

**SUPPORTING STATEMENT FOR
EPA INFORMATION COLLECTION REQUEST NUMBER 2382.01**

**REPORTING AND RECORDKEEPING REQUIREMENTS FOR THE PROPOSED
RULE ON THE IDENTIFICATION OF NON-HAZARDOUS SECONDARY
MATERIALS THAT ARE SOLID WASTE**

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1. IDENTIFICATION OF THE INFORMATION COLLECTION

1(a) Title and Number of the Information Collection

This information Collection Request (ICR) is entitled “Reporting and Recordkeeping Requirements for the Proposed Rule on The Identification of Non-Hazardous Secondary Materials That Are Solid Waste,” EPA ICR Number 2382.01.

1(b) Short Characterization

Section 112(d) of the Clean Air Act (CAA) requires the promulgation of regulations to control emissions of specific hazardous air pollutants from “major sources” within defined source categories.^{1,2} One such regulation, promulgated in September 2004, is the National Emissions Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters (the “Boilers Rule”), which established Maximum Achievable Control Technology (MACT) standards for this source category. Section 129 of the CAA directed EPA to promulgate regulations to control emissions of nine specified pollutants from “solid waste incineration units.” EPA did so in December 2000 with the publication of the final Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units (the “CISWI Rule”). Units regulated under Section 129 cannot be subject to any rule promulgated under Section 112.

In September 2005, in response to a subsequent petition for reconsideration, EPA amended the CISWI Rule when it promulgated revised definitions for “solid waste,” “commercial or industrial waste,” and “commercial and industrial solid waste incineration unit” (the “CISWI Definitions Rule”). As part of the CISWI Definitions Rule, EPA made a distinction between solid waste incinerators and boilers, characterizing the former as units that are designed and operated to discard materials through high temperature combustion. However, EPA excluded from the definition of a solid waste incinerator those units designed to recover energy for “useful purposes such as steam generation or process heating.”

In July 2007, the Court of Appeals for the District of Columbia Circuit vacated and remanded to EPA both the CISWI Definitions Rule and the Boilers Rule. In vacating the definitions rule, the Court noted that, despite the potential reasonableness of the functional distinction between boilers and incinerators, the CAA is unambiguous in its requirement that EPA regulate any commercial or industrial incinerator that combusts any solid waste material, as a solid waste incineration unit regardless of whether the waste is burned as a “fuel.” The Court also concluded that EPA erred in excluding from the CISWI Definitions Rule units that combust solid waste for the purposes of energy recovery and including these units in the Boilers Rule. In

¹ A “major source” is any stationary source that emits or has the potential to emit considering controls, in the aggregate, at least 10 tons per year of any hazardous air pollutant or at least 25 tons per year of any combination of hazardous air pollutants.

² The Clean Air Act also requires EPA to identify and list the area source categories (sources that are not major sources) that represent 90 percent of the emissions of the 30 urban air toxics associated with area sources and subject them to standards under the Section 112(d) of the Act. EPA’s Urban Air Toxics Strategy is summarized in *Federal Register*, Vol 64, No. 137, 38706, July 19, 1999.

short, revision to the Definitions Rule necessitates a revision to the Boilers Rule as well, since the former will result in a different set of units that will be subject to the latter.

EPA's response to the Court's decision requires a clear determination of which non-hazardous, "secondary materials"³ constitute RCRA Subtitle D "solid waste" in order to clarify when the combustion of these materials would be regulated pursuant to CAA Section 129 (as opposed to potential regulation under Section 112 if a combustion unit burns materials that are not solid waste when combusted). Thus, EPA has developed the Proposed Rule for the identification of non-hazardous secondary materials that are solid waste.

This ICR is a description of the information collection requirements for combustion units that use non-hazardous secondary materials that are solid wastes.

2. NEED FOR AND USE OF THE COLLECTION

2(a) Need and Authority for the Collection

The requirements covered in this ICR are necessary for EPA to identify non-hazardous secondary materials that are solid waste when combusted and to enforce Sections 112 and 129 of the Clean Air Act. EPA is proposing the establishment of these information collection requirements under the authority of Subtitle D of the Resource Conservation and Recovery Act (RCRA).

2(b) Practical Utility and Users of the Data

EPA will use the collected information to ensure that non-hazardous secondary materials that are solid wastes are managed as such and that combustion units that use these materials are regulated under Section 129 of the Clean Air Act. In particular, EPA will use information collected pursuant to the Proposed Rule's petition process requirements to assess whether the materials included in each petition are solid wastes.

3. NONDUPLICATION, CONSULTATIONS, AND OTHER COLLECTION CRITERIA

3(a) Nonduplication

None of the information required by the Proposed Rule would duplicate information required by existing RCRA regulations.

3(b) Public Notice

In compliance with the Paperwork Reduction Act of 1995, EPA will open a 45 day public comment period at the time that this Proposed Rule is published in the *Federal Register*. To assist the public in commenting on the proposal, EPA raised a number of issues in the preamble

³ A "secondary material" is any material that is not the primary product of a manufacturing or commercial process, including but not limited to post-consumer material, post-industrial material, and scrap.

to the Proposed Rule and asked for the public to comment on them. At the end of the comment period, EPA will review public comments received in response to the notice and will address comments received, as appropriate.

3(c) Consultations

EPA consulted and collected information from interested parties over the course of several months to support the Proposed Rule. EPA solicited and received comments on the Advanced Notice of Proposed Rulemaking and addresses these comments in the preamble to the Proposed Rule.⁴ EPA also met and communicated with industry associations, generators and users of the materials potentially affected by the rule, as well as other interested parties. The summaries of the meetings and telephone conversations with interested parties are available in the docket for the Proposed Rule (Docket ID No. EPA-HQ-RCRA-2008-0329).

3(d) Effects of Less Frequent Collection

EPA has carefully considered the burden imposed upon the regulated community by the Proposed Rule. EPA is confident that those activities required of respondents are necessary, and to the extent possible, the Agency has attempted to minimize the burden imposed. EPA believes strongly that, if the minimum information collection requirements of the Proposed Rule are not met, neither industry nor EPA will be able to ensure that non-hazardous secondary materials that are solid wastes are managed in a manner that is protective of human health and the environment.

3(e) General Guidelines

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

3(f) Confidentiality

Section 3007(b) of RCRA and 40 *CFR* Part 2, Subpart B, which defines EPA's general policy on public disclosure of information, contain provisions for confidentiality. However, the Agency does not anticipate that businesses will assert a claim of confidentiality covering all or part of the Proposed Rule. If such a claim is asserted, EPA must and will treat the information in accordance with the regulations cited above. EPA also will assure that this information collection complies with the Privacy Act of 1974 and OMB Circular 108.

3(g) Sensitive Questions

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

⁴ The Advanced Notice of Proposed Rulemaking is available in Federal Register, Vol. 74, No. 1, January 2, 2009, pp. 41-61.

4. THE RESPONDENTS AND THE INFORMATION REQUESTED

4(a) Respondents and NAICS Codes

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

NAICS	NAICS Category
111	Crop Production
113	Forestry and Logging
114	Fishing, Hunting, and Trapping
115	Support Activities for Agriculture and Forestry
211	Oil and Gas Extraction
212	Mining (Except Oil and Gas)
221	Utilities
237	Heavy and Civil Engineering Construction
311	Food Manufacturing
312	Beverage and Tobacco Product Manufacturing
313	Textile Mills
314	Textile Product Mills
316	Leather and Allied Product Manufacturing
321	Wood Product Manufacturing
322	Paper Manufacturing
323	Printing and Related Support Activities
324	Petroleum and Coal Products Manufacturing
325	Chemical Manufacturing
326	Plastics and Rubber Products Manufacturing
327	Nonmetallic Mineral Product Manufacturing
331	Primary Metal Manufacturing
332	Fabricated Metal Product Manufacturing
333	Machinery Manufacturing
334	Computer and Electronic Product Manufacturing
335	Electrical Equipment, Appliance and Component Manufacturing
336	Transportation Equipment Manufacturing
337	Furniture and Related Product Manufacturing
339	Miscellaneous Manufacturing
423	Merchant Wholesalers, Durable Goods
424	Nondurable Goods Merchant Wholesalers
441	Motor Vehicle and Parts Dealers
446	Health and Personal Care Stores
451	Sporting Good, Hobby, Book and Music Stores
481	Air Transportation
482	Rail Transportation
486	Pipeline Transportation
488	Support Activities for Transportation
493	Warehousing and Storage
522	Credit Intermediation and Related Activities
541	Professional, Scientific and Technical Services
561	Administrative and Support Services
562	Waste Management and Remediation Services
611	Educational Services

NAICS	NAICS Category
622	Hospitals
721	Accommodation
811	Repair and Maintenance
921	Public Administration
928	Public Administration

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be impacted by this action.

4(b) Information Requested

This section describes information collection requirements applicable to entities that would be affected by the Proposed Rule.

Petition Process

(i) Data items:

Under the Proposed Rule, the Administrator may grant a non-waste determination that a non-hazardous secondary material fuel that has not been managed within the control of the generator has not been discarded, and is indistinguishable in all relevant aspects from a fuel product, and thus, is not a solid waste when used as a fuel in a combustion unit. To receive consideration, a petitioner must request a case-specific non-waste determination. While the process is voluntary, it requires the petitioner to provide information describing how the secondary materials satisfy the legitimacy criteria, along with analysis of certain market, human and environmental health, and other factors.

(ii) Respondent activities:

In order for EPA to grant the non-waste determination, a petitioner must show (1) evidence of the material's treatment in the marketplace as a fuel, product, or intermediate rather than a waste; (2) evidence that the secondary material's chemical and physical characteristics are comparable to commercial fuels, products, or intermediates; (3) the market's capacity to use the material in a reasonable time frame; and (4) evidence that the material's constituents are not discarded to the air, water, or land, from the point of generation to the combustion of the secondary material, at significantly higher levels than would otherwise be released (from both a statistical perspective and an environmental and health risk perspective).

Notification

The Proposed Rule does not contain any notification requirements.

Rule Familiarization (Reading the Regulations)

(i) Data items:

None.

(ii) Respondent activities:

It is expected that entities potentially affected by the Proposed Rule will read it to assess how it may affect their operations.

Title V Permitting

In addition, under the Proposed Rule, some combustion units that are currently regulated under Section 112 of the Clean Air Act will be regulated under Section 129. For a limited number of units, this change in regulatory status could potentially trigger the permitting requirements of Title V of the Clean Air Act.

Title V permitting requirements apply to all major emissions sources, cement kilns, and electric arc furnace steelmaking facilities/units.⁵ Therefore, many of the units potentially affected by the rule are already required to obtain a Title V permit. The data available to the Agency do not indicate that any units will be newly subject to the Title V permitting requirement as a result of the Proposed Rule. Therefore, this ICR does not examine any activities associated with Title V permitting.

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

5(a) Agency Activities

As discussed above, EPA is proposing a self-implementing approach that requires facilities to determine whether a given material meets EPA's proposed non-waste criteria. The Agency is also proposing the establishment of a petition process under which facilities may seek clarity on whether the materials that they burn are considered solid wastes. Therefore, under this proposal EPA will process and review the petitions of facilities seeking non-waste determinations and decide whether the information provided in each petition warrants a non-waste determination.

Because the Proposed Rule contains no notification requirements, the Agency will not engage in notification review under the rule.

5(b) Small Entity Flexibility

The self-implementing approach for non-waste determinations proposed by EPA would provide small entities with flexibility to minimize their information collection burdens under the Proposed Rule. Under this approach, small entities would not be required to submit any paperwork to EPA or state agencies and would have the flexibility to develop their own

⁵ 40 CFR Part 270 includes detailed information on the requirements of the Title V permitting program.

individualized approaches for determining whether the materials that they burn meet the non-waste criteria included in the Proposed Rule.

6. ESTIMATING THE HOUR AND COST BURDEN OF THE COLLECTION

6(a) Estimating Respondent Burden

In Exhibit 1, EPA estimates the respondent burden associated with the new paperwork requirements in the Proposed Rule. As shown in the Exhibit, EPA estimates that the total one-time respondent burden for the new requirements in the rule varies between 1 hour per year (per respondent) and approximately 703 hours per year (per respondent), depending on whether the facility incurs solely rule familiarization costs, or whether it also incurs petition process costs.

6(b) Estimating Respondent Costs

Exhibit 1 summarizes the total costs of the information collection activities associated with the Proposed Rule. As indicated in the exhibit, these range from \$64 per respondent for rule familiarization to \$71,440 for the petition process for non-waste determinations. Where applicable, these cost estimates reflect the cost of labor as well as operations and maintenance (O&M) costs.

Labor Costs

For purposes of this analysis, EPA estimates an average hourly respondent labor cost of \$94 for legal staff, \$73 for managerial staff, \$47 for technical staff, and \$26 for clerical staff. These hourly labor costs were obtained from the following sources:

- *Hourly Wage:* Bureau of Labor Statistics, occupational earnings data for 2008.⁶
- *Benefits Percentage:* U.S. Department of Labor data on benefits as a percentage of total compensation.⁷
- *Overhead:* Expressed as a percent of wages, as summarized in the regulatory impact analysis for the 2008 Definition of Solid Waste Final Rule.⁸

⁶ Bureau of Labor Statistics, Occupational earnings tables: United States, December 2007 – January 2009 (average reference date July 2008), Table 3 Full-time civilian workers: Mean and median hourly, weekly, and annual earnings and mean weekly and annual hours, accessed at http://www.bls.gov/ncs/ncswage2008.htm#Wage_Tables, October 28, 2009.

⁷ U.S. Department of Labor, "Employer Costs for Employee Compensation—June 2009," USDL 09-1098, September 10, 2009. Derived from percent of total compensation breakout for "civilian workers" as presented in Table 2.

⁸ U.S. EPA, Regulatory Impact Analysis USEPA's 2008 Final Rule Amendments To The Industrial Recycling Exclusions Of the RCRA Definition Of Solid Waste, September 25, 2008. Exhibit B-1.

Annual Capital and Operation & Maintenance Costs

Capital costs usually include any produced physical good necessary to provide the required information, such as machinery, computers, and other equipment. EPA does not anticipate that respondents will incur capital costs in carrying out the information collection requirements of the Proposed Rule.

O&M costs are those costs associated with materials and services procured for the information collection requirements included in the ICR. For this ICR, O&M costs may include material testing for the petition process, as well as the costs of supplies used in the preparation of each petition (e.g., photocopies).

6(c) Estimating Agency Burden and Costs

Exhibit 2 below presents the estimated Agency burden and costs associated with the requirements covered in this ICR. We estimate that EPA would incur a one-time cost of approximately \$40,300 per respondent for the petition process.

6(d) Estimating the Respondent Universe and Total Burden and Costs

Respondent Universe

The number of affected entities varies by information collection activity, as summarized below:

Rule Familiarization: EPA estimates that 1,461 facilities will incur rule familiarization costs under the Proposed Rule. This estimate is based upon information compiled by EPA on the non-hazardous secondary materials burned by individual combustion units potentially affected by either of the following rulemakings: (1) the proposed Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration (CISWI) Units (the CISWI Rule); and (2) the proposed National Emission Standards for Hazardous Air Pollutants for Industrial/Commercial/Institutional Boilers and Process Heaters (the major source Boilers Rule).^{9,10}

Petition Process: EPA assumes that those facilities that currently burn secondary materials considered to be waste under the Proposed Rule will undergo the petition process for non-waste determination if the material is not burned within the control of the generator. Based on the unit-level information compiled by EPA for the proposed CISWI

⁹ U.S. EPA, Office of Air Quality Planning and Standards, Draft combustor database in support of the proposed CISWI Rule, April 14, 2009 and U.S. EPA, Office of Air Quality Planning and Standards, Draft combustor database in support of the proposed major source Boilers Rule, March 20, 2009.

¹⁰ EPA is also issuing proposed National Emission Standards for Hazardous Air Pollutants for Area Sources: Industrial, Commercial, and Institutional Boilers (the area source Boilers Rule). The vast majority of such units, however, are not designed to burn secondary materials and will therefore not be affected by the proposed NHSM rule.

Rule and the proposed major source Boilers Rule, the Agency estimates that a total of 168 facilities will submit petitions to the Agency.¹¹

Respondent Burden and Cost

Based on the universe data presented above, EPA estimates the respondent burden associated with all of the new information collection requirements covered in this ICR in Exhibit 1. A discussion of the assumptions used in developing these burden estimates follows.

Rule Familiarization

As shown in Exhibit 1, EPA estimates that 1,461 potentially affected facilities will read the rule. Based on the ICR for another recent RCRA rulemaking, we estimate that the per facility burden for rule familiarization is one hour and that the cost per facility for rule familiarization is \$64.¹²

Petition Process

As shown in Exhibit 1, EPA estimates that 168 potentially affected facilities will file petitions for non-waste determinations. Specifically, EPA assumes that all facilities that burn non-hazardous secondary materials considered to be solid waste when combusted under the Proposed Rule will file petitions for non-waste determinations. Similar to reading the regulations, it is assumed that this represents a one-time cost per facility.

We estimate the burden and cost of the petition process based on the estimated burden and cost for existing petition processes whereby parties may request exclusions similar to the non-waste determinations established in the Proposed Rule. For example, the Supporting Statement for EPA Information Collection Request Number 1189.20: Identification, Listing and Rulemaking Petitions (Renewal) includes estimates of the per facility burden of petition submissions for hazardous waste exclusions or variances from solid waste or boiler determinations. Because of the similarities between these petition processes and the process for obtaining a non-waste determination, this ICR uses the burden estimates contained in the Supporting Statement as an indicator of the per-facility burden of petitioning for a non-waste determination under the Proposed Rule. Specifically, we rely on two sets of burden estimates within the Supporting Statement: the 40 CFR 260.22 delisting petition, whereby petitioners request that EPA amend 40 CFR 261 to exclude a waste produced at a particular facility from classification as a hazardous waste; and a subpart of the petition for variance from classification as a solid waste, whereby a petitioner must fulfill the relevant criteria in 40 CFR 260.31(c) and show that a reclaimed material is not a solid waste because it will be further reclaimed.

¹¹ U.S. EPA, Office of Air Quality Planning and Standards, *op cit.*.

¹² U.S. EPA, Supporting Statement for EPA Information Collection Request Number 2324.01 Reporting and Recordkeeping Requirements for the Proposed Rule in Adding Pharmaceuticals to the Universal Waste Rule (Proposed Rule), September 2008, Exhibit 1.

The delisting petition requires that the petitioner demonstrate that the secondary material does not contain concentrations of certain substances that would classify it as a hazardous waste. This procedure includes estimating the quantity and variability of waste generation, describing in detail the equipment used to measure chemical content, and testing the material for hazardous contaminants. The delisting petition's requirements are analogous to the criterion under the Proposed Rule that a material must have chemical and physical characteristics similar to commercial fuels, products, or intermediates to be considered a legitimate alternative fuel. The estimated burden per facility for this process is approximately 560 hours for each facility itself, and the estimated cost is \$64,800.

The petition for variance from classification as a solid waste requires that a material be commodity-like. The petitioner must show that the material (1) has been processed, (2) requires further processing, (3) is analogous to raw material, (4) is handled to minimize loss, (5) is valuable, and (6) has an available market. These requirements are similar to several aspects of the petition process included in the Proposed Rule, including (1) evidence of the material's treatment in the marketplace as a fuel, product, or intermediate; (2) the market's capacity to use the material in a reasonable time frame; and (3) evidence that the material's constituents are not discarded to the air, water, or land, from the point of generation to the combustion of the secondary material, at significantly higher levels than would otherwise be released (from both a statistical perspective and an environmental and health risk perspective) (i.e., that it is treated as a valuable commodity). The estimated per facility burden of this petition process is approximately 142 hours (for the facility itself), and the estimated cost per facility is \$6,700.

Summing these components, we estimate that the average respondent burden for the petition process is 702 hours per facility and that the cost is \$71,440 per facility.

6(e) Bottom Line Burden Hours and Costs

Respondent Burden and Costs

In Exhibit 1, EPA presents the total respondent burden and cost for each of the two paperwork requirements associated with the Proposed Rule (i.e., rule familiarization and the petition process for non-waste determinations). As described above, these paperwork requirements apply to units and facilities that burn non-hazardous secondary materials. The total respondent burden and costs for these requirements are as follows:

Rule Familiarization

All potentially affected facilities will incur the one-time cost of reading the rule. EPA estimates that the hours burden of rule familiarization is 1,461 hours and that the associated cost is \$93,600.

Petition Process

Facilities that burn non-hazardous secondary materials that are considered solid waste under the Proposed Rule are expected to incur the one-time cost of petitioning for non-waste determination. The estimated (one-time) hours burden for respondents is 117,929 hours and the estimated (one-time) cost of the petition process for respondents is approximately \$12 million.

Total Annual Burden and Costs

Over the three-year period of this ICR, the total annualized burden and costs are:

Burden: 39,797

O&M Costs: \$2,146,704

Labor Costs: \$1,885,104

Agency Burden and Costs

Exhibit 2 summarizes the total Agency burden and cost associated with the paperwork requirements for the Proposed Rule. As indicated in the exhibit, the Agency's burden and costs relate to the petition process for non-waste determinations included in the Proposed Rule. The one-time burden realized by the Agency for the petition process included in the Proposed Rule is approximately 127,000 hours. EPA estimates that the cost incurred by the Agency under the petition process is approximately \$6.8 million.

6(f) Reasons for Change in Burden

As described in this ICR, EPA expects that the Proposed Rule will result in an increase in burden to users of non-hazardous secondary materials and the Agency itself. This increase in burden reflects specific paperwork requirements established by the Proposed Rule (e.g., the petition process for non-waste determinations). EPA has determined that these paperwork requirements are necessary for informed assessments of the waste status of certain secondary materials, and to ensure that non-hazardous secondary materials are managed in a manner that is consistent with their status as a waste or non-waste under the Proposed Rule.

6(g) Burden Statement

The annual public reporting and recordkeeping burden for this collection of information is estimated to average 1 hour per response for rule familiarization and 702 hours per response for delisting petitions. 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 Number EPA-HQ-RCRA-2008-0329, which is available for online viewing at www.regulations.gov, or in person viewing at the RCRA Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW, Washington, D.C. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the RCRA Docket is (202) 566-0270. An electronic version of the public docket is available at www.regulations.gov. This site can be used to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. When in the system, select "search," then key in the Docket ID Number identified above. Also, you can send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, D.C. 20503, Attention: Desk Officer for EPA. Please include the EPA Docket ID Number EPA-HQ-RCRA-2008-0329 and OMB Control Number 2050-NEW in any correspondence.

Exhibit 1 - Estimated Respondent Burden and Cost												
Hours and Costs per Respondent										Total Hours and Costs		
INFORMATION COLLECTION ACTIVITY	Legal \$94/Hr	Manager \$73/Hr	Tech.. \$47/Hr	Cler. \$26/Hr	Respon. Hours	Labor Cost ¹	Capital/ Startup Cost	O & M Cost	Cost per Respondent	Number of Respondents	Total Hours	Total Cost
RULE FAMILIARIZATION – Read the rule (one-time burden and cost)												
Affected Facilities	0.2	0.3	0.5	0.0	1.0 ²	\$64.0	\$0.0	\$0.0	\$64	1,461	1,461	\$93,587
PETITION PROCESS (one-time)												
Affected Facilities	0.0	20.3	669.5	12.2	702.0	\$33,106 ³	\$0.0	\$38,334 ³	\$71,441	168	117,929	\$12.0 million

¹ Hourly Wages: Bureau of Labor Statistics, Occupational earnings tables: United States, December 2007 – January 2009 (average reference date July 2008), Table 3 Full-time civilian workers: Mean and median hourly, weekly, and annual earnings and mean weekly and annual hours, accessed at http://www.bls.gov/ncs/ncswage2008.htm#Wage_Tables, October 28, 2009.

Benefits Percentage: U.S. Department of Labor, "Employer Costs for Employee Compensation—June 2009," USDL 09-1098, September 10, 2009. Derived from percent of total compensation breakout for "civilian workers" as presented in Table 2.

Overhead Percentage: U.S. EPA, Regulatory Impact Analysis USEPA's 2008 Final Rule Amendments To The Industrial Recycling Exclusions Of the RCRA Definition Of Solid Waste, September 25, 2008. Exhibit B-1.

² Hours for Rule Familiarization: U.S. EPA, Supporting Statement for EPA Information Collection Request Number 2324.01 Reporting and Recordkeeping Requirements for the Proposed Rule in Adding Pharmaceuticals to the Universal Waste Rule (Proposed Rule), September 2008, Exhibit 1.

³ Petition Process Costs: Derived from U.S. EPA, Supporting Statement for EPA Information Collection Request Number 1189.20: Identification, Listing and Rulemaking Petitions (Renewal), December 2007. Values from this source adjusted to year 2008 dollars.

⁴ Uncertainty Regarding Number of Respondents for the Petition Process: As described in previous sections of this document, EPA assumes that facilities potentially affected by the proposed CISWI rule and the proposed major source Boilers Rule will submit petitions to EPA for a non-waste determination if they burn materials considered to be a solid waste under the proposed rule and if the material is burned outside the control of the generator. Based on these conditions, the Agency estimates that 168 facilities will submit petitions. In reality, the number of petitions that will be submitted is uncertain and dependent on several factors that EPA is unable to assess (e.g., the operational characteristics of individual facilities). Therefore, as a sensitivity analysis, EPA also estimated the costs of the petition process based on petition submission information for other petition processes established under RCRA. Based on data for the variance from classification as solid waste under 260.33, EPA previously estimated that 10 petitions will be submitted on an annual basis for that variance (see U.S. EPA, *Supporting Statement for EPA Information Collection Request Number 1189.20: Identification, Listing and Rulemaking Petitions (Renewal)*, December 2007). In addition, EPA's review of hazardous waste de-listings under RCRA found that, on average, 45 petitions were submitted per year between 1980 and 1999 for de-listings (see U.S. EPA, *RCRA Hazardous Waste Delisting: The First 20 Years*, June 2002). Based on these values, the *annual* one-time respondent costs for the petition process would be approximately \$0.7 million to \$3.2 million.

Exhibit 2 - Estimated Agency Burden and Cost												
Hours and Costs per Respondent										Total Hours and Costs		
INFORMATION COLLECTION ACTIVITY	Leg. \$94/Hr	Mgr. \$73/Hr	Tech. \$47/Hr	Cler. \$26/Hr	Respon. Hours	Labor Cost ¹	Capital/Startup Cost	O & M Cost	Total Cost per Respondent	Number of Respondents	Total Hours	Total Cost
PETITION PROCESS (one-time burden and cost)												
Affected Facilities	86.9	76.3	532.6	61.2	757.0	\$40,273 ²	\$0.0	\$0.0	\$40,273	168	127,174	\$6.8 million

¹ Hourly Wages: Bureau of Labor Statistics, Occupational earnings tables: United States, December 2007 – January 2009 (average reference date July 2008), Table 3 Full-time civilian workers: Mean and median hourly, weekly, and annual earnings and mean weekly and annual hours, accessed at http://www.bls.gov/ncs/ncswage2008.htm#Wage_Tables, October 28, 2009.

Benefits Percentage: U.S. Department of Labor, "Employer Costs for Employee Compensation—June 2009," USDL 09-1098, September 10, 2009. Derived from percent of total compensation breakout for "civilian workers" as presented in Table 2.

Overhead Percentage: U.S. EPA, Regulatory Impact Analysis USEPA's 2008 Final Rule Amendments To The Industrial Recycling Exclusions Of the RCRA Definition Of Solid Waste, September 25, 2008. Exhibit B-1.

² Petition Process Costs: U.S. EPA, Supporting Statement for EPA Information Collection Request Number 1189.20: Identification, Listing and Rulemaking Petitions (Renewal), December 2007. The costs obtained from this source were not stated in 2008 dollars. They were inflated using the Bureau of Labor Statistics May 2008 National Occupational Employment and Wage Estimates and GDP price deflators.

³ Uncertainty Regarding Number of Respondents for the Petition Process: As described in previous sections of this document, EPA assumes that facilities potentially affected by the proposed CISWI rule and the proposed major source Boilers Rule will submit petitions to EPA for a non-waste determination if they burn materials considered to be a solid waste under the proposed rule and if the material is burned outside the control of the generator. Based on these conditions, the Agency estimates that 168 facilities will submit petitions. In reality, the number of petitions that will be submitted is uncertain and dependent on several factors that EPA is unable to assess (e.g., the operational characteristics of individual facilities). Therefore, as a sensitivity analysis, EPA also estimated the costs of the petition process based on petition submission information for other petition processes established under RCRA. Based on data for the variance from classification as solid waste under 260.33, EPA previously estimated that 10 petitions will be submitted on an annual basis for that variance (see U.S. EPA, *Supporting Statement for EPA Information Collection Request Number 1189.20: Identification, Listing and Rulemaking Petitions (Renewal)*, December 2007). In addition, EPA's review of hazardous waste de-listings under RCRA found that, on average, 45 petitions were submitted per year between 1980 and 1999 for de-listings (see U.S. EPA, *RCRA Hazardous Waste Delisting: The First 20 Years*, June 2002). Based on these values, the annual one-time Agency costs for the petition process would be approximately \$0.4 million to \$1.8 million.

Exhibit 3

Estimated Average Burden per Respondent (hours)

	Regulated Entities	EPA
<i>Burden for one-time activities¹</i>	<i>1 to 703</i>	<i>0 to 757</i>
Petition Process (one-time burden)	702	757
Rule Familiarization (one-time burden)	1	0

Notes:

Burden for one-time activities presented as a range for regulated entities and EPA because the burden will depend on whether a regulated entity files a petition for non-waste determination.