CFR 261.2(a)(2)(ii) and 261.4(a)(23)

- The one-time certification (e.g., of 261.2(a)(2)(ii)(C)) must be prepared by generators as a condition for the material to be excluded.
- The one-time notification (e.g., of 261.2(a)(2)(ii)(F) and (G)) must be sent by the generator and reclaimer to EPA as a condition for the material to be excluded. A revised notice must be sent, as specified (e.g., in the event of a change in the type of material generated).

Proposed Exclusion at 40 CFR 261.4(a)(24)

- The one-time notification under 261.4(a)(24)(iii) must have been sent by the generator and reclaimer to EPA as a condition for the material to be excluded. A revised notice must be sent, as specified (e.g., in the event of a change in the name of the facility).
- A generator of excluded material must maintain at the generating facility for no less than three years records of all offsite shipments of excluded materials, as required by section 261.4(a)(24)(iv)(A).

- Prior to arranging for transport of excluded material to a reclaimer that is not operating under a RCRA Part B permit, a generator of excluded material must make reasonable efforts to ensure that the materials will be recycled legitimately and otherwise managed in a manner that is protective of human health and the environment, as required by section 261.4(a)(24)(iv)(B).
- The generator must maintain at the generating facility for no less than three years records documenting the reasonable efforts made in accordance with the condition specified in section 261.4(a)(24)(iv)(B).
- The reclaimer must maintain at the reclamation facility for no less than three years records of all shipments of excluded hazardous secondary materials that were received at the facility, as required by section 261.4(a)(24)(v)(A).
- Reclaimers must comply with the financial requirements of existing 40 CFR Part 264, Subpart H, as a condition for exclusion of the material.

Proposed Export Requirements at 40 CFR 261.4(a)(25)

- Exporters of excluded materials must notify EPA of an intended export before the materials are scheduled to leave the United States. A complete notification must be submitted sixty (60) days before the initial shipment is intended to be shipped off-site. This notification may cover export activities extending over a twelve (12) month or lesser period.
- Upon request by EPA, the exporter must furnish to EPA any additional information which a receiving country requests in order to respond to a notification.
- When the conditions specified on the original notification change, the exporter must provide EPA with a written renotification of the change, except as otherwise specified.
- If a shipment cannot be delivered for any reason to the recycler or the alternate recycler, the exporter must renotify EPA of a change in the conditions of the original notification to allow shipment to a new recycler and obtain another Acknowledgment of Consent to Export.
- Exporters must keep copies of notifications and Acknowledgments of Consent to Export for a period of three years following receipt of the Acknowledgment.

6. ESTIMATING THE HOUR AND COST BURDEN OF THE COLLECTION

6(a) Estimating Respondent Burden Hours

Exhibit 1 provides estimates of the respondent hourly burden associated with the proposed paperwork requirements. Exhibit 1 includes burden hours (total and by labor type) per respondent, as well as the overall burden hours for all respondents.

6(b) Estimating Respondent Costs

Exhibit 1 provides estimates the annual respondent costs associated with the proposed paperwork requirements. These costs are based on the cost of labor, capital, and operation and maintenance (O&M).

(1) Labor Costs

The labor wage rates used to estimate costs to respondents were obtained from EPA's 2006 "Economics Background Document" (EBD) developed for this rulemaking.¹ Wage rates in this ICR were updated from the EBD's 2005 wage data year, to 2006 levels and reflect the cost of overhead and fringe benefits. EPA estimates an average loaded respondent hourly labor rate of \$94.14 for legal staff, \$59.83 for managerial staff, \$52.69 for technical staff, and \$28.85 for clerical staff.

Using the total burden hours discussed in Section 6(a) and the hourly wage rates outlined in this section, Exhibit 1 estimates the labor costs associated with the information collection requirements covered in this ICR.

(2) Capital Costs

Capital costs usually include any produced physical good needed to provide the needed information, such as machinery, computers, and other equipment. EPA does not anticipate that respondents will incur capital costs in carrying out the information collection requirements covered in this ICR.

(3) Operation & Maintenance Costs

O&M costs are those costs associated with a paperwork requirement incurred continually over the life of the ICR. They are defined by the Paperwork Reduction Act of 1995 as "the recurring dollar amount of costs associated with O&M or purchasing services." For purposes of estimating burden, EPA estimates that respondents will submit information to the Agency in hardcopy, instead of electronically. As such, this ICR includes O&M costs for postage (i.e.,

¹ Source: Exhibit 3F of EPA Office of Solid Waste's 2006 "Economics Background Document" for this rulemaking, available from the Federal rulemaking docket at: <http://www.regulations.gov>.

\$0.39). The ICR includes \$22.50 for respondents in preparing their petition (e.g., copying and communications) under section 260.34.² The ICR includes \$600 for a respondent to purchase a roundtrip airline ticket to send an employee to audit a reclaimer under section 261.4(a)(24)(iv) (B). It includes \$3,000 for a respondent to purchase an audit report of a reclaimer under section 261.4(a)(24)(iv)(B).³

6(c) Estimating Agency Hour and Cost Burden

The rule, when finalized, would be administered by RCRA-authorized State government regulatory programs. Unloaded hourly labor wage rates for States' activities were taken from "Table 2-3. State and Local Government, Selected Occupations: Mean Hourly Earnings and Weekly Hours for Full-Time and Part-Time Workers, National Compensation Survey, 3 July 2004." The table is found in the "National Compensation Survey: Occupational Wages in the United States, July 2004," U.S. Department of Labor, Bureau of Labor Statistics, September 2005, Bulletin 2576. EPA updated these rates to 2006 levels based on the Employment Cost Index, then multiplied the rates by the labor cost fringe benefits and overhead factor of 1.45.⁴ Based on this, EPA applied the following average loaded hourly wage rates for government labor: \$55.83 per hour for legal staff, \$48.88 per hour for managerial staff, \$40.09 per hour for technical staff, and \$23.54 per hour for clerical staff.

6(d) Estimating the Annual Respondent Universe and Total Hour and Cost Burden

In this section, EPA first describes the estimated respondent universe under the proposed rule. EPA then estimates the annual burden to respondents under the proposed paperwork requirements. Finally, EPA estimates the burden impacts to respondents under the existing RCRA paperwork requirements in handling excluded materials.

(1) Respondent Universe

EPA obtained the respondent universe estimates for this ICR from EPA's 2006 "Economics Background Document" (EBD) for this rulemaking. The purpose of the EBD is to provide EPA's estimates of the potential average annual economic impacts to affected industries under different policy options for this rulemaking. The EBD estimates the number of affected industries and entities (i.e., respondents) based on analysis of EPA's 2003 RCRA Hazardous Waste Report data (<http://www.epa.gov/epaoswer/hazwaste/data/br03/index.htm>). The EBD provides estimates of affected entities and economic impacts according to a numerical uncertainty

² Ibid.

³ EPA's research indicates that an airline fare of \$600 is representative of a roundtrip flight within the U.S. EPA also found that respondents can purchase an audit report of a reclaimer for about \$3,000.

⁴ Source: The 1.45 fringe and overhead multiplier factor represents 32.85% full fringe benefits factor plus 12% overhead cost factor. See OMB Circular No. A-76, Attachment C, May 29, 2003: Calculating Public-Private Competition Costs, Figure C1 Table of Standard A-76 Costing Factors. The document can be found at: http://www.whitehouse.gov/omb/circulars/a076/a76_incl_tech_correction.pdf.

range consisting of “minimum,” “medium,” and “maximum” estimates. Note that this ICR applies data from the EBD’s “medium” estimate category only.

The table below presents the estimated annual number of respondents in this ICR. As shown in the table, based on data from the EBD, EPA estimates that:

- 7 petitioners will submit an application under section 260.34 to EPA each year. This is based on data from Table 5B of Chapter 5 in the EBD.
- 835 generators will participate in the conditional exclusions at section 261.2(a)(2)(ii) and 261.4(a)(23) for onsite reclamation, offsite reclamation within the same company, and reclamation under a tolling arrangement (referred to as “Option 7” in the EBD). This is based on data from Table 5B of Chapter 5 in the EBD.
- 3,711 generators will participate in the conditional exclusion at section 261.4(a)(24). This estimate is derived as follows: Table 5B of Chapter 5 in the EBD estimates that 4,546 generators would participate in a broad conditional exclusion for onsite and offsite reclamation (referred to as “Option 4” in the EBD). EPA used Option 4’s estimate of the generator population as the basis for estimating the number of generators under section 261.4(a)(24). Note however that Option 4’s generator estimate has two limitations in this regard: 1) Option 4 includes both offsite and onsite reclamation, whereas section 261.4(a)(24) includes offsite reclamation only; and 2) Option 4 and Option 7 were each examined as stand-alone alternatives in the EBD; because Option 4 involves onsite and offsite reclamation and Option 7 involves onsite reclamation and limited offsite reclamation as described above, Option 4 subsumes Option 7 (i.e., the 835 generators under Option 7 are subsumed within the 4,546 generators of Option 4). To address both limitations, EPA subtracted the 835 generators from 4,546, to estimate that 3,711 generators would participate under section 261.4(a)(24).
- 6 generators will export excluded material under section 261.4(a)(25) each year. EPA obtained this estimate from data in Exhibit 8 of EPA’s Hazardous Waste Generator Standards ICR (EPA ICR Number 820), which estimates that six generators export their hazardous waste for reclamation to member countries of the Organization for Economic Cooperation and Development (OECD) each year.
- 570 reclaimers will receive offsite shipments of excluded materials under sections 261.2(a)(2)(ii), 261.4(a)(23), and 261.4(a)(24). This estimate was obtained from Exhibit 3H of Chapter 3 in the EBD, which indicates that 570 recovery facilities were identified based on reported shipments in the RCRA Hazardous Waste Report. EPA made the simplifying assumption that 43 offsite reclaimers will participate under section 261.2(a)(2)(ii) and 261.4(a)(23), and 527 offsite reclaimers will participate under section 261.4(a)(24). This assumption is based on the estimated percentage of

generator shippers under 261.2(a)(2)(ii) and 261.4(a)(23) (i.e., 7.5%) versus 261.4(a)(24) (i.e., 92.5%).⁵

Annual Number of Respondents under Proposed Rule

Type of Respondent	Annual Number of Respondents
Petitioners under 260.34	7
Generators	
Generators under 261.2 and 261.4(a)(23)	835
Generators under 261.4(a)(24)	3,711
Total generators	4,546
Exporters under 261.4(a)(25)	6
Reclaimers	
Reclaimers under 261.2 and 261.4(a)(23)	43
Reclaimers under 261.4(a)(24)	527
Total reclaimers	570
Source: See explanatory text above table for data references.	

The following paragraphs discuss these respondent estimates in regard to the proposed and existing RCRA paperwork requirements.

(2) Annual Respondent Hour and Cost Burden under the Proposed Paperwork Requirements

PETITIONS FOR NON-WASTE DETERMINATIONS (EXHIBIT 1)

EPA estimates that seven applicants will submit a petition to EPA under section 260.34 each year. This is reflected in Exhibit 1.

EXCLUSIONS FROM THE DEFINITION OF SOLID WASTE (EXHIBIT 1)

Proposed Exclusions at 40 CFR 261.2(a)(2)(ii) and 261.4(a)(23)

Generator

EPA estimates that 150 generators will ship their excluded materials to a reclamation facility under the generator’s control. This estimate was derived from Exhibit 1H of Chapter 1 in the EBD, which estimates that 299 generators will ship their material to a reclaimer that is under the same company ownership as the generator or ship the material under a tolling arrangement. Of these, EPA made the simplifying assumption that 50 percent will ship to a reclaimer that is under the same company ownership as the generator and be required to prepare a certification under section 261.2(a)(2)(ii) or 261.4(a)(23) (i.e., 299 generators x 50% = 150). Because the

⁵ Exhibit 1H of Chapter 1 in the EBD estimates that 299 generators ship to reclaimers under Option 7. The 3,711 generators under Option 4 also make offsite shipments to reclaimers. Hence, 7.5 percent of all generator shippers will ship to reclaimers under Option 7 (i.e., 261.2(a)(2)(ii) and 261.4(a)(23)) and 92.5 percent will ship to reclaimers under Option 4 (i.e., 261.4(a)(24)).

certification is a one-time activity, EPA annualized the number of generators over the three-year life of this ICR, to estimate that 50 will prepare a certification each year (i.e., 150 generators/3 years = 50).

In addition, EPA estimates that the 835 generators will prepare and submit a notice of their activities under section 261.2(a)(2)(ii) or 261.4(a)(23). Because the notification is a one-time activity, EPA annualized the number of generators over the three-year life of this ICR, to estimate that 278 will prepare a notification each year (i.e., 835 generators/3 years = 278). EPA estimates that 10 percent will update their notice each year.

These assumptions are reflected in Exhibit 1.

Reclaimer

EPA estimates that 43 reclaimers will prepare and submit a notice of their activities under section 261.2(a)(2)(ii) or 261.4(a)(23). Because the notification is a one-time activity, EPA annualized the number of reclaimers over the three-year life of this ICR, to estimate that 14 will prepare a notification each year (i.e., 43 generators/3 years = 14). EPA also estimates that 10 percent will update their notice each year. These assumptions are reflected in Exhibit 1.

Proposed Exclusion at 40 CFR 261.4(a)(24)

Generator

EPA estimates that 3,711 generators will prepare and submit a notice of their activities under section 261.4(a)(24)(iii). Because the notification is a one-time activity, EPA annualized the number of generators over the three-year life of this ICR, to estimate that 1,237 will prepare a notification each year (i.e., 3,711 generators/3 years = 1,237). EPA also estimates that 10 percent will update their notice each year.

EPA estimates that generators will make 9,174 shipments of excluded hazardous materials to reclaimers each year and be required to keep specified records of each shipment (e.g., type and quantity of excluded material) under section 261.4(a)(24)(iv)(A). This is based on data in Chapter 3 of the EBD, which indicate that generators would be relieved of 9,920 manifests under Option 4 and 746 manifests under Option 7 each year.⁶ EPA used Option 4's estimate as the basis for estimating the number of shipments of excluded materials under section 261.4(a)(24). Note, however, that Option 4's estimate has a limitation in this regard (i.e., it subsumes offsite shipments under the generator's control that are addressed in Option 7). To resolve this, EPA subtracted out the number of manifests under Option 7, in order to estimate the number of offsite

⁶ Source: The "medium" (i.e., most-likely) impact estimates displayed in Exhibit 3L of Chapter 3 in the EBD estimate \$406,709 in manifest savings under Option 4 and \$30,573 in manifest savings under Option 7 and a per-manifest cost savings of between \$40.44 and \$41.57. This equates to 9,920 manifests avoided under Option 4 (i.e., \$406,709/\$41 = 9,920) and 746 manifests avoided under Option 7.

shipments under section 261.4(a)(24). As a result, EPA estimates that generators will make 9,174 shipments of excluded material each year under section 261.4(a)(24).

Note that most of the recordkeeping required at section 261.4(a)(24)(iv)(A) is already required by the Department of Transportation (DOT) for hazardous materials, or otherwise undertaken as a customary industry practice. For example, the DOT regulations require shippers to prepare, transmit, and maintain shipping papers for their hazardous material shipments. Therefore, EPA does not expect generators to incur incremental burden for the recordkeeping requirement, except for the requirement to confirm receipt of shipment by the reclaimer. DOT does not require this.

Industry representatives indicated that, upon receipt of a shipping paper under the exclusion, the reclaimer would mail a copy to the generator as confirmation of receipt. Shipping papers are often multi-part forms to make this easy to do. As indicated above, EPA estimates that generators would receive and keep records of copies for 9,174 shipments of excluded materials each year.

In addition, EPA estimates that 1,469 generators will ship to non-permitted reclaimers and be required to make reasonable efforts to ensure that the materials will be recycled legitimately and otherwise managed in a manner that is protective of human health and the environment. EPA derived this estimate based on data in Exhibit 3H of Chapter 3 in the EBD, which indicate that, of the 570 reclamation facilities reported in the 2003 RCRA Hazardous Waste Report as receiving offsite shipments, 193 reported receipts from offsite sources. This suggests that the remaining 377 facilities may not have reported their offsite receipts because they were exempt from this requirement, as well as from other requirements including a Part B permit, as provided under existing 40 CFR 261.6.⁷ In particular, section 261.6(c)(2) provides that owners or operators of facilities that recycle recyclable materials without storing them before they are recycled are not subject to a Part B permit or other existing requirements as specified. Based on this reasoning, EPA estimates that the 377 reclaimers (i.e., 66% of all reclaimers) are exempt from the requirement for a Part B permit. EPA applied this 66 percent to the 3,711 generators to estimate that 2,449 are shipping to non-permitted reclaimers and would be subject to the requirement to make reasonable efforts (i.e., $66\% \times 3,711 = 2,449$). In addition, through the industry consultations described in Section 3(c), EPA estimates that 40 percent of generators currently take reasonable efforts to evaluate a prospective reclaimer as a customary industry practice. Industry representatives indicated such generators may send their own employees or contract with a vendor to audit the facility and/or review available company information. Given this, EPA estimates that 60 percent of the 2,449 generators (i.e., 1,469) would incur burden from the requirement to make reasonable efforts ($2,449 \text{ generators} \times 60\% = 1,469$).

EPA estimates that 50 percent of these generators (i.e., 735) would send an employee to conduct an audit of the reclaimer and the other 50 percent would purchase an audit report from a vendor.

⁷ EPA assumes that these 377 reclaimers were included in the RCRA Hazardous Waste Report because of the shippers' reporting forms (i.e., Form GM).

Because these reasonable efforts are a one-time activity, EPA annualized the number of generators over the three-year life of this ICR, to estimate that 245 would send an employee to conduct the audit and 245 would purchase an audit report each year. These generators also must keep records of their efforts, including a certification.

These assumptions are reflected in Exhibit 1.

Reclaimer

EPA estimates that 527 reclaimers will prepare and submit a notice of their activities under section 261.4(a)(24). Because the notification is a one-time activity, EPA has annualized the number of reclaimers over the three-year life of this ICR, to estimate that 176 will prepare a notification each year (i.e., 527 generators/3 years = 176). EPA also estimates that about 10 percent will update their notice each year.

EPA estimates that the 527 reclaimers may make minor adjustments to their recordkeeping, in order to satisfy the requirement at section 261.4(a)(24) to keep records of each excluded shipment received. For example, they may consolidate some of their records into one location that contains all specified information.

As indicated above, EPA estimates that 9,174 shipments of excluded materials would be received by reclaimers each year and require confirmation of receipt be sent to the generator.

These assumptions are reflected in Exhibit 1.

Proposed Export Requirements at 40 CFR 261.4(a)(25)

EPA estimates that six generators would export excluded material under section 261.4(a)(25) each year. This is reflected in Exhibit 1.

(3) Annual Respondent Hour and Cost Savings under Existing Paperwork Requirements

Generators, transporters, and reclaimers of excluded material would no longer be subject to existing RCRA information collection requirements in handling the material, except as otherwise specified in the rule (e.g., proposed section 261.4(a)(24)(v) requires reclaimers to comply with the existing financial requirements of 40 CFR Part 264, Subpart H). As a result, these entities would see some burden impacts under the existing paperwork requirements.

Exhibit 2 presents the total annual burden under the proposed paperwork requirements, as well as the annual savings under the existing paperwork requirements. The savings under the existing requirements are presented according to the approved ICR in which the requirements are addressed. Below is a brief discussion of these ICRs, along with a description of relevant capital and O&M costs affected:

- Requirements for Generators, Transporters, and Waste Management Facilities under the RCRA Hazardous Waste Manifest System (EPA ICR Number 801). EPA estimates that generators will see savings for no longer manifesting their shipments of hazardous secondary materials that are excluded under the rule. There are annual savings in capital costs of \$1,825. These savings are associated with the use of fewer file cabinets to store manifests. There are annual savings in O&M costs of \$10,599. These savings are associated with the photocopying and transmittal of fewer manifests.
- Hazardous Waste Generator Standards (EPA ICR Number 820). EPA estimates that generators that drop in generator status (e.g., change from large quantity generator to small quantity generator) under the exclusions would see savings from reduced generator requirements. There are no capital cost savings. There are annual savings in O&M costs of \$1,602. These savings are associated with the photocopying and transmittal of fewer records.
- The 2005 Hazardous Waste Report (EPA ICR Number 976). EPA estimates that large quantity generators that drop in generator status (e.g., change to small quantity generator) under the exclusions would see savings for no longer preparing/submitting a Hazardous Waste Report. Large quantity generators that do not drop in generator status would see a savings for no longer preparing/submitting a Form GM for the excluded material. Offsite reclaimers would see a savings for no longer preparing a Form WR for the excluded material. There are no capital cost savings. There are annual savings in O&M costs of \$1,490. These savings are associated with the transmittal and recordkeeping of fewer forms.
- Land Disposal Restrictions ICR (EPA ICR Number 1442). EPA estimates that generators that drop in generator status (e.g., change from small quantity generator to conditionally exempt small quantity generator) under the exclusions would see savings from reduced land disposal requirements. There are annual savings in capital costs of \$260. These savings are associated with the use of fewer file cabinets to store records. There are annual savings in O&M costs of \$1,101,697. These savings are associated with the photocopying and transmittal of fewer records and fewer generators paying for hazardous waste determinations.
- General Hazardous Waste Facility Standards (EPA ICR Number 1571). EPA estimates that reclaimers that terminate their permit under the exclusions would be relieved of the technical requirements at 40 CFR Part 264 as applicable. There are no capital cost savings. There are annual savings in O&M costs of \$150,378. These savings are

associated with the performance of fewer waste analyses of shipments received and the transmittal of fewer forms.

- Part B Permit Applications, Permit Modifications and Special Permits (EPA ICR Number 1573). EPA estimates that reclaimers that terminate their permit under the exclusions would be relieved of the requirement for permit renewal under 40 CFR Part 270.⁸ In addition, EPA estimates that reclaimers that do not have a Part B permit would now comply with the financial requirements of 40 CFR Part 264, Subpart H, as required by proposed section 261.4(a)(24)(v)(D). There are no capital cost savings. There are annual savings in O&M costs of \$41. These savings are associated with the submittal of fewer permit renewal applications.

6(e) Bottom Line Hour and Cost Burden

(1) Respondent Tally

As shown in Exhibit 2, EPA estimates the total annual burden to respondents under the proposed paperwork requirements to be 11,645 hours and \$1,419,844. The total annual savings to respondents under the proposed and existing paperwork requirements is estimated to be 51,958 hours and \$3,471,433. The bottom-line savings over three years is estimated to be 155,874 hours and \$10,414,299.

(2) Agency Tally

As shown in Exhibit 3, EPA estimates the total annual burden to the government under the proposed paperwork requirements to be 1,295 hours and \$51,395. The bottom-line burden over three years is estimated to be 3,885 hours and \$154,185.

6(f) Reasons for Change In Burden

The proposed rule would place necessary conditions on generators and reclaimers in managing the excluded hazardous materials. At the same time, the rule would relieve these entities of existing RCRA paperwork requirements in handling the excluded material, resulting in savings to them. As shown in Exhibit 2, EPA estimates that this savings would more than offset the burden of the proposed paperwork requirements.

6(g) Public Burden Statement

⁸ Exhibit 3H of Chapter 3 in the EBD estimates permit renewal savings based on an estimate of 193 permitted reclaimers terminating their permit and avoiding renewal burden. This ICR adjusted this estimate based on recent consultations as described in Section 3(c). This ICR reflects that 50 percent of these permitted reclaimers will terminate their permit over a ten-year period. Hence, this ICR reflects that ten reclaimers will terminate their permit each year and avoid renewal burden (i.e., 193 facilities x 50% = 97 facilities will terminate their permit; 97 facilities/10 years = 10 facilities/yr will terminate their permit each year).

The annual public reporting burden for the proposed requirements at 40 CFR 260.34 is estimated to be 146 hours per petition. This includes time for reading the regulations, gathering the necessary information, and preparing/submitted the petition. There is no recordkeeping burden.

The annual public reporting burden for the proposed exclusions at 40 CFR 261.2(a)(2)(ii), 261.4(a)(23), and 261.4(a)(24) is estimated to range from 10 to 30 minutes. The 10-minute estimate includes time for a reclaimer to provide confirmation of shipment receipt to the generator, as provided in section 261.4(a)(24)(iv)(A)(2). The 30-minute estimate includes time for a generator or reclaimer to prepare/submit a one-time notification to EPA. The recordkeeping burden is estimated to range from 6 minutes to 20 hours. The 6-minute estimate includes time for a generator to receive and keep records of confirmation of shipment receipt from the reclaimer under section 261.4(a)(24)(iv)(A)(2). The 20-hour estimate includes time for a generator using an in-house employee to make reasonable efforts and keep records as required under section 261.4(a)(24)(iv)(B).

The annual public reporting burden for the proposed export requirements at 40 CFR 261.4(a)(25) is estimated to range from 6 minutes to 3.4 hours. The 6-minute estimate includes time for the exporter to provide an AOC to the transporter of the export shipment. The 3.4-hour estimate includes time for the exporter to prepare/submit a notification of its intended export to EPA. The recordkeeping burden is estimated to be 6 minutes. This includes time for the exporter to keep records of the AOC and other documents, as specified.

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 resources needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes 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. An 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 numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

To comment on 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, EPA has established a public docket for this ICR under Docket ID Number EPA-HQ-RCRA-2002-0031, which is available for online viewing at www.regulations.gov, or in person viewing at the Resource Conservation and Recovery Act (RCRA) Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW, Washington, D.C. The EPA Docket Center 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 Reading Room is (202) 566-1744, and the telephone number for the

Resource Conservation and Recovery Act (RCRA) Docket is 202-566-0270. An electronic version of the public docket is available at <http://www.regulations.gov>. This site can be used to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. When in the system, select "search," then key in the Docket ID Number identified above. Also, you can send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, D.C. 20503, Attention: Desk Officer for EPA. Please include the EPA Docket ID Number EPA-HQ-RCRA-2002-0031, and OMB Control Number 2050-0053 in any correspondence.

Exhibit 1

Estimated Annual Respondent Hour and Cost Burden - New Paperwork Requirements
Revisions to the Definition of Solid Waste*

Information Collection Activity	Hours and Costs Per Respondent								Total Hours and Costs		
	Legal	Managerial	Technical	Clerical	Respond. Hours/Year	Labor Costs/Year	Annual Capital Startup Costs	Annual O&M Costs	No. of Respond./Activities	Total Hours/Year	Total Cost/Year
	\$94.14	\$59.83	\$52.69	\$28.85							
Petitions for Non-Waste Determinations											
Prepare and submit an application	0.00	8.00	130.00	8.00	146.00	\$7,559.14	\$0.00	\$22.50	7	1,022.00	\$53,071.48
Subtotal	0.00	8.00	130.00	8.00	146.00	\$7,559.14	\$0.00	\$22.50	7	1,022.00	\$53,071.48
Exclusions from the Definition of Solid Waste											
Proposed Exclusions at 40 CFR 261.2(a)(2)(ii) and 261.4(a)(23)											
Generator											
Prepare a certification	0.00	0.04	0.05	0.08	0.17	\$7.34	\$0.00	\$0.00	50	8.50	\$367.00
Send one-time notice	0.00	0.10	0.30	0.10	0.50	\$24.68	\$0.00	\$0.39	278	139.00	\$6,969.46
Send revised notice	0.00	0.10	0.20	0.10	0.40	\$19.41	\$0.00	\$0.39	28	11.20	\$554.40
Reclaimer											
Send one-time notice	0.00	0.10	0.30	0.10	0.50	\$24.68	\$0.00	\$0.39	14	7.00	\$350.98
Send revised notice	0.00	0.10	0.20	0.10	0.40	\$19.41	\$0.00	\$0.39	1	0.40	\$19.80
Proposed Exclusion at 40 CFR 261.4(a)(24)											
Generator											
Send one-time notice	0.00	0.10	0.30	0.10	0.50	\$24.68	\$0.00	\$0.39	1,237	618.50	\$31,011.59
Send revised notice	0.00	0.10	0.20	0.10	0.40	\$19.41	\$0.00	\$0.39	124	49.60	\$2,455.20
Maintain records of offsite shipments	0.00	0.00	0.00	0.10	0.10	\$2.89	\$0.00	\$0.00	9,174	917.40	\$26,512.86
Make reasonable efforts and keep records - using in-house employee	0.00	2.00	14.00	4.00	20.00	\$972.72	\$0.00	\$600.00	245	4,900.00	\$385,316.40
Make reasonable efforts and keep records - using outside vendor	0.00	2.00	4.00	0.00	6.00	\$330.42	\$0.00	\$3,000.00	245	1,470.00	\$815,952.90
Include certification in records	0.00	0.50	1.00	0.00	1.50	\$82.61	\$0.00	\$0.00	490	735.00	\$40,478.90
Reclaimer											
Send one-time notice	0.00	0.10	0.30	0.10	0.50	\$24.68	\$0.00	\$0.39	176	88.00	\$4,412.32
Send revised notice	0.00	0.10	0.20	0.10	0.40	\$19.41	\$0.00	\$0.39	18	7.20	\$356.40
Maintain records of offsite shipments	0.00	0.00	0.00	0.17	0.17	\$4.90	\$0.00	\$0.00	527	89.59	\$2,582.30
Transmit confirmation of receipt of shipment to generator	0.00	0.00	0.00	0.17	0.17	\$4.90	\$0.00	\$0.39	9,174	1,559.58	\$48,530.46

* Table includes rounding error.

Exhibit 1 (continued)

Estimated Annual Respondent Hour and Cost Burden - New Paperwork Requirements
Revisions to the Definition of Solid Waste*

Information Collection Activity	Hours and Costs Per Respondent								Total Hours and Costs		
	Legal	Managerial	Technical	Clerical	Respond. Hours/Year	Labor Costs/Year	Annual Capital Startup Costs	Annual O&M Costs	No. of Respond./Activities	Total Hours/Year	Total Cost/Year
	\$94.14	\$59.83	\$52.69	\$28.85							
Proposed Export Requirements at 40 CFR 261.4(a)(25)											
Submit written notification to EPA	0.00	0.10	1.80	1.50	3.40	\$144.10	\$0.00	\$0.39	6	20.40	\$866.94
Furnish any additional information requested	0.00	0.00	0.50	0.50	1.00	\$40.77	\$0.00	\$0.39	0	0.00	\$0.00
Provide written renotification of change	0.00	0.10	0.50	0.50	1.10	\$46.75	\$0.00	\$0.39	0	0.00	\$0.00
Transmit Acknowledgment of Consent	0.00	0.00	0.00	0.10	0.10	\$2.89	\$0.00	\$0.00	6	0.60	\$17.34
Provide renotification if shipment cannot be delivered	0.00	0.10	0.50	0.50	1.10	\$46.75	\$0.00	\$0.39	0	0.00	\$0.00
Maintain copies of specified documents	0.00	0.00	0.00	0.10	0.10	\$2.89	\$0.00	\$0.00	6	0.60	\$17.34
Subtotal	0.00	varies	varies	varies	varies	varies	\$0.00	varies	varies	10,622.57	\$1,366,772.59
TOTAL	varies	varies	varies	varies	varies	varies	\$0.00	varies	varies	11,644.57	\$1,419,844.07

* Table includes rounding error.

Exhibit 2

Estimated Annual Respondent Hour and Cost Burden - New and Existing Paperwork Requirements
Revisions to the Definition of Solid Waste*

	ICR Number	Hours/Year	Labor Cost/Year	Capital Cost/Year	O&M Cost/Year	Total Cost/Year
New Paperwork Requirements						
Revisions to the RCRA Definition of Solid Waste	1189.19	11,645	\$533,375	\$0	\$886,469	\$1,419,844
Existing Paperwork Requirements						
Requirements for Generators, Transporters, and Waste Management Facilities under the RCRA Hazardous Waste Manifest System	801.15	(17,135)	(\$813,341)	(\$1,825)	(\$10,599)	(\$825,765)
Hazardous Waste Generator Standards	820.09	(20,856)	(\$1,288,674)	\$0	(\$1,602)	(\$1,290,276)
The 2005 Hazardous Waste Report	976.12	(6,068)	(\$397,085)	\$0	(\$1,490)	(\$398,575)
Land Disposal Restrictions	1442.18	(12,050)	(\$763,961)	(\$260)	(\$1,101,697)	(\$1,865,918)
General Hazardous Waste Facility Standards	1571.08	(8,759)	(\$417,597)	\$0	(\$150,378)	(\$567,975)
Part B Permit Application, Permit Modifications and Special Permits	1573.10	1,266	\$57,273	\$0	(\$41)	\$57,232
Subtotal: Existing Paperwork Requirements		(63,603)	(\$3,623,385)	(\$2,085)	(\$1,265,807)	(\$4,891,277)
Total under the Proposed Rule: New and Existing Paperwork		(51,958)	(\$3,090,011)	(\$2,085)	(\$379,337)	(\$3,471,433)

* Table includes rounding error. Savings shown in parentheses.

Exhibit 3

Estimated Annual Agency Hour and Cost Burden
Revisions to the Definition of Solid Waste*

Information Collection Activity	Hours and Costs Per Agency Activity								Total Hours and Costs		
	Legal \$55.83	Managerial \$48.88	Technical \$40.09	Clerical \$23.54	Agency Hours/ Year	Labor Costs/Year	Annual Capital Startup Costs	Annual O&M Costs	No. of Agency Activities	Total Hours/Year	Total Cost/Year
Petitions for Non-Waste Determinations											
Evaluate and approve/deny application	8.00	8.00	125.00	16.00	157.00	\$6,225.57	\$0.00	\$0.00	7	1,099.00	\$43,578.99
Subtotal	8.00	8.00	125.00	16.00	157.00	\$6,225.57	\$0.00	\$0.00	7	1,099.00	\$43,578.99
Exclusions from the Definition of Solid Waste											
Proposed Exclusions at 40 CFR 261.2(a)(2)(ii) and 261.4(a)(23)											
Receive and review one-time notice	0.00	0.00	0.10	0.00	0.10	\$4.01	\$0.00	\$0.00	292	29.20	\$1,170.92
Receive and review updated notice	0.00	0.00	0.10	0.00	0.10	\$4.01	\$0.00	\$0.00	29	2.90	\$116.29
Proposed Exclusion at 40 CFR 261.4(a)(24)											
Receive and review one-time notice	0.00	0.00	0.10	0.00	0.10	\$4.01	\$0.00	\$0.00	1,413	141.30	\$5,666.13
Receive and review updated notice	0.00	0.00	0.10	0.00	0.10	\$4.01	\$0.00	\$0.00	142	14.20	\$569.42
Proposed Export Requirements at 40 CFR 261.4(a)(25)											
Receive and review written notifications	0.00	0.00	1.00	0.00	1.00	\$40.09	\$0.00	\$0.00	6	6.00	\$240.54
Request additional information if needed	0.00	0.00	0.10	0.00	0.10	\$4.01	\$0.00	\$0.00	0	0.00	\$0.00
Provide complete notification to receiving country and transit countries	0.00	0.00	0.00	0.17	0.17	\$4.00	\$0.00	\$0.39	6	1.02	\$26.34
Forward specified information to exporter	0.00	0.00	0.00	0.17	0.17	\$4.00	\$0.00	\$0.39	6	1.02	\$26.34
Receive and review written renotification of change	0.00	0.00	0.17	0.00	0.17	\$6.82	\$0.00	\$0.00	0	0.00	\$0.00
Receive and review notification if shipment cannot be delivered	0.00	0.00	0.17	0.00	0.17	\$6.82	\$0.00	\$0.00	0	0.00	\$0.00
Subtotal	0.00	varies	varies	varies	varies	varies	\$0.00	varies	varies	195.64	\$7,815.98
Total	varies	varies	varies	varies	varies	varies	\$0.00	varies	varies	1,294.64	\$51,394.97

* Table includes rounding error.