

SUPPORTING STATEMENT FOR
EPA INFORMATION COLLECTION REQUEST #1381.09
"SOLID WASTE DISPOSAL FACILITY CRITERIA (RENEWAL)"

1. IDENTIFICATION OF THE INFORMATION COLLECTION

I(a) TITLE AND NUMBER OF THE INFORMATION COLLECTION

This ICR is entitled "Solid Waste Disposal Facility Criteria" (Renewal), ICR # 1381.09.

I(b) CHARACTERIZATION OF THE INFORMATION COLLECTION

The 1984 Hazardous and Solid Waste Amendments (HSWA) of 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 waste and (conditionally exempt) small quantity generator wastes. EPA submitted a Report to Congress in October 1988 that assessed the impacts on human health and the environment associated with Subtitle D facilities. The study found that the revised Criteria for municipal solid waste landfills (MSWLFs) were necessary to protect human health and the environment.

On August 30, 1988, EPA proposed the Solid Waste Disposal Facility Criteria that delineate requirements for MSWLFs, including those that co-dispose of sewage sludge and that receive ash from municipal waste combustion (MWC) facilities (including ash monofills). The final rule was promulgated on October 9, 1991 and the final regulations implementing these criteria are codified in the Code of Federal Regulations (CFR) Title 40, Part 258.

When the Agency promulgated the solid waste disposal facility criteria final rule on October 9, 1991 (56 FR 50978), it included an exemption for owners and operators of certain small MSWLF units from the design and groundwater monitoring requirements of the criteria. To qualify for the exemption, the small landfill could only accept less than twenty tons of municipal solid waste per day (based on an annual average), have no evidence of existing groundwater contamination, and either: (1) serve 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, or (2) be located in an area that annually receives less than or equal to 25 inches of precipitation and serve a community that has no practicable waste management alternative. In adopting this limited exemption, the Agency believed it had complied with the statutory requirement to protect human health and the environment, taking into account the practicable capabilities of small landfill owners and operators.

In January 1992, the Sierra Club and the Natural Resources Defense Council (NRDC) filed a petition with the U.S. Court of Appeals, District of Columbia Circuit, for review of the Subtitle D criteria. On May 7, 1993, the Court of Appeals determined in Sierra Club v. United

States Environmental Protection Agency 992 F.2d 337 (D.C. Cir. 1993) that under RCRA §4010(c), the only factor EPA could consider in determining whether facilities must monitor groundwater was whether such monitoring was "necessary to detect contamination," not whether such monitoring is "practicable." Thus, the Court vacated the small landfill exemption as it pertained to groundwater monitoring, and remanded that portion of the final rule to the Agency for further consideration.

Consequently, as part of the Agency's October 1, 1993 final rules delaying the effective date of the MSWLF criteria (58 FR 51536; October 1, 1993), EPA rescinded the exemption from groundwater monitoring for qualifying small MSWLFs. Also at that time, EPA delayed the effective date of the MSWLF criteria for qualifying small MSWLFs for two years (until October 9, 1995) to allow owners and operators of such small MSWLFs adequate time to decide whether to continue to operate in light of the Court's ruling, and to prepare financially for the added costs if they decided to continue to operate. On October 1, 1995 issued a final rule extending the general compliance date of the MSWLF criteria until October 9, 1997, for qualifying small MSWLFs.

On March 26, 1996, the President signed the "Land Disposal Program Flexibility Act of 1996" (LDPFA) that reinstated the exemption from groundwater monitoring for qualifying small MSWLFs. EPA codified this requirement on September 25, 1996 (61 FR 50410). The LDPFA also directed the Agency to provide additional flexibility to small MSWLFs in the form of the minimum frequency of daily cover, the minimum frequency of monitoring for methane, and the infiltration barriers in the final cover. These requirements were codified on July 29, 1997 (62 FR 40708). The effective date of these requirements was confirmed to be October 27, 1997 on October 2, 1997 (62 FR 5160).

On October 1, 1993, EPA issued a final rule that delayed the compliance date for the Financial Assurance (Subpart G) requirements until April 9, 1995. On October 18, 1994, the Agency extended the compliance date for the financial assurance requirements until April 9, 1996. The compliance date for financial assurance was again extended by the Agency on April 7, 1995. A requirement of the LDPFA directed the Agency to establish additional flexibility for Financial Assurance. The additional flexibility was codified by establishing Financial Assurance Mechanisms for Local Governments (61 FR 60328, November 27, 1996) and Financial Assurance Mechanisms for Corporate Owners and Operators (63 FR 17706, April 10, 1998). The effective date for the financial assurance requirements was April 10, 1998.

Public Notice

In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Agency notified the public through a *Federal Register* notice on the resubmission of this ICR on November 5, 2009 (74 FR 57311). No comments were received.

The attached supporting statement provides justification for the information collection

requirements included in the final Part 258 MSWLF Criteria. This supporting statement updates the ICRs that were approved by Office of Management and Budget (OMB) on March 4, 1992; June 21, 1995; January 27, 1997; August 28, 2000; November 30, 2003; and March 07, 2007.

In general, the Part 258 Criteria require that the following information be recorded in the MSWLF operating record as it becomes available and that this information be retained by the owner or operator of each MSWLF unit and made available to the State upon request:

- (1) Demonstrations that facilities meet the requirements for the "small" landfill exemption (Section 258.1(f)(2));
- (2) Any location restriction demonstration required by Subpart B (Sections 258.10 - 258.16);
- (3) Training procedures, monitoring results, and demonstrations required by Subpart C (Sections 258.20, 21, and 23);
- (4) Demonstrations required by Subpart D (Sections 258.40- 258.41);
- (5) Any monitoring, testing, or analytical data required by Subpart E (Sections 258.50 - 258.58);
- (6) Closure and post-closure care plans and any monitoring, testing, or analytical data required by Sections 258.60 and 258.61; and
- (7) Any cost estimates and financial assurance documentation required under Subpart G (Sections 258.71 - 258.73).

A brief summary of the information collection requirements associated with the above-listed areas is provided in Section 3. A more specific discussion of the data elements and 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

Owners or operators of new MSWLFs, existing MSWLFs, and lateral expansions of existing MSWLFs, in complying with 40 CFR Part 258, are required to record information in the facility operating record, pursuant to §258.29, as it becomes available. The operating record must be supplied to the State as requested and retained until the end of the post-closure care period of the MSWLF.

2(b) USE AND USERS OF THE DATA

The information collected will be used primarily by the States to regulate and ensure that owners or operators of MSWLFs are complying with the Part 258 Criteria. The information collected will be used by the State Director to confirm owner or operator compliance with the regulations under Part 258.

3. THE RESPONDENTS AND THE INFORMATION REQUESTED

3(a) RESPONDENTS/NAICS CODES

The groups affected by the requirements in Part 258 are owners or operators of new MSWLFs, existing MSWLFs, and lateral expansions of existing MSWLFs. These owners or operators could include Federal, State, and local governments, and private waste management companies. Facilities in the following NAICS codes may be affected by this rule:

- 9221 Local governments (formally SIC Code 922)
- 5622 Sanitary services (formally SIC Code 495)
- 3252 Industrial inorganic chemicals (formally SIC Code 282)
- 3251 Industrial organic chemicals (formally SIC Code 281)
- 3253 Miscellaneous (formally SIC Code 287)

These five groups represent the most identifiable of the several hundred NAICS codes. Other major groups affected by these requirements are construction, manufacturing, services, and agricultural products and are included under the "miscellaneous" designation.

This information request covers the time period from April 01, 2010 until March 31, 2013. The earlier version of ICR #1381 reported the one-time burden for all MSWLFs; therefore, this burden is not reported in this update. One-time burdens are reported for new MSWLFs, but the one-time burdens for existing MSWLFs are not included.

3(b) INFORMATION REQUESTED

The following subsections summarize the recordkeeping requirements, as well as reporting (notification) requirements included in the MSWLF Criteria. EPA deliberately did not use design standards to prescribe specific conditions or components. This will allow owners and operators maximum flexibility in developing site specific procedures, which satisfy existing State requirements and provisions of the revised Criteria.

SUBPART A - GENERAL

Section 258.1(f)(2) - Small or Remote MSWLFs

Owners or operators of new MSWLFs, existing MSWLFs, and lateral expansions of existing MSWLFs that receive less than 20 tons of waste per day (TPD), show no evidence of groundwater contamination, and is either in a remote area or in an arid area of the country can be exempted from Subpart D (Design) and Subpart E (Ground-Water Monitoring and Corrective Action) of the MSWLF Criteria. Owners or operators of these qualifying small MSWLFs must place in their operating record documentation demonstrating that they meet the exemption qualifications. Remote areas are defined at §258.1(f)(1)(i) 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 §258.1(f)(1)(ii) as "an area that annually receives less than or equal to 25 inches of precipitation" and "has no practicable waste management alternative."

Section 258.1(f)(3) - Small or Remote MSWLFs

Owners or operators of new MSWLFs, existing MSWLFs, and lateral expansions of existing MSWLFs that receive the exemption in §258.1(f)(2), and subsequently discover groundwater contamination resulting from their MSWLF unit, must notify the State Director of such contamination and, thereafter, comply with Subpart D and E.

Section 258.4(c)(4) – Research, development, and demonstration (RD&D) permits

Require the owner or operator of a MSWLF permitted under this section to submit an annual report to the State Director showing whether and to what extent the site is progressing in attaining project goals.

SUBPART B - LOCATION RESTRICTIONS

Section 258.10 - Airport Safety

Owners or operators of new MSWLFs, existing MSWLFs, and lateral expansions must document (record) in their operating record demonstrations that show the MSWLF meets the location restrictions regarding airports (§258.10). The owner or operator must notify the State Director when an exemption demonstration is recorded in the operating record. Owners or operators of new MSWLFs and lateral expansions that are regulated under the location requirements pertaining to airports (§258.10(b)) must notify the affected airport and the Federal Aviation Administration as part of the siting process.

Section 258.11 - Floodplains

Owners or operators of new MSWLFs, existing MSWLFs, and lateral expansions must document (record) in their operating record demonstrations that show the MSWLF meets the

location restrictions regarding floodplains (§258.11). The owner or operator must notify the State Director when an exemption demonstration is recorded in the operating record.

Section 258.12 - Wetlands

Owners or operators of new MSWLFs and lateral expansions must demonstrate (report) to the Director of an approved State that the MSWLF meets the requirements addressing wetlands (258.12).

Section 258.13 - Fault Areas

Owners or operators of new MSWLFs and lateral expansions must demonstrate (report) to the Director of an approved State that the MSWLF meets the requirements addressing fault areas (§258.13).

Section 258.14 - Seismic Impact Zones

Owners or operators of new MSWLFs and lateral expansions must demonstrate to the Director of an approved State that the MSWLF meets the requirements addressing seismic impact zones (§258.14). The demonstration must be placed in the operating record.

Section 258.15 - Unstable Areas

Owners or operators of new MSWLFs, existing MSWLFs, and lateral expansions must document (record) in their operating record demonstrations that show the MSWLF meets the location restrictions regarding unstable areas (§258.15). The owner or operator must notify the State Director when an exemption demonstration is recorded in the operating record.

Section 258.16 - Closure of Existing MSWLFs

Owners or operators of existing MSWLFs that are located near airports (§258.10(a)), floodplains (§258.11(a)), or in unstable areas (§258.15(a)) must close by October 9, 1996. The deadline for closure may be extended (but not beyond 10/9/98) by a Director of an approved State if the owner or operator demonstrates (records) in their operating record that 1) there is no other alternative capacity and 2) there is no immediate threat to human health and the environment.

SUBPART C - OPERATING CRITERIA

Section 258.20 - Procedures to Exclude Hazardous Wastes

Owners or operators of MSWLFs must implement a program for detecting and preventing the disposal of regulated hazardous wastes not exempt under 40 CFR Part 261.4 (b)

and PCBs at the facility. This program includes: (1) random inspections of incoming loads, (2) records of any inspections, (3) training of facility personnel to recognize unacceptable loads, and (4) notification procedures. Owners or operators must document (record) results of inspections, training, and notification procedures. In addition, MSWLF owners or operators must notify the Director of an approved State, or the EPA Regional Administrator if in an unapproved State, if a regulated hazardous waste or PCB waste is discovered at the facility.

Section 258.21 - Cover Material Requirements

The Director of an approved State may allow owners or operators to use for daily cover alternative materials of alternative thicknesses other than six inches of soil. The owner or operator must demonstrate (document), however, that the alternative daily cover is as effective as six inches of soil.

Owners and operators of MSWLFs in approved States may be granted a temporary waiver of the daily cover requirement. To be granted the temporary waiver, the owner or operator must demonstrate (document) that extreme seasonal climatic conditions make daily cover impractical.

The Director of an approved State may establish alternative frequencies for cover requirements for owners and operators of MSWLFs that dispose of 20 TPD or less of MSW.

Section 258.23 - Explosive Gases Control

Where the MSWLF owner or operator detects that methane gas concentrations exceed specified limits at the MSWLF, §258.23 requires that the owner or operator immediately take all steps necessary to protect human health and that the owner or operator immediately notify the State Director. Within 7 days of detection, the owner or operator must place in the operating record documentation of the methane gas levels and a description of the interim steps that were taken. Moreover, the owner or operator has 60 days (from detection) to implement a remediation plan, place a copy of this remediation plan in the operating record, and notify the State Director that the plan has been implemented. This will allow the State to ensure that the owner or operator takes steps to reduce methane gas levels as well as alerting the State to a possible health and safety threat.

The Director of an approved State may establish alternative monitoring frequencies for owners and operators of MSWLFs that dispose of 20 TPD (annual average) or less of MSW.

Section 258.28 - Liquids Restrictions

Section 258.28 prohibits bulk or non-containerized liquid waste from being disposed of in a MSWLF unless: (1) the waste is a household waste other than septic waste, or (2) the waste is leachate or gas condensate derived from a unit designed with a composite liner as described in

§258.40. The owner or operator must place in the operating record documentation that the landfill is designed with a composite liner and must notify the State Director that this documentation has been placed in the operating record.

Section 258.28(3) requires that owners or operators of Project XL MSWLF units must place documentation of the landfill design in the operating record and must notify the State Director that this documentation has been placed in the operating record.

Section 258.29 - Recordkeeping Requirements

Owners and operators of MSWLFs must notify the State Director when any of the demonstrations (documentation) required by other sections of this rule has been added to the facility operating record. Section 258.12 (Wetlands), §258.13 (Fault areas), and §258.16 (Closure of existing units) contain reporting requirements but do not contain recordkeeping requirements. Those recordkeeping requirements are included in this section.

SUBPART D - DESIGN CRITERIA

Section 258.40(c) - Alternative Liner Design

The Director of an approved State may allow owners or operators of MSWLFs to use an alternative liner design. The owner or operator must demonstrate (document) that the alternative liner design meets the performance standard in §258.40(a)(1).

Section 258.40(d) - Alternative Point of Compliance

The Director of an approved State may specify an alternative point of compliance anywhere from the MSWLF unit including up to 150 meters from the MSWLF unit boundary. The Director of an approved State must consider the factors at §258.40(d)(1)-(8) in determining the point of compliance.

Section 258.41 - Project XL Bioreactor Landfill Projects

Section 258.41(a)(7) - Buncombe County, North Carolina Project XL Bioreactor landfill shall monitor and submit an annual report to the EPA Regional Administrator and the State Director that includes, at a minimum, the following data: i) Amount of landfill gas generated; ii) Percent capture of landfill gas, if known; iii) Quality of the landfill gas, amount and type of liquids applied to the landfill; iv) Method of liquids application to the landfill; v) Quantity of waste placed in the landfill; vi) Quantity and quality of leachate collected; vii) Quantity of leachate recirculated back into the landfill; viii) Information on the pretreatment of waste applied to the landfill; ix) Data collected on landfill temperature and moisture content; x) Data on the leachate pressure (head) on the liner; xi) Observations, information, and studies made on the physical stability of the MSWLF units that are developed during the project term, if any.

Section 258.41(b)(5) - Yolo County Central Landfill owned and operated by the County of Yolo, California, or its successors shall submit an annual report to the EPA Regional Administrator and the State Director. The annual report will include; i) Amount of landfill gas generated; ii) Percent capture of landfill gas; iii) Quality of the landfill gas; iv) Amount and type of liquids applied to the landfill; v) Method of liquids application to the landfill; vi) Quantity of waste placed in the landfill; vii) Quantity and quality of leachate collected, including at least the following parameters, monitored, at a minimum, on an annual basis: (A) pH; (B) Conductivity; (C) Dissolved oxygen; (D) Dissolved solids; (E) Biochemical oxygen demand; (F) Chemical oxygen demand; (G) Organic carbon; (H) Nutrients; (I) Common ions; (J) Heavy metals; (K) Organic priority pollutants; and (L) Flow rate; viii) Quantity of leachate recirculated back into the landfill; ix) Information on the pretreatment of solid and liquid waste applied to the landfill; x) Landfill temperature; xi) Landfill moisture content; xii) Data on the leachate pressure (head) on the liner; xiii) The amount of aeration of the waste; xiv) Data on landfill settlement; xv) Any information on the performance of the landfill cover; and xvi) Observations, information, or studies made on the physical stability of the landfill.

SUBPART E - GROUND-WATER MONITORING AND CORRECTIVE ACTION

Section 258.50(a) - "No Migration Petitions"

In an approved State, owners and operators of MSWLFs may demonstrate (document) that there is no potential for migration of hazardous constituents from the MSWLF unit. The demonstration is to be based on site-specific data and fate and transport modeling as presented in §258.50(a)(1)-(2).

Section 258.51 - §258.53 - Establish GWM 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 groundwater 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 §258.53(g), to be used in evaluating groundwater monitoring data for each hazardous constituent. If another statistical method that meets the performance standards of §258.53(h) is used, the owner or operator must place a justification for this alternative in the operating record and notify the State Director of use of this alternative test.

Section 258.54 - Detection Monitoring Program

If the owner or operator determines that there is a statistically significant increase over background for one or more of the Appendix I constituents, 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 §285.54(c) that a source other than a MSWLF 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 258.55 - Assessment Monitoring Program

If sampling results indicate that Appendix II constituents that have been detected, the owner or operator must place a notice in the operating record identifying the Appendix II constituents that have been detected and notify the State Director that this notice has been placed in the operating record, the owner or operator must resample and record the concentrations of detected Appendix II constituents. If concentrations of all Appendix II 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.

Section 258.55(g)(2) - "False Positives"

The owner or operator may voluntarily attempt to demonstrate that a source other than the MSWLF 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 258.57 - Selection of Remedy

The owner or operator must discuss 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 that a report describing the selected remedy has been placed in the operating record and how it meets the standards of §258.57(b).

If the owner or operator determines that compliance with requirements under §258.57(b) cannot be practically achieved with any currently available methods, the owner or operator must obtain certification of a qualified ground-water scientist or approval by the Director of an approved State that compliance cannot be met. The owner or operator must document in the operating record the alternative measure or schedule selected in consideration of

§258.57(d).

The owner or operator may document in the operating record that no clean-up is required if the conditions of §258.57(e) are met and the State Director is notified.

Section 258.58 - Implementation of the 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 §258.58(c)(4) and notify the State Director.

Upon completion of the requirements of §258.58(e), the owner or operator must document in the operating record that the remedy has been completed in compliance with the requirements of §258.58(e) and notify the State Director.

SUBPART F - CLOSURE AND POST-CLOSURE CARE

Section 258.60 - Closure Criteria

Owners or operators will be required to maintain in the facility operating record copies of the closure plans. The closure plans describe the steps necessary to close each MSWLF unit in accordance with the closure requirements in §258.60 including all recordkeeping and reporting requirements.

The Director of an approved State may establish alternative infiltration barriers for owners and operators of MSWLFs that dispose of 20 TPD or less of MSW.

Section 258.61 - Post-Closure Care Requirements

Owners or operators will be required to maintain in the facility operating record copies of the post-closure care plans. The post-closure care plan describes the steps to be taken by the owner or operator to ensure that monitoring and routine maintenance activities are carried out at each MSWLF unit in accordance with the requirements in §258.61 including all recordkeeping and reporting requirements.

SUBPART G - FINANCIAL ASSURANCE CRITERIA

Section 258.71 - Financial Assurance for Closure

The owner or operator of the MSWLF unit must place in the operating record the up-to-date cost estimates for closure. The cost estimates must be annually adjusted for inflation.

Section 258.72 - Financial Assurance for Post-Closure Care

The owner or operator of the MSWLF unit must place in the operating record the up-to-date cost estimates for post-closure care. The cost estimates must be annually adjusted for inflation.

Section 258.73 - Financial Assurance for Corrective Action

The owner or operator of the MSWLF unit must place in the operating record the up-to-date cost estimates for corrective action. The cost estimates must be annually adjusted for inflation.

Section 258.74 - Allowable Mechanisms

The owner or operator of the MSWLF unit must select a mechanism for carrying out financial assurance. Options are specified in §258.74(a)-(j)

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

The following subsections discuss how the information will be collected. The most important factor is that the information is not to be sent to or collected by the Agency. The owners or operators of MSWLFs are 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 these rules to create additional recordkeeping except when more stringent Federal standards replace State requirements.

4(a) AGENCY ACTIVITIES

This program is implemented by approved States and all information will be reported to the States and/or kept in an operating record; EPA will not collect information for individual MSWLF units. In unapproved States, the MSWLF Criteria are self-implementing; that is, the owner or operator documents compliance with the Criteria and places this documentation in the operating record. EPA does have enforcement authority in States where EPA has made a determination that the State permit program is not adequate. In enforcement situations, the 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, thus ensuring maximum flexibility and minimizing burden in meeting these 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 rule's self-implementing format. Furthermore, the Part 258 Criteria contains a small landfill exemption from the costly design requirements that also will minimize the recordkeeping burden on small businesses. Further, the Agency is in the process of reinstating the exemption from the costly ground-water monitoring and corrective actions requirements.

4(d) COLLECTION SCHEDULE

All collection requirements discussed in this ICR are for the period April 01, 2010 through March 31, 2013. The date for compliance for Subtitle D requirements is prior to April 10, 1998.

The records and reports will be maintained on an ongoing basis in the facility operating record, however, the Part 258 Criteria allow approved States the discretion to establish alternative schedules for recordkeeping and notification requirements.

5. NON-DUPLICATION, CONSULTATIONS, AND OTHER COLLECTION CRITERIA

5(a) NON-DUPLICATION

EPA took steps to minimize duplication of information collection. EPA proposed the recordkeeping and reporting requirements and carefully considered all comments. The final rule includes minimum recordkeeping and reporting necessary to document compliance with the rule's provisions.

EPA deliberately did not prescribe specific recordkeeping procedures or formats. This will allow States, local governments and owners or operators maximum flexibility in developing site-specific procedures that satisfy existing State requirements and the provisions of the MSWLF Criteria. Furthermore, the Part 258 Criteria provide 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

Owners and operators of MSWLFs, State personnel, EPA personnel (Headquarters and Regional) and consultants working for EPA on the hazardous and solid waste program were interviewed to characterize the time the owner or operator (as well as the State) would need to spend on each separate requirement. Based on the results of these interviews, the Agency prepared the time estimates for recordkeeping.

5(c) EFFECTS OF LESS FREQUENT COLLECTION

The Agency believes that less frequent recordkeeping and reporting could hamper State enforcement and compliance efforts, especially in States that are not allowed to be more stringent than the Federal minimum. However, the Part 258 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) - 5(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 AND COST OF THE COLLECTION

6(a) ESTIMATING RESPONDENT BURDEN

The total universe of MSWLF's has steadily declined for at least the past decade. EPA estimates that by April 01, 2010 there will be approximately 1900 MSWLFs and that this number of MSWLFs will remain constant over the reporting period covered by this supporting statement. The estimated number of MSWLFs is consistent with the estimate contained in the supporting statement for the previous ICRs for this rule. EPA projected that there would be 4000 MSWLFs when the rule became fully effective and the estimate is reasonably accurate and has been confirmed by an independent consultation with the States that resulted in a published list of MSWLFs (EPA, 1996), information published in trade magazines (Biocycle, 1999; Waste Age 1996), and a Directory and Atlas of Solid Waste Disposal Facilities (Chartwell Information Publishers, 1998). The number of landfills affected by each recordkeeping and reporting requirements will vary and each requirement is discussed in this statement. For example, a number of reporting requirements generally will apply only to new MSWLF units and lateral expansions of existing units rather than to the entire total. Information supplied by State permitting officials indicate that the number of new MSWLF's that open or existing MSWLF's that actually expand is a small number due to difficulties in sitting new units and expanding existing ones. As for this continuing ICR, it is assumed that 40 new units and or lateral expansions will occur each year, as well as 2 new RD&D units. Included in this supporting

statement (but not separately identified) is a one-time burden of 35 hours per respondent (40 per year) to read the October 9, 1991 Federal Register publication.

SUBPART A - GENERAL

Section 258.1(f)(2) - Small or Remote MSWLFs

The Agency estimates that the total burden would apply to approximately 425 "small" MSWLFs located in remote and/or arid regions. The requirement is that the MSWLF owner or operator make the determination that they meet the criteria in §258.1(f)(2). There is a one-time recordkeeping burden of 10 hours per facility and a one-time reporting burden of two hours per facility.

Section 258.1(f)(3) - Small or Remote MSWLFs

EPA estimates that 5% (22) of the total number of small facilities will discover ground-water contamination and must notify the State Director and comply with the liner requirements in Subpart B. This would occur over an estimated 10 years or 3 facilities per year for purposes of this estimate. The one-time recordkeeping burden is estimated to be 30 hours per facility. There would be no annual burden. There is a one-time reporting burden of two hours per facility.

Section 258.4(c)(4) – Research, development, and demonstration permits

The Agency estimates that the annual reporting requirements would apply to the 2 new facilities. There would be an annual reporting burden of 15 hours per facility. There are currently 12 facilities permitted under this section.

SUBPART B - LOCATION RESTRICTIONS

Section 258.10 - Airport Safety

Of the estimated 40 new MSWLF units and lateral expansions that are affected by this requirement, approximately 50% are expected to be within the areas of airport safety. EPA has estimated a one-time recordkeeping requirement for this location restriction of 10 hours per facility. There is a one-time reporting burden of two hours per facility.

Section 258.11 - Floodplains

Of the estimated 40 new MSWLF units and lateral expansions that are affected by this requirement, approximately 20% are expected to be within the 100-year floodplain. EPA has estimated a one-time recordkeeping requirement for this location restriction of 10 hours per facility. There is a one-time reporting burden of two hours per facility.

Section 258.12 - Wetlands

The requirements 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 MSWLF Criteria. 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 258.13 - Fault Areas

Of the estimated 40 new MSWLF units and lateral expansions that are affected by this requirement less than 10% are expected to be in a fault area. EPA has estimated a one-time recordkeeping requirement for this location restriction of 10 hours per facility, however, the recordkeeping requirement is included under §258.29 because there is no authority under §258.13 to require recordkeeping. There is a one-time reporting burden of two hours per facility.

Section 258.14 - Seismic Impact Zones

Of the estimated 40 new MSWLF units and lateral expansions that are affected by this requirement, less than 10% are expected to be in a seismic impact zone. EPA has estimated a one-time recordkeeping requirement for this location restriction of 10 hours per facility. There is a one-time reporting burden of two hours per facility.

Section 258.15 - Unstable Areas

Of the estimated 40 new MSWLFs and lateral expansions that are affected by this requirement less than 10% are expected to be in an unstable area. EPA assumes that owners and/or operators of existing units would have made the appropriate demonstration prior to January 1997. EPA has estimated a one-time recordkeeping requirement for this location restriction of 10 hours per facility. There is a one-time reporting burden of two hours per facility.

Section 258.16 - Closure of Existing MSWLFs

Of the existing 1900 MSWLFs, EPA estimates that less than 2% of the owners or operators of existing MSWLFs that are located near airports (§258.10(a)), floodplains (§258.11(a)), or in unstable areas (§258.15(a)) and extended the deadline for closure until October 9, 1998. This burden has already been accounted for and does not happen in this reporting period from April 01, 2010 to March 31, 2013.

SUBPART C - OPERATING CRITERIA

Section 258.20 - Procedures to Exclude Hazardous Wastes

EPA estimates an annual recordkeeping burden of 10 hours per year for each of the 1900 landfills for training and an annual reporting burden of two hours per facility. In addition there is a one-time two hour reporting burden for each of the 42 landfills that are estimated to detect regulated quantities of hazardous or PCB waste. These 42 MSWLF owners or operators must notify the State Director (or the EPA Regional Administrator) if a regulated hazardous waste or PCB waste is discovered at the facility. This adds a one-time recordkeeping burden of two hours for those 42 facilities.

Section 258.21 - Cover Material Requirements

EPA assumes that owners and/or operators of existing units would have made the appropriate demonstration prior to January, 2000 therefore, there is no burden for existing units. Of the estimated 40 new MSWLFs and lateral expansions that are eligible for these demonstrations, EPA estimates that less than 10% are expected to conduct the demonstrations. For MSWLF units making the demonstration, EPA has estimated a one-time recordkeeping burden of 24 hours per facility. There is a one-time reporting burden of two hours for those 4 facilities.

Section 258.23 - Explosive Gases Control

EPA estimates a one time recordkeeping burden of 24 hours to set up a methane monitoring program for the 40 new units and 6 hours per year reporting burden to report the results of the monitoring for each of the 1940 operating units(1900 existing and 40 new).

The requirement to develop a remediation plan and report to the State would only apply to those facilities that exceed the standards for methane at the facility. EPA estimates that this will occur at 20 of the 1900 operating facilities per year and that each of these facilities would have a one-time recordkeeping burden of 16 hours per year. There is a one-time reporting burden of two hours for those 20 facilities.

Section 258.28 - Liquids Restrictions

This one-time reporting requirement will apply only to the facilities that recirculate gas condensate or leachate and that have composite liners. Of the 40 new MSWLFs, EPA estimates that there are 20 such facilities. EPA assumes that the required recordkeeping would take 2 hours per facility and that the one-time reporting requirement will take 2 hours per facility.

Section 258.29 - Recordkeeping Requirements

Owners and operators of MSWLFs must notify the State Director when any of the demonstrations (documentation) required by other sections of this rule have been added to the facility operating record. There is a one-time 10 hour recordkeeping burden in addition to a one-time 2 hour reporting burden for all 40 new facilities.

SUBPART D - DESIGN CRITERIA

Section 258.40(c) - Alternative Liner Design

Owners or operators of MSWLFs in approved States may be permitted to use an alternative liner design. The owner or operator must demonstrate (document) that the alternative liner design meets the performance standard in §258.40(a)(1). To date, this design option has been chosen by only a very few MSWLFs, EPA estimates that 5% of the 40 new MSWLFs will undertake this onetime reporting requirement and EPA estimates the burden at 40 hours per facility. There is no recordkeeping requirement under the Part 258 rules for §258.40(c).

Section 258.40(d) - Alternative Point of Compliance

This one-time reporting requirement is the responsibility of the Director of an approved State. There is no recordkeeping or reporting requirement for the owner or operator. The Director of an approved State may voluntarily choose to use an alternative point of compliance. The Director of an approved State must consider the factors at §258.40(d)(1)-(8) in demonstrating (documenting) that the alternative point of compliance meets the performance standard. EPA assumes that all States that are considering this approach will have made the appropriate demonstration prior to January, 1998 and there will be no burden from this requirement.

Section 258.41 - Project XL Bioreactor Landfill Projects

The one-time recordkeeping requirements for a Bioreactor landfill will not be included here to avoid double counting, and have been included in the existing and new estimates. Currently, EPA has certified 4 Bioreactor landfills and expects 2 more to apply for certification during this recordkeeping period. The Agency estimates that the annual requirement for recordkeeping is 20 hours and annual reporting is 30 hours, for a total of 50 hours per facility.

SUBPART E - GROUND-WATER MONITORING AND CORRECTIVE ACTION

Section 258.50(a) - "No Migration Petitions"

Owners and operators of MSWLFs may demonstrate (document) that there is no potential for migration of hazardous constituents from the facility. The demonstration is to be based on site-specific data and fate and transport modeling. EPA estimates no more than 4 owners or operators will attempt this demonstration per year. EPA assumes that the required documentation would result in a one-time reporting requirement of 100 hours per facility. Section 258.50(a) does not contain recordkeeping requirements, however, the one-time recordkeeping requirements of 2 hours per facility that are contained in §258.29 have been included here for simplicity.

Section 258.51 - 258.53 - Establish GWM systems

EPA reviewed State permit programs and found that 80% of the States had requirements to set-up groundwater monitoring systems prior to the promulgation of Part 258; therefore, the Agency assumed the one-time reporting requirement of 20 hours per facility would result for 20% of the 40 (8) new facilities. There are one-time recordkeeping requirements at §§258.51(d) (1)(ii), 258.53(a) and 258.53(g). Each of the three sections has a 2 hour per facility recordkeeping requirement for a total of 6 hours per facility.

Section 258.54 - Detection Monitoring Program

Of the 1900 operating facilities, 425 are qualifying “small” MSWLFs that will be exempted from Subpart E. EPA estimates that the total annual reporting burden for detection monitoring to be 32 hours per year. As discussed above, EPA estimates that 80% of the States required ground-water monitoring prior to the promulgation of Part 258, however, Part 258 contains monitoring parameters not usually found in State rules. For the purposes of this analysis, EPA assumed that current State regulations already captured 5 hours per year of the total annual reporting burden for detection monitoring; therefore, this rule imposes an incremental burden of 27 hours per year for landfills in the States with monitoring requirements (i.e., 80% of the landfills or 1520 landfills). For the remaining 380 landfills in States without groundwater monitoring requirements and the 40 new MSWLF units per year, EPA assumed that all would incur the entire annual reporting burden of 32 hours per year. There is an annual recordkeeping requirement of 2 hours for each facility.

Section 258.55 - Assessment Monitoring Program

EPA assumes that the only facilities that will need to establish an assessment monitoring program are existing MSWLF units. None of the new MSWLF units are expected to require assessment monitoring prior to March 2010.

For assessment monitoring, EPA estimated that this rule would impose an annual reporting burden of 32 hours per occurrence per year. The Agency's Regulatory Impact Analysis assumes that approximately one third of the facilities will contaminate ground water such that assessment monitoring and corrective action are required. The number impacted would not include the 425 “qualifying” small MSWLFs because will be exempted, therefore, about 500 facilities [0.33 (1900-425)] are included in the reporting estimate. This estimate includes the facilities that voluntarily chose to make the "false positives" demonstration at §258.55(g)(2). There is an annual recordkeeping requirement of 2 hours for each facility.

Section 258.55(g)(2) - "False Positives"

See the discussion for §258.55 - Assessment Monitoring Program.

Section 258.57 - Selection of Remedy

For corrective action, EPA estimated an annual burden of 200 hours per year to document progress in clean-up activities. Approximately one-half of the States have corrective action rules; therefore, the Agency assumes that 250 facilities (approximately ½ of 500 facilities) would have increased reporting burdens.

The estimated reporting burden includes consideration of §258.57(d), the requirement to establish a schedule for implementing and completing remedial measures. The estimated burden also includes consideration of §258.57(e), the conditions that would allow no ground-water clean-up.

There are annual recordkeeping burdens at §§258.57(b), 258.58(d), and 258.58(e). Each of these annual recordkeeping burdens requires 2 hours per facility per year for a total of 6 hours.

Section 258.58 - Implementation of the Corrective Action Program

EPA assumes that no owner or operator will have completed Corrective Action and, therefore, be required to comply with §258.58(f) prior to March 2013. Section 258.58(f) is the only recordkeeping or reporting burden in §258.58 that is not included in the recordkeeping and reporting estimates for §258.57 of the rule, therefore, this section contains no additional reporting or recordkeeping requirements.

SUBPART F - CLOSURE AND POST-CLOSURE CARE

Section 258.60 - Closure Criteria

EPA estimates that a one-time burden of 16 hours per facility is required to document the closure plan. A review of the State rules indicated that 80% of the current State requirements contain a similar provision that would require the owner or operator to submit the same type of information that EPA would require in a closure plan. Therefore, 8 facilities (20% of 40) would have increased reporting burdens. EPA assumes that all existing and lateral expansions will have developed the closure plan prior to January, 1998. There is a one-time recordkeeping burden of 2 hours per facility.

Section 258.61 - Post-Closure Care Requirements

EPA estimates the annual reporting burden for the post-closure care plan to be 16 hours per facility. The review of State rules found that 60% of the current State rules contained similar requirements that would require the owner or operator to submit the same type of information that EPA would require in the post-closure care plans. Therefore, 760 facilities (40% of 1900) would have reporting and recordkeeping burdens. There is an annual recordkeeping burden of 2 hours per facility for the existing 1,140 facilities plus the 40 new facilities.

SUBPART G - FINANCIAL ASSURANCE CRITERIA

Section 258.71 - Financial Assurance for Closure

The estimated annual reporting burden for the financial assurance requirements is 4 hours per year per facility for all financial assurance requirements. This includes annually adjusting cost estimates for inflation for closure, post-closure care (§258.72), and known corrective actions (§258.73). A review of State rules indicated that 40% of the States had requirements for financial assurance, therefore, 1140 facilities (60% of 1900) are included in the estimate. There is an annual recordkeeping burden of 2 hours per existing facility plus the 40 new facilities.

Section 258.72 - Financial Assurance for Post-Closure Care

See Section 258.71.

Section 258.73 - Financial Assurance for Corrective Action

See Section 258.71.

Section 258.74 - Allowable Mechanisms

See Section 258.71.

6(b) ESTIMATING RESPONDENT COSTS

For estimated labor costs to respondents, see Exhibits 1 through 4. For capital and operations and maintenance costs EPA has made the assumptions that 40 new or lateral expansions will occur for the period of April 01, 2010 until March 31, 2013. These 40 new or lateral expansions will need to perform a hydrogeologic study in order to assess where to establish ground water monitoring wells. The study would cost \$137,350 per site for a total of \$5,494,000. This total cost spread out over the 3-year period would be \$1,831,333 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 160 wells, at a depth of 50 feet, would total \$1,138,560. This total spread out over the 3-year period would cost \$379,520 per year.

For the purpose of preparing the cost and burden estimates for this ICR, EPA referenced the U.S. Department of Labor; Bureau of Labor Statistics for the current year data (2008) and the 2009 General Schedule table for State burden costs, as applied to NAICS industry group Code 562, Sanitary Services (private sector wage rates), mean value using an overhead factor of 2.3. The Agency/State/local wage rates are from the 2009 GS salary table Step 5 and an overhead factor of 1.6. EPA estimates GS-14 step 5 for legal staff, GS-15 step 5 for managerial staff, GS-12 step 5 for technical staff and GS-7 step 5 for clerical staff.

Estimated Respondent and Agency/State/Local Wage Rates

Labor Category	Respondent Wage Rate (NAICS Code #562)	Agency/State Wage Rate (NAICS Code #9221)
Legal	125.19	72.51
Managerial	108.15	85.28
Technical	54.90	51.60
Clerical	31.35	29.09

Estimating Capital and Operation & Maintenance Costs

EPA estimates annual capital costs of \$379,520 and annual operations and maintenance costs of \$1,831,333. EPA has revised the 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. Estimated costs associated with the 40 new or lateral expansion sites requiring sampling and analytical work would total \$2,210,853 per year. This assumes that the sampling and analytical work is not performed by facility personal and that analytical work is for analysis of VOC's only. EPA could not determine how to convert from dollars to hours for an event that will most likely be performed by at least one contractor and one laboratory service, and not the owner/operator.

6(c) ESTIMATING STATE/LOCAL GOVERNMENT AND AGENCY BURDEN AND COST

The annual and one time recordkeeping and reporting burden for State/Local agencies is summarized in the table below. 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 managerial staff will be responsible for any additional burden or cost.

Estimated State/Local Government Recordkeeping / Reporting Burden Cost						
Annual	Number of Notifications 1,900	Legal@ \$72.51 per hour 0	Managerial @ \$85.28 per hour 0	Technical @ \$51.60 per hour 1.0	Clerical @ \$29.09 per hour 2.5	Total Cost per Year \$1,063,476
One Time	Number of Notifications 1,900	Legal@ \$72.51 per hour 0	Managerial @ \$85.28 per hour 0	Technical @ \$51.60 per hour 1.0	Clerical @ \$29.09 per hour 2.5	Total Cost per Year \$176,044

All information is submitted to the States/Local government; therefore, Agency burden and cost is negligible. The State/local government burden for recordkeeping will be to process the notifications of the State Directors sent by the owners and/or operators of the MSWLFs, review of MSWLFs demonstrations, and certification of requirements. States will be notified, as specified previously under 2(b).

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

The estimated annual burden and labor cost are shown in Exhibits 1, 3, and the annual costs in table in section 6(c). The estimated one-time burden and labor cost are shown in Exhibits 2, 4, and the one time costs in the table in section 6(c). The Agency assumes that of the approximately 1900 notifications, 1/3, or 684 will be State/local/tribal Governments and the remaining 2/3, or 1,216 will be private owners as shown in the table below in this section.

The total annual burden for respondents is 191,448 hours and the estimated cost is \$12,892,203 (\$9,441,830 labor, \$1,831,333 O&M, \$379,520 capital).

The one-time burden for State respondents is 13,300 hours and the estimated labor cost is \$1,239,520.

The total respondent burden for this ICR is 204,748 hours and a cost of \$12,892,203.

Respondent	Total Annual Respondents	Total Annual Responses	Total Annual Hours	Total Annual Capital/Start-up and O&M Costs
Private sector respondents	1,216	1,216	122,493	\$1,473,906
State/Local/Tribal sector respondents	684	684	68,955	\$736,953
State/Local/Tribal Governments as the authority	50	1,900	13,300	\$0
TOTAL	1,950	3,800	204,748	\$ 2,210,859

6(e) REASONS FOR CHANGE IN BURDEN

There is an increase of 240 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This is due to the increased number of states adopting the Research, Development, and Demonstration section (258.4) since the last ICR update.

6(f) BURDEN STATEMENT

The average annual public reporting burden for this collection of information is estimated to be approximately 54 hours per response. 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-2009-0758, which is available for public viewing at the Office of Solid Waste and Emergency Response,- Resource Conservation and Recovery Act (RCRA) Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave.,

NW, Washington, DC. 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 RCRA Docket is (202) 566-0270. An electronic version of the public docket is available online at <http://www.regulations.gov>. Use the website 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-2009-0758) and OMB control number (2050-0122) in any correspondence.

Project XL Bioreactor Landfill Project §258.41								

Project XL Bioreactor Landfill Project §258.41								

