

**CRITERIA FOR CLASSIFICATION OF SOLID
WASTE DISPOSAL FACILITIES AND PRACTICES
(RENEWAL)**

EPA ICR Number 1745.06, OMB Control Number 2050-0154

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1. IDENTIFICATION OF THE INFORMATION COLLECTION

1(a) TITLE AND NUMBER OF THE INFORMATION COLLECTION

"Criteria for Classification of Solid Waste Disposal Facilities and Practices" (Renewal), ICR 1745.06.

1(b) CHARACTERIZATION OF THE INFORMATION COLLECTION

The 1984 Hazardous and Solid Waste Amendments (HSWA) to the Resource Conservation and Recovery Act (RCRA), as amended, mandated that the U.S. Environmental Protection Agency (EPA) revise the Criteria for Solid Waste Disposal Facilities that may receive household hazardous wastes and conditionally exempt small quantity generator (CESQG) wastes. EPA submitted a Report to Congress in October 1988 that assessed the impacts on human health and the environment associated with Subtitle D (non-hazardous waste) units. While this study found that the revised Criteria for municipal solid waste disposal units were necessary to protect human health and the environment, the report failed to draw a conclusion relating to industrial Subtitle D units. The limited data on such units indicated that there might be a basis for concern and further study was needed.

The proposed solid waste disposal facility criteria were published on August 30, 1988. On October 9, 1991 EPA promulgated revised Criteria for Solid Waste Disposal Facilities (56 FR 50978) accepting household hazardous wastes. These revisions fulfilled the part of the statutory mandate in RCRA Section 4010 for all units that receive household and CESQG hazardous wastes (i.e., municipal solid waste landfills (MSWLFs)). Revisions to the part 257 criteria for other Subtitle D disposal units that may receive CESQG hazardous wastes were delayed as the Agency had little information concerning the potential or actual impacts that these types of units had on human health and the environment.

On October 21, 1993, the Sierra Club filed suit against EPA in the United States District Court for the District of Columbia to compel EPA to promulgate revised Criteria for non-municipal units that may receive small quantity generator hazardous waste. As a result of the October 21, 1993 lawsuit, EPA and the Sierra Club reached agreement on a schedule concerning revised Criteria for non-municipal units that may receive CESQG wastes. This schedule required that the EPA Administrator sign a proposal by May 15, 1995 and a final rule by July 1, 1996. The proposal was signed on May 15, 1995 and the Agency promulgated the final rule on July 1, 1996.

The attached supporting statement provides continued justification for the information collection requirements included in the final rulemaking for non-municipal units that may receive CESQG wastes. In general, the final Criteria require that the following information be recorded in the facility operating record as it becomes available, and that this information be retained by the owner and made available to the State upon request:

- (1) Any location restriction demonstration required in §§257.8-257.9; and
- (2) Any monitoring, testing, or analytical data required in §§257.21- 257.28.

This information collection request has a total of 152 respondents, a total of 11,215 hours resulting in an average annual public reporting and recordkeeping burden of 73.8 hours per respondent.

A brief summary of the information collection requirements associated with these areas is provided in Section 3. A more detailed discussion of each data element and the respondent activities associated with each of the information collection requirements is presented in Section 6.

2. NEED FOR AND USE OF THE COLLECTION

2(a) NEED AND AUTHORITY FOR THE COLLECTION

The final revisions to the Criteria for Classification of Solid Waste Disposal Facilities and Practices and Identification and Listing of Hazardous Waste set forth in 40 CFR part 257, subpart B and revisions to 40 CFR 261 were developed in response to Sections 4010(c) and 3001(d) (4) of RCRA, which were added to the statute in the 1984 Hazardous and Solid Waste Amendments. The final revisions to part 257, subpart B established specific standards and reporting and recordkeeping requirements for owners and operators of new, existing, and lateral expansions of existing non-municipal non-hazardous waste disposal units that receive conditionally exempt small quantity generator (CESQG) hazardous wastes. The final revisions to part 261 involved no new reporting or recordkeeping requirements. These regulations were finalized under the authority of Sections 1008, 2002 (general rulemaking authority), 3001(d)(4), 4004 and 4010 of RCRA, as amended.

2(b) USE AND USERS OF THE DATA

The information collected is used by the States to regulate and ensure that non-municipal non-hazardous waste disposal units that receive CESQG hazardous wastes, and CESQGs, are complying with the final revisions to the part 257, subpart B criteria and the revisions to part 261. The information collected is used by the State Director to confirm owner and operator compliance, and CESQG compliance, with the final regulations under the revised part 257 subpart B and the revised part 261.

3. THE RESPONDENTS AND THE INFORMATION REQUESTED

3(a) RESPONDENTS/SIC CODES

The groups affected by the final revisions to part 257, subpart B and part 261 include both the generators of CESQG wastes and owners or operators of new, existing, or lateral expansions of existing non-municipal non-hazardous waste disposal units that receive CESQG wastes. This continuing information request expires on January 31, 2009.

As the rule affects generators of CESQG waste as well as the units where the waste is disposed, a relevant list of NAICS codes would potentially include most business areas contained in the NAICS document. Therefore, it is not practical to include such a comprehensive list in this continuing supporting statement. However, the final revision to 261.5 did not impose any new reporting or recordkeeping requirement on CESQGs; therefore, the rest of the analysis will address only new reporting and recordkeeping requirements for disposal units.

3(b) PUBLIC NOTICE

EPA issued a public notice in the Federal Register on September 05, 2008 (73 FR 51807). The public comment period ended on November 04, 2008. No comments were received in response to the notice.

3(c) INFORMATION REQUESTED

The following subsections describe the recordkeeping requirements and reporting (notification) required in the final rule. EPA deliberately did not use design standards to prescribe specific activities, conditions, or components. This allowed owners and operators maximum flexibility in developing site-specific procedures that satisfy State requirements and provisions of the revised Criteria.

LOCATION RESTRICTIONS

Section 257.8 - Floodplains

Owners and operators of new non-municipal non-hazardous waste disposal units that receive CESQG wastes, existing non-municipal non-hazardous waste disposal units that receive CESQG wastes, and lateral expansions of existing units must document (record) in their operating record demonstrations that the unit meets the location restrictions regarding floodplains (§257.8). The owner or operator must notify the State Director when an exemption demonstration is recorded in the operating record.

Section 257.9 - Wetlands

Owners and operators of new non-municipal non-hazardous waste disposal units that receive CESQG waste and lateral expansions of existing units must demonstrate (report) to the Director of an approved State that the unit meets the requirements addressing wetlands (§257.9).

GROUND-WATER MONITORING AND CORRECTIVE ACTION

Section 257.21(b) - No Migration Petition

In an approved State, owners and operators of non-municipal non-hazardous waste disposal units that receive CESQG wastes may demonstrate (document) that there is no potential for migration of hazardous constituents from the unit. The demonstration is to be based on site-specific data and fate and transport modeling as presented in §257.21(b)(1)-(2).

Section 257.21(h) and (i) - Small and Arid or Remote Non-Municipal Non-Hazardous Waste Disposal Units

Directors of approved States may allow owners and operators of new, existing, or lateral expansions of existing non-municipal non-hazardous waste disposal units that receive CESQG wastes to use alternative ground-water monitoring techniques and alternative indicator lists as presented in §257.21(i)(1) and (2) for units meeting the criteria defined in §257.21(h). The Director of the approved State should consider the factors in §257.21(i)(3) when authorizing and considering these alternatives. Owners and operators of these qualifying small and arid or remote non-municipal non-hazardous waste disposal units must place in their operating record documentation demonstrating that they meet the criteria in §257.21(h). Section 257.21(h) allows units to use the flexibility provided in §257.21(i) if the non-municipal non-hazardous waste disposal units receive less than 20 tons of waste per day, have no evidence of ground-water contamination, and are either in a remote area or an arid area of the country. A remote area is defined at §257.21(h)(3) as "a community that experiences an annual interruption of at least three consecutive months of surface transportation that prevents access to a regional waste management facility." An arid area is defined at §257.21(h)(4) as "an area that annually receives less than or equal to 25 inches of precipitation" and "has no practicable waste management alternative."

Section 257.21(i)(2) - Small and Arid or Remote Non-Municipal Non-Hazardous Waste Disposal Units

Owners and operators of new, existing, or lateral expansions of existing non-municipal non-hazardous waste disposal units that detect contamination through the use of any alternative ground-water monitoring technique must perform expanded monitoring to show the nature and extent of the contamination and submit those results to (notify) the Director of the approved State of the contamination as required by §257.21(i)(2). If the contamination has reached the saturated zone, then the owner or operator must comply with the requirements of §257.21 (i)(2)(i). If the contamination is present in the vadose zone, on the surface, or anywhere else but the saturated zone, then the owner or operator must comply with the requirements of §257.21(i)(2)(ii).

Section 257.21 - §257.23 - Establish Ground-Water Monitoring Systems

Owners and operators must notify the State Director that documentation pertaining to measurement, sampling, and analytical devices has been placed in the operating record. The

numbering, spacing, and depth of monitoring systems shall be certified by a qualified ground-water scientist or approved by the Director of an approved State. Within 14 days of the certification, the owner or operator must notify the State Director that certification has been placed in the operating record.

Owners or operators must notify the State Director that the description of the sampling and analysis program documentation has been placed in the operating record.

The owner or operator must specify in the operating record a statistical method from §257.23(g) to be used in evaluating ground-water monitoring data for each hazardous constituent. If another statistical method that meets the performance standards of §257.23(h) is used, the owner or operator must place justification for this alternative in the operating record and notify the State Director of use of this alternative test.

Section 257.24 - Detection Monitoring Program

If the owner or operator determines that there is a statistically significant increase over background for one or more of the constituents in Appendix I (Appendix I of part 258), the owner or operator must, within 14 days of this finding, place a notice in the operating record and notify the State Director indicating which constituents have shown statistically significant changes from the background levels.

The owner or operator may demonstrate pursuant to §257.24(c)(3) that a source other than the non-municipal non-hazardous waste disposal unit or an error has caused the statistically significant changes in background levels of one or more of the constituents. This demonstration must be certified by a qualified ground-water scientist or approved by the Director of an approved State and be placed in the operating record.

Section 257.25 - Assessment Monitoring Program

If the sampling results indicate that Appendix II (Appendix II of part 258) constituents have been detected, the owner or operator must, within 14 days after obtaining the results, place a notice in the operating record identifying the Appendix II (Appendix II of part 258) constituents that have been detected and notify the State Director that this notice has been placed in the operating record. Within 90 days, and at least on a semiannual basis thereafter, the owner or operator must resample and record the concentrations of the detected Appendix II (Appendix II of part 258) constituents. If the concentrations of all Appendix II (Appendix II of part 258) constituents are shown to be at or below background values for two consecutive sampling events, the owner or operator must notify the State Director of this finding.

If one or more of the Appendix II (Appendix II of part 258) constituents are detected at statistically significant levels above the ground-water protection standard established under §257.25 (h) or (i) in any sampling event, the owner or operator must, within 14 days of this finding, place a notice in the operating record identifying the Appendix II (Appendix II of part 258) constituents that have exceeded the ground-water protection standard and notify the State Director and all

appropriate local government officials that the notice has been placed in the operating record. The owner or operator must also notify all persons who own the land or reside on the land that directly overlies any part of the plume of contamination if contaminants have migrated off site, if indicated by sampling wells in accordance with §257.25(g)(1).

Section 257.25(g)(2) - "False Positives"

The owner or operator may voluntarily attempt to demonstrate that a source other than the non-municipal non-hazardous waste disposal unit that may receive CESQG wastes caused the contamination or that a sampling error occurred and that it is not required to move into remedy selection under the corrective action requirements.

Section 257.27 - Selection of Remedy

The owner or operator must discuss the results of the corrective measure assessment, prior to the selection of remedy, in a public meeting with interested and affected parties. The owner or operator must notify the State Director, within 14 days of selecting a remedy, that a report describing the selected remedy and specifying a schedule for initiating and completing remedial activities has been placed in the operating record, and how it meets the standards in §257.27(b).

The owner or operator may document in the operating record that no clean-up is required if the conditions of §257.27(e) are met and the State Director is notified.

Section 257.28 - Implementation of Corrective Action Program

The owner or operator may determine that corrective action cannot be achieved with any currently available remedy. If so, the owner or operator must document in the operating record that a report justifying alternative corrective action measures has been placed in the operating record in compliance with the requirements of §257.28 (c)(4) and notify the State Director.

Upon completion of the requirements of §257.28(e), the owner or operator must document in the operating record that the remedy has been completed in compliance with the requirements of §257.28(e) and notify the State Director.

RECORDKEEPING REQUIREMENT

Section 257.30 - Recordkeeping Requirements

The owner and operator must record and retain near the unit in an operating record, information as it becomes available on any location restriction demonstration required under §§257.7 through 257.12 or any demonstration, certification, finding, monitoring, testing, or analytical data required in §§257.21 through 257.28.

The owner and operator must notify the State Director when the information has been placed in the operating record or alternative location as approved by the Director of an approved State. The Director of approved State can set alternative schedules the recordkeeping and notification requirements specified under §257.30, except for the notification requirement in §257.25(g)(1)(iii).

4. THE INFORMATION COLLECTED -- AGENCY ACTIVITIES, COLLECTION METHODOLOGY, AND INFORMATION MANAGEMENT

The following subsections discuss how the information will be collected. State agencies will not be responsible for collecting information. Rather, the owners or operators of non-municipal non-hazardous waste disposal units that receive CESQG wastes are required to collect the information, compile it in an operating record, and notify the State Director when the documentation is placed in the operating record. The operating record is intended to be equivalent to a permit file that is routinely kept by the State permitting agency. The Agency did not intend for the final rule to create additional recordkeeping except when the rule imposed more stringent Federal standards in addition to State requirements.

4(a) AGENCY ACTIVITIES

This program is implemented by approved States and all information will be reported to the States or kept in an operating record; in unapproved States, the "Criteria for Classification of Solid Waste Disposal Facilities and Practices" (40 CFR part 257) are self implementing, meaning that the owner/operator documents compliance with the Criteria and places the documentation in the operating record. EPA will not collect information from individual non-municipal non-hazardous waste disposal units. EPA does have enforcement authority in States where EPA has made a formal determination that the State permit program is not adequate. In enforcement situations, EPA may request information from the owner or operator.

4(b) COLLECTION METHODOLOGY AND MANAGEMENT

EPA has not specified how these records are to be developed and maintained. This ensures the maximum flexibility and minimum burden in meeting the final requirements.

4(c) SMALL ENTITY FLEXIBILITY

Respondents may include small businesses; all data requested are essential for both large and small businesses. The information burden was minimized to the extent possible for all potential respondents through the final rule's self-implementing format.

4(d) COLLECTION SCHEDULE

All collection requirements discussed in this ICR are for the period of time starting January 31, 2009 until January 30, 2012.

The final part 257, subpart B language established a schedule for the establishment of a ground-water monitoring program. Owners and operators of existing non-municipal non-hazardous waste disposal units that receive CESQG waste and lateral expansions of existing units were to comply with the ground-water requirements of §§257.22 - 257.25 according to the schedule established in the regulations unless an alternative schedule was specified by the Director of an approved State under §257.21(d):

1. Existing non-municipal non-hazardous waste disposal units that received CESQG wastes and lateral expansions of existing units were to be in compliance by July 1, 1998.
2. New non-municipal non-hazardous waste disposal units were to be in compliance before waste was placed in the unit.
3. Under §257.21(d), the Director of an approved State could specify an alternative schedule for owners and operators of existing units and lateral expansions of existing units to comply with the ground-water requirements specified in §§257.22 - 257.25. The alternative schedule was to ensure that 50 percent of all existing units were in compliance by July 1, 1998 and all existing units were in compliance by July 1, 1999.

Once established at a unit, ground-water monitoring is to be conducted throughout the active life of the unit plus 30 years. The Director of an approved State may decrease the 30-year period if the owner/operator demonstrates that a shorter period of time is adequate to protect human health and the environment and the Director approves that demonstration.

The records and reports are to be maintained on an ongoing basis in the unit operating record; however, the part 257, subpart B Criteria allow approved States the discretion to establish alternative schedules for recordkeeping and notification requirements.

5. NONDUPLICATION, CONSULTATIONS, AND OTHER COLLECTION CRITERIA

5(a) NONDUPLICATION

EPA took steps to minimize duplication of information collection. The part 257, subpart B final rule included minimum recordkeeping and reporting necessary to document compliance with the rule's provisions.

EPA deliberately did not prescribe specific recordkeeping procedures or formats. This would allow States and owners or operators maximum flexibility in developing site-specific procedures that satisfy existing State requirements and the provisions of the Criteria for Classification of Solid Waste Disposal Facilities and Practices. Furthermore, part 257, subpart B provides additional flexibility to approved States: approved States have flexibility in establishing

the location of the operating record and establishing alternative schedules for recordkeeping and notification requirements.

5(b) CONSULTATIONS

This renewal ICR is based on the data collected for the original and the revised ICR for part 258 (municipal landfills - ICR #1381). The part 258 ICR developed estimates in consultation with owners and operators of MSWLFs, State personnel, EPA personnel (Headquarters and Regional), and consultants working for EPA on the hazardous and solid waste programs. Individuals from these organizations were interviewed to characterize the time an owner or operator (as well as the State) would need to spend on each separate requirement. Since the minimum statutory requirements finalized in part 257, subpart B are almost identical to the corresponding sections of part 258, the Agency has prepared similar time estimates for the activities required under part 257, subpart B, making reasonable alterations and allowances to correspond with those sections where the requirements differ.

5(c) EFFECT OF LESS FREQUENT COLLECTION

The Agency believes that less frequent recordkeeping and reporting could hamper State enforcement and compliance efforts, especially in States that have not been approved, since these States may not establish requirements more stringent than the Federal minimum. However, the part 257, subpart B criteria allow approved States the discretion to establish alternative schedules for recordkeeping and notification requirements.

5(d) GENERAL GUIDELINES

This collection does not violate any of the Paperwork Reduction Act (50 CFR 1320.6) general guidelines.

5(e)-(f) CONFIDENTIALITY AND SENSITIVE QUESTIONS

No data requested are believed to be confidential. The Agency is not requesting any trade secret information and believes that the information collection complies with the Privacy Act of 1974 and OMB Circular A-108. The recordkeeping and reporting requirements do not request information that is of a sensitive nature.

6. ESTIMATING THE BURDEN HOURS AND COST OF THE COLLECTION

6(a) ESTIMATING THE RESPONDENT BURDEN HOURS - Original ICR

The total universe of non-municipal non-hazardous waste disposal units that may receive CESQG waste includes two types of units: (1) units where CESQG waste is co-disposed with industrial waste on site; and (2) Subtitle D units receiving CESQG waste from off site (including

construction and demolition waste disposal units and commercial industrial solid waste disposal units).

EPA originally assumed, and continues to assume, that units that co-disposed industrial non-hazardous waste and CESQG waste on site have ceased that practice to avoid the cost of compliance with part 257, subpart B. The commercial (off-site) industrial waste disposal units currently operating are subject to stringent environmental controls, imposed by States and corporate policy, therefore, EPA continues to believe, that these off-site units will incur a negligible burden from the revisions to part 257, subpart B. Therefore, the primary type of unit that continues to be affected by the part 257, subpart B rule is construction and demolition waste disposal units.

Consequently, the only units that will incur burdens under the part 257, subpart B rule continue to be construction and demolition landfills that receive CESQG waste from off site generators. EPA currently estimates that there are approximately 1,571 construction and demolition landfills in the United States as of 2004 as reported in the April 2006 issue of BioCycle (down from the estimate of 1,931 in 2003).

Construction and demolition waste landfills that were not in compliance with the part 257, subpart B revisions in 1996 would have responded to the regulation in one of two ways: (1) elected not to upgrade and decided to accept only construction and demolition waste that does not contain CESQG hazardous waste (these units would not be affected by the recordkeeping or reporting requirements of part 257, subpart B; or (2) upgraded and accepted CESQG waste (become subject to the recordkeeping and reporting requirements of the revisions to part 257, subpart B).

The Agency's Regulatory Impact Analysis (RIA) (June 1996) for the final part 257, subpart B rule, indicated that 162 construction and demolition waste landfills in 18 affected States would have elected to upgrade and thus become subject to the reporting and recordkeeping requirements of part 257, subpart B. The RIA also accounted for the number of small/dry/remote non-municipal units that would have opted to use alternative ground-water monitoring techniques. As a result of this added flexibility, EPA believed that more units would have opted to upgrade. For the purpose of the original ICR, EPA assumed that 50% of the construction and demolition units that were eligible to use alternative ground-water monitoring techniques would have chosen to upgrade. This included half of the 21 landfills in Alaska (remote) and half of the 109 small landfills that were located in affected States with low precipitation. Overall, EPA estimated that 65 additional landfills would upgrade and use alternative ground-water monitoring techniques. Additionally, EPA assumed that none of these 65 additional landfills would require expanded ground-water monitoring as discussed in the original ICR. Thus, the total number of upgrades of existing units was estimated to be 227. In the original ICR, 227 existing facilities were used to calculate burdens. In addition, EPA projected, in the original ICR, that 11 new and lateral expansions of existing units will be activated per year as construction and demolition waste units accepting CESQG waste became subject to this final rule.¹

¹ ? This estimate was based on a steady state environment where over 20 years (the remaining life of C&D landfills) all facilities that choose to upgrade will be replaced. In this steady state environment, 5% of 227 or 11 facilities (8 of the original 162 facilities and 3 of the 65 small facilities in arid or remote areas) would be activated in a year. This concurs with

First Update

In the first update (September 22, 1999) for this continuing ICR, EPA developed new recordkeeping and reporting burden estimates. EPA revised its original estimate (162) of the number of construction and demolition waste landfills in the 18 affected States that would have elected to upgrade. EPA revised the original estimate down from 162 landfills to 146. This reduction was based on a decrease in the overall number of construction and demolition waste landfills that existed in the original 18 affected States. This reduction equated to a 10% reduction in the number of construction and demolition landfills that would have continued to have annual reporting and recordkeeping burdens during the period of time from September 30, 1999 until September 30, 2002.

This same 10% reduction was used to reduce the number of existing construction and demolition waste landfills that would have continued to be subject to the reporting and recordkeeping burdens associated with corrective action (23 facilities in the original ICR vs. 21 in the first update).

Small/arid/remote construction and demolition facilities incurred reporting and recordkeeping burdens in the original ICR, but, in the first update to the ICR, they did not incur any burdens because small/arid/remote construction and demolition wastes facilities incurred only one-time burdens during the time period between September 30, 1996 and September 30, 1999. The Agency's original assumption that none of the existing small/arid/remote facilities would need to undergo expanded ground-water monitoring and corrective action continued to be assumed in the first update to the original ICR for the reasons that were presented in the original ICR.

In the first update to the original ICR, one-time reporting and recordkeeping burden hours for existing construction and demolition waste facilities were also reduced because these one-time burdens occurred during the period of time between September 30, 1996 and September 30, 1999. These one-time burdens were associated with the floodplain provision, the small/arid/remote demonstration, and the establishment of the ground-water monitoring system.

For the first update to the original ICR, like the original ICR, the Agency assumed 11 new and lateral expansions of existing units will be activated per year as construction and demolition waste units accepting CESQG waste become subject to the part 257, subpart B rule

Second Update

For the second update, EPA developed new recordkeeping and reporting burden estimates. EPA revised its first update estimate (146) of the number of construction and demolition waste landfills in the 18 affected that would have elected to upgrade. EPA revised the first update down from 146 construction and demolition waste landfills to 127. This reduction was based on a decrease in the overall number of construction and demolition waste landfills that exist in the

the percentage used in the part 258 ICR, #1381 where information from a Waste Age article and GAO also estimated 5% or 1/20.

original 18 affected States. The total number of respondents was therefore 127 construction and demolition waste landfills plus 18 States (145 respondents). This reduction equated to a 13% reduction in the number of construction and demolition waste landfills that would continue to have annual reporting and recordkeeping burdens during the period of time from October 1, 2002 until September 30, 2005. There is a reduction even though there has been an increase in the total overall number of construction and demolition waste landfills back towards the original estimated number in 1994 because EPA is evaluating the change only in the original 18 affected States.

This same 13% reduction was used to reduce the number of existing construction and demolition waste landfills that continue to be subject to the reporting and recordkeeping burdens associated with corrective action (21 in the first update vs. 18 in this second update).

Any small/arid/remote construction and demolition facility that incurred reporting and recordkeeping burdens in the first update between September 30, 1999 and September 30, 2002 did not incur any additional burdens under the second update due to the one-time nature of those reporting and recordkeeping burdens. In addition, any new construction and demolition waste landfill (new between September 30, 1999 and September 30, 2002) did not incur any additional burdens under this second update due to the one-time reporting and recordkeeping burdens associated with the floodplain provision, the small/arid/remote demonstration, and the establishment of the ground-water monitoring system.

Third Update

For the third update, EPA is again developing new recordkeeping and reporting burden estimates. EPA has revised this ICR by increasing the number of C&D landfills subject to this ICR by revising the second update up from 127 construction and demolition landfills to 165. This increase is based upon the original 18 affected States as reported in BioCycle trade magazine in January 2004. The total number of respondents is therefore 165 construction and demolition waste landfills plus 18 States (183 respondents). This increase represents a 30% increase in the number of construction and demolition waste landfills that were reported in the last update. For this ICR, the Agency assumes 14 new and lateral expansions of existing units will be activated per year as construction and demolition waste units accepting CESQG waste become subject to the part 257, subpart B rule.

(b) ESTIMATING THE RESPONDENT BURDEN HOURS - Fourth update Continuing ICR

For this fourth update, EPA is again developing new recordkeeping and reporting burden estimates. EPA has revised this ICR by decreasing the number of C&D landfills subject to this ICR by revising the third update down from 165 C&D landfills to 134. This decrease is based upon the original 18 affected states as reported in Biocycle trade magazine in April 2006. The number of

respondents is therefore 134 C&D waste landfills plus 18 States, for a total of 152 respondents. This decrease represents a 19% reduction in the number of C&D waste landfills that were reported in the last update.

For this current ICR, the Agency assumes 14 new and lateral expansion of existing units will be activated per year accepting CESQG waste subject to Part 257, Subpart B rule. The Agency believes that fewer, larger landfills will sustain the need for lateral expansions.

LOCATION RESTRICTIONS

Section 257.8 - Floodplains

No existing facilities incur any one-time or annual burdens in this continuing ICR. For the 14 new non-municipal non-hazardous waste disposal units that may receive CESQG waste and lateral expansions of existing units that are affected by this requirement, approximately 20% are expected to be within a 100-year floodplain. EPA has estimated a one-time recordkeeping requirement for this location restriction of 10 hours per unit. There is a one-time reporting burden of two hours per unit.

Section 257.9 - Wetlands

The requirement for the wetlands location restriction comes from the Clean Water Act (CWA) and incorporates EPA guidelines developed pursuant to the CWA. Any recordkeeping requirement is attributable to implementing the CWA and not the Criteria for Classification of Solid Waste Disposal Facilities and Practices. Therefore, in order to avoid double counting, no recordkeeping requirements for this location provision are included in this estimate. The reporting and recordkeeping requirements are reported under OMB Control Number 2040-0086.

Section 257.13 - Deadline for Making Demonstrations

This section does not include any recordkeeping or reporting requirements.

GROUND-WATER MONITORING AND CORRECTIVE ACTION

Section 257.21(b) - No Migration Petition

Owners and operators of non-municipal non-hazardous waste disposal units that may receive CESQG wastes may demonstrate (document) that there is no potential for migration of hazardous constituents from the unit. The demonstration is to be based on site-specific data and fate and transport modeling. EPA estimates that no more than 1 owner/operator out of the 14 new facilities will attempt this demonstration. EPA assumes that the required documentation would result in a one-time reporting requirement of 100 hours per unit. Section 257.21(b) does not contain recordkeeping requirements; however, the one-time recordkeeping requirements of two hours per unit from Section 257.30 have been included here.

Section 257.21(h) and (i) - Small and Arid or Remote Non-municipal Non-hazardous Waste Disposal Units

One-time burden hours are incurred under this provision for 3 of the 14 new small/arid/remote facilities that are eligible to use alternative ground-water monitoring and choose to upgrade. The Agency assumes that 3 of the total 14 new units will be located in small/arid/remote locations. The requirement is for owners and operators of these small/arid/remote non-municipal non-hazardous waste disposal units to make the determination that they meet the criteria in §257.21(h). There is a one-time recordkeeping burden of 10 hours per unit and a one-time reporting burden of two hours per unit.

Section 257.21(i)(2) - Small and Arid or Remote Non-municipal Non-hazardous waste disposal Units

EPA has assumed that none of the 3 new or lateral expansions of existing non-municipal non-hazardous waste disposal units that are eligible to use alternative ground-water monitoring techniques and choose to upgrade will detect contamination requiring expanded ground-water monitoring. First, because these disposal units are small and located in dry or generally frozen climates, they are less likely to have contamination. Moreover, the economics are such that upgrading will be cost-effective for the small units only if expanded monitoring will not be necessary. Therefore, EPA assumes that none of these units will have to incur the reporting or recordkeeping requirements associated with expanded ground-water monitoring.

Section 257.21 - §257.23 - Establish Ground-Water Monitoring Systems

EPA estimates 14 new or lateral expansions of existing construction and demolition landfills will choose to upgrade and will not be eligible to use alternative ground-water monitoring techniques. The Agency assumes the one-time reporting requirement of 20 hours per unit would result for these 14 new or lateral expansions of existing units. There are one-time recordkeeping requirements at §§257.22(d)(2), 257.23(a), and 257.23(g). All three sections has a six-hour per unit recordkeeping requirement.

Section 257.24 - Detection Monitoring Program

EPA estimates the total annual reporting burden for detection monitoring to be 32 hours per year for the 134 existing units and the 14 new or lateral expansions of existing units per year. The annual recordkeeping requirement burden is two hours for each unit. This burden does not apply to existing, new or lateral expansions of existing units meeting the criteria for small units located in remote or arid regions as defined in §257.21(h).

Section 257.25 - Assessment Monitoring Program

EPA assumes that only existing units may need to establish an assessment monitoring program within the time frame covered by this ICR. None of the new units are expected to require assessment monitoring prior to January 31, 2009.

For assessment monitoring, EPA estimates that this rule would impose an annual reporting burden of 32 hours per occurrence per year. EPA assumes that 22 units are included in the recordkeeping estimate. This estimate includes the units that voluntarily chose to make the "false positives" demonstration at §257.25(g)(2). There is an annual recordkeeping requirement of two hours for each unit.

Section 257.25(g)(2) - "False Positives"

See the discussion for §257.25 - Assessment Monitoring Program.

Section 257.27 - Selection of Remedy

For corrective action, EPA estimated an annual reporting burden of 200 hours per year to document progress in clean-up activities. The Agency assumes 22 units are included in the recordkeeping estimate and would have increased burdens.

The estimated reporting burden includes consideration of §257.27(d), the requirement to establish a schedule for implementing and completing remedial measures. The estimated burden also includes consideration of §257.27(e), the conditions that would allow no ground-water clean-up.

If the owner or operator determines that compliance with §257.27(b) cannot be practically achieved, then the owner or operator must comply with the requirements of §257.28(c)(4).

There are annual recordkeeping burdens at §§257.27(b), 257.28(c)(4) and 257.28(e)(2). Each of these annual recordkeeping burdens requires two hours per unit, for a total of six hours.

Section 257.28 - Implementation of Corrective Action Program

EPA assumes that no owner or operator will have completed corrective action and, therefore, be required to comply with §257.28(f) prior to September 30, 2012. Section 257.28(e) requires, at a minimum, 3 consecutive years of data to demonstrate compliance with the ground-water protection standard. Assuming existing facilities entered into assessment monitoring no earlier than 2001, it is highly unlikely that any existing facility would have burdens associated with Section 257.28. This section, therefore, contains no reporting requirements.

RECORDKEEPING REQUIREMENT

Section 257.30 - Recordkeeping Requirements

EPA estimates that the recordkeeping requirement at §257.30 to place notifications in the operating record will impose a one-time recordkeeping burden of 10 hours on 1 new or lateral expansion of an existing unit per year.

6(c) ESTIMATING RESPONDENT BURDEN HOURS AND COSTS

For a summary of the estimated respondent annual and one-time recordkeeping and reporting requirements burdens and costs, see Exhibits 4 through 7. For the purpose of preparing cost and burden estimates for this continuing ICR, EPA used the estimates prepared in similar programs that have been approved by OMB. The primary ICR used as a guideline was the ICR for part 258, which contains similar reporting and recordkeeping requirements. Additional ICRs reviewed included the Underground Storage Tanks (UST) program (Subtitle I) and the Subtitle C program. Costs for construction and demolition waste facility respondents were estimated based on the wage rates presented in Exhibit 1. These wage rates are based on the U.S. Office of Personnel Management, 2008 GS Salary table. The wage rates were determined as follows: Legal- GS-14, step 5; Managerial- GS-15, step 5; Technical- GS-12, step 5; and Clerical- GS-7, step 5. An overhead factor of 1.6 was applied to the rates and are shown below in exhibit 1.

EXHIBIT 1

Estimated Respondent Wage Rates for Commercial Construction and Demolition Landfills Only	
Legal	\$ 70.46
Managerial	\$ 82.88
Technical	\$ 50.14
Clerical	\$ 28.27

6(d) ESTIMATING AGENCY BURDEN HOURS AND COST

All information is submitted to the States; therefore, Agency burden and cost are negligible. The State burden for recordkeeping will be for processing notifications sent by the owners or operators of units that elect to continue receiving CESQG wastes, review of the unit demonstrations, and certification of requirements. States will be notified as specified previously under 3(b). Exhibit 2 presents the wage rates used to estimate the cost to the Agency and States. These Agency/State wage rates are based on the U.S. Office of Personnel Management, 2008 GS Salary table. The wage rates were determined as follows: Legal- GS-14, step 5; Managerial- GS-15, step 5; Technical- GS-12, step 5; and Clerical- GS-7, step 5. An overhead factor of 1.6 was applied to the rates and are shown below in exhibit 2.

EXHIBIT 2

Estimated Agency/State Wage Rates	
Legal	\$ 70.46
Managerial	\$ 82.88
Technical	\$ 50.14
Clerical	\$ 28.27

6(e) ESTIMATING STATE BURDEN HOURS AND COST

The annual and one-time recordkeeping and reporting burden for State agencies is summarized in Exhibit 3 below. Based on the information in the recently revised ICR for part 258 (ICR #1381), the total estimated recordkeeping and reporting burden for clerical staff is 2.5 hours per notification and the total estimated burden for technical staff is one hour per notification. For both recordkeeping and reporting estimates, the Agency assumes that neither the legal nor the managerial staff will be responsible for any additional burden or cost.

EXHIBIT 3

Estimated State Recordkeeping/Reporting Burden and Cost							
	Number of Notifi-cations	Legal \$70.46	Manager \$82.88	Technical \$50.14	Clerical \$28.27	Total Hours Per/yr	Total Cost (\$) Per/yr
LOCATION RESTRICTIONS							

Annual	0	0	0	0	0	0.0	0.00
One-Time	3	0	0	1	2.5	10.5	\$362
GROUND-WATER MONITORING AND CORRECTIVE ACTION							
Annual	202	0	0	1	2.5	707	\$24,405
One - Time	12	0	0	1	2.5	42.0	\$1,450

Total Annual Burden = 707 + 1/3 (52.5) = 724.5 hours

Total Annual Labor Costs = \$24,405 + 1/3 (\$1,812) = \$25,009

6(f) BOTTOM LINE BURDEN HOURS AND COST/MASTER TABLES

Exhibits 4 and 6 present the estimated annual respondent burden hours and cost for reporting and recordkeeping requirements. The annual burden for respondents is 10,312 hours and the estimated cost is \$402,093.

Exhibits 5 and 7 present the estimated one-time respondent burden hours and cost for reporting and recordkeeping requirements. The total one-time burden for respondents is 548 hours and the estimated cost is \$28,862.

Exhibit 8 presents a summary of the burden hours and labor cost incurred by both the States and owners and operators as a result of this final rule. The annual burden to respondents for reporting and recordkeeping requirements is 11,019 hours and the estimated cost is \$426,498. The total one-time burden for reporting and recordkeeping requirements is 601 hours and the estimated cost is \$30,674. The total one-time burden hours for reporting and recordkeeping has been annualized over a three year period and added to the annual burden hours, therefore, the total annual burden hours for reporting and recordkeeping is 11,219. In a similar manner, the total annual estimated labor cost is \$436,723.

CHANGES TO CAPITAL/STARTUP AND O&M COSTS

In addition, the first update to this ICR was approved subject to the following terms of clearance. It was requested that EPA verify that no non-labor costs would be incurred by respondents in complying with this collection. If non-labor costs were to be incurred by respondents, EPA was to revise the second ICR to account for them. EPA has revised this as well as the previous ICR to address these additional costs associated with performing a hydrogeologic study, installation of ground-water monitoring wells, and sampling costs associated with sampling of ground water wells. EPA has assumed 14 new or lateral expansions for the period of February 01, 2009 until February 01, 2012. These 14 expansions will each need to perform a hydrogeologic study in order to assess where to establish ground water monitoring wells. The study, for a small

site like most construction and demolition waste landfills are, would cost \$137,350 per site for a total of \$1,922,900. This total cost averaged over the 3-year period would be \$640,967 per year.

For these new or lateral expansions, they will need to establish 4 wells per site for the purpose of ground water monitoring. The capital cost for a total of 56 wells, at a depth of 50 feet, would total \$398,496. This total averaged over the 3-year period would cost \$132,832 per year. Lastly, the costs associated with sampling and analytical work would be a total of \$803,860 per year. This assumes that the sampling and analytical work is not performed by facility personal and that the analytical work is for analysis of VOCs only.

Annualized Capital Costs

Hydrogeologic Study	\$640, 967
Ground Water Monitoring Wells	\$132,832
Sampling & Analysis	\$803,860
TOTAL CAPITAL COSTS	\$1,577,659

TOTAL ANNUAL COSTS (LABOR + CAPITAL)

Annualized Labor Costs: \$436,723
 Annualized Capital Costs: \$1,577,659
 TOTAL COSTS: \$2,014,382

6(g) REASONS FOR CHANGE IN BURDEN

There is a decrease of 2,362 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This decrease is due to the reduction in the total number of Construction & Demolition landfills.

6(h) BURDEN STATEMENT

The public reporting and recordkeeping burden for this collection of information is estimated to average 73.8 hours per respondent. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the 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 No. EPA-HQ-RCRA-2008-0548, which is available for public viewing at the RCRA Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The EPA/DC 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 RCRA Docket is (202) 566-0270. An electronic version of the public docket is available for online viewing at <http://www.regulations.gov>. Use <http://www.regulations.gov> 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. Once 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, DC 20503, Attention: Desk Officer for EPA. Please include the EPA Docket ID No. (EPA-HQ-RCRA-2008-0548) and OMB control number (2050-0154) in any correspondence.

Part B of the Supporting Statement

This part is not applicable because no statistical methods were used in collecting this information.

**EXHIBIT 4
ESTIMATED ANNUAL RESPONDENT RECORDKEEPING BURDEN AND COST**

REQUIREMENT	NUMBER OF RESPONDENTS - ACTIVITY		HOURS PER RESPONDENT - ACTIVITY				TOTAL HOURS PER YEAR	TOTAL COST PER YEAR
	EXISTING	NEW	LEGAL \$70.46/HR	MANAGER \$82.88/HR	TECHNICAL \$50.14/HR	CLERICAL \$28.27/HR		
Floodplains - 257.8	0	0	0	0	0	0	0	0
Wetlands - 257.9	0	0	0	0	0	0	0	0
No Migration Petition 257.21(b)	0	0	0	0	0	0	0	0
Small and Remote Facilities - 257.21(h)	0	0	0	0	0	0	0	0
Small and Remote Facilities - 257.21(i)	0	0	0	0	0	0	0	0
Establish GWM System - 257.23	0	0	0	0	0	0	0	0
Detection Monitoring Program - 257.24	134	14	0	0	1	1	296	11,605
Assessment Monitoring Program - 257.25	22	0	0	0	1	1	44	1,725
Selection of Remedy 257.27	22	0	0	0	3	3	132	5,175
Recordkeeping Requirements - 257.30	0	0	0	0	0	0	0	0
TOTAL ANNUAL RECORDKEEPING BURDEN AND COST	178	14					472	18,505

EXHIBIT 5
ESTIMATED ONE-TIME RESPONDENT RECORDKEEPING BURDEN AND COST

REQUIREMENT	NUMBER OF RESPONDENTS - ACTIVITY		HOURS PER RESPONDENT - ACTIVITY				TOTAL HOURS PER YEAR	TOTAL COST PER YEAR
	EXISTING	NEW	LEGAL \$70.46/HR	MANAGER \$82.88/HR	TECHNICAL \$50.14/HR	CLERICAL \$28.27/HR		
Floodplains - 257.8	0	3	0	2	4	4	30	1,438
Wetlands - 257.9	0	0	0	0	0	0	0	0
No Migration Petition 257.21(b)	0	1	0	0	1	1	2	78
Small and Remote Facilities - 257.21(h)	0	3	0	2	3	5	30	1,372
Small and Remote Facilities - 257.21(i)	0	0	0	0	0	0	0	0
Establish GWM System - 257.23	0	14	0	0	3	3	84	3,293
Detection Monitoring Program - 257.24	0	0	0	0	0	0	0	0
Assessment Monitoring Program - 257.25	0	0	0	0	0	0	0	0
Selection of Remedy 257.27	0	0	0	0	0	0	0	0
Recordkeeping Requirements - 257.30	0	1	0	2	4	4	10	480
TOTAL ONE-TIME RECORDKEEPING BURDEN AND COST	0	22					156	6,661

**EXHIBIT 6
ESTIMATED ANNUAL RESPONDENT REPORTING BURDEN AND COST**

REQUIREMENT	NUMBER OF RESPONDENTS - ACTIVITY		HOURS PER RESPONDENT - ACTIVITY				TOTAL HOURS PER YEAR	TOTAL COST PER YEAR
	EXISTING	NEW	LEGAL \$70.46/HR	MANAGER \$82.88/HR	TECHNICAL \$50.14/HR	CLERICAL \$28.27/HR		
Floodplains - 257.8	0	0	0	0	0	0	0	0
Wetlands - 257.9	0	0	0	0	0	0	0	0
No Migration Petition 257.21(b)	0	0	0	0	0	0	0	0
Small and Remote Facilities - 257.21(h)	0	0	0	0	0	0	0	0
Small and Remote Facilities - 257.21(i)	0	0	0	0	0	0	0	0
Establish GWM System - 257.23	0	0	0	0	0	0	0	0
Detection Monitoring Program - 257.24	134	14	0	6	12	14	4,736	159,890
Assessment Monitoring Program - 257.25	22	0	2	6	12	12	704	34,740
Selection of Remedy 257.27	22	0	10	30	40	120	4,400	188,958
Recordkeeping Requirements - 257.30	0	0	0	0	0	0	0	0
TOTAL ANNUAL REPORTING BURDEN AND COST	178	14					9,840	383,588

**EXHIBIT 7
ESTIMATED ONE-TIME RESPONDENT REPORTING BURDEN AND COST**

REQUIREMENT	NUMBER OF RESPONDENTS - ACTIVITY		HOURS PER RESPONDENT – ACTIVITY				TOTAL HOURS PER YEAR	TOTAL COST PER YEAR
	EXISTING	NEW	LEGAL \$70.46/HR	MANAGER \$82.88/HR	TECHNICAL \$50.14/HR	CLERICAL \$28.27/HR		
Floodplains - 257.8	0	3	0	0	1	1	6	235
Wetlands - 257.9	0	0	0	0	0	0	0	0
No Migration Petition 257.21(b)	0	1	5	20	60	15	100	5,442
Small and Remote Facilities - 257.21(h)	0	3	0	0	1	1	6	235
Small and Remote Facilities - 257.21(i)	0	0	0	0	0	0	0	0
Establish GWM System - 257.23	0	14	2	5	11	2	280	16,289
Detection Monitoring Program - 257.24	0	0	0	0	0	0	0	0
Assessment Monitoring Program - 257.25	0	0	0	0	0	0	0	0
Selection of Remedy 257.27	0	0	0	0	0	0	0	0
Recordkeeping Requirements - 257.30	0	0	0	0	0	0	0	0
TOTAL ONE-TIME REPORTING BURDEN AND COST	0	21					392	22,201

EXHIBIT 8

TOTAL ESTIMATED ANNUAL AND ONE-TIME BURDEN HOURS AND COSTS

	ANNUAL BURDEN		ONE-TIME BURDEN	
	Hours	Costs	Hours	Costs
State Reporting and Recordkeeping Burden	707	\$ 24,405	53	\$ 1,812
Respondent Reporting and Recordkeeping Burden	10,312	\$402,093	548	\$28,862
TOTAL ESTIMATED BURDEN	11,019	\$426,498	601	\$30,674

Total Annual Burden Hours and Costs = Annual Burden + 1/3 of One-time burden

Total Annual Burden Hours = 11,019 + 1/3 (601) = 11,219

Total Annual Burden Costs = 426,498 + 1/3 (30,674) = \$436,723