

**INFORMATION COLLECTION REQUEST**

**SUPPORTING STATEMENT FOR  
RCRA DEFINITION OF SOLID WASTE  
OMB Control No. 2050-0202, EPA ICR No. 2310.07**

**November 22, 2021**

Office of Resource Conservation and Recovery  
United States Environmental Protection Agency  
Washington, D.C. 20460

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## 1. IDENTIFICATION OF THE INFORMATION COLLECTION

### ***1(a) Title and Number of the Information Collection***

This Information Collection Request (ICR) is entitled “RCRA Definition of Solid Waste,” Office of Management and Budget (OMB) Control No. 2050-0202, EPA ICR Number 2310.07.

### ***1(b) Short Characterization***

In 2015, the U.S. Environmental Protection Agency (EPA) published revisions to the “definition of solid waste” (DSW) that exclude certain industrial hazardous secondary materials from regulation as “solid waste” and “hazardous waste” under Subtitle C of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended ([73 FR 64688](#), October 30, 2015). Specifically, EPA amended 40 CFR Part 261 to provide that hazardous secondary materials reclaimed under the control of the generator are not solid wastes, if specified conditions are met. EPA also amended 40 CFR Part 261 to provide that hazardous secondary materials that are generated and then transferred to another person for the purpose of reclamation are not solid waste, provided that specified conditions are met. Finally, EPA finalized other amendments to address particular issues, including standards in 40 CFR Part 260, to enable a person to apply to EPA for a formal determination that a material is not discarded and therefore not a solid waste and to codify the RCRA concept of “legitimate recycling” for recycling under the final rule.

As a matter of law, the orders issued by the United States Court of appeals for the District of Columbia Circuit on July 7, 2014 and amended on March 6, 2018: (1) vacated the 2015 verified recycler exclusion for hazardous waste that is recycled off-site (except for certain provisions); (2) reinstate the transfer-based exclusion from the 2008 rule to replace the now vacated 2015 verified recycler exclusion; (3) upheld the containment and emergency preparedness provisions and the eligibility of spent petroleum catalysts for the reinstated transfer-based exclusion; (4) vacated factor 4 of the 2015 definition of legitimate recycling in its entirety; and (5) reinstated the 2008 version of factor 4 to replace the now-vacated 2015 version of factor 4; the rule is non-HSWA and implemented by the states. The Court issued the mandate for its decision on March 14, 2018, at which point the orders became effective.

Following the orders issued by the United States Court of appeals for the District of Columbia Circuit on July 7, 2014 and amended on March 6, 2018, the existing paperwork requirements for the RCRA DSW exclusions are currently organized around six requirements:

Requirement 1: DSW off-site transfer-based exclusion;

Requirement 2: DSW generator-controlled exclusion;

Requirement 3: Solid waste variances and non-waste determinations

Requirement 4: DSW “remanufacturing” exclusion;

Requirement 5: Required recordkeeping for speculative accumulation.

Requirement 6: Export requirements

## 2. NEED FOR AND USE OF THE COLLECTION

### 2(a) *Need and Authority for the Collection*

EPA promulgated the DSW regulations under the authority of Sections 2002, 3001, 3002, 3003, 3004, 3007, 3010, and 3017 of the Solid Waste Disposal Act of 1970, as amended by RCRA, and as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), 42 U.S.C. 6921, 6922, 6923, and 6924. The information requested under the DSW regulations is the minimum information necessary to ensure that hazardous secondary material is being managed in a manner protective of human health and the environment.

Following are brief summaries of the need for the paperwork requirements for RCRA DSW:

- (1) *Off-site Transfer Based Exclusion for Hazardous Secondary Material:* Generators that send their hazardous secondary materials to facilities that do not have a permit are required to conduct a “reasonable efforts” environmental audit of the receiving facilities. EPA considers this to be the minimum information needed to enable a creditable audit of the receiving facility. EPA requires generators to follow certain emergency preparedness and response regulations as a condition of the transfer-based exclusion. Generators that accumulate less than 6,000 kilograms (kg) of hazardous secondary material on site must comply with the emergency preparedness and response requirements in 40 CFR Part 265, Subpart C, while generators accumulating more than 6,000 kg of hazardous secondary material on site must comply with 40 CFR Part 265, Subparts C and D. These emergency preparedness and response conditions include recordkeeping requirements for personnel training, as well as recordkeeping and reporting requirements for contingency planning and emergency procedures. These conditions contribute to EPA’s goal of minimizing the potential for employee-related mistakes that may threaten human health and the environment, as well as minimizing unanticipated damage from the accumulation of hazardous waste at generator sites. EPA also has financial assurance requirements as a condition of exclusion. The associated paperwork requirements for these provisions are the minimal requirements needed to ensure owners/operators use a financial mechanism.
- (2) *Hazardous Secondary Material Generated and Reclaimed under the Control of the Generator:* EPA has certification requirement for materials that are generated and reclaimed under the control of the generator because of existing complexities in corporate ownership and liability. The certification is needed for hazardous secondary materials that are generated and reclaimed within the same company and under certain tolling arrangements. The certification increases the company’s awareness and accountability for ensuring that the generator and reclamation facilities are in fact under its ownership. The certification also may be needed by regulators (e.g., on-site inspectors) to verify compliance. Under the generator-controlled exclusion at 40 CFR 261.4(a)(23), EPA requires the tolling contractor to maintain at its facility for no less than three years records of hazardous secondary materials received pursuant to its written contract with the tolling manufacturer, and the tolling manufacturer must maintain at its facility for no less than three years records of hazardous secondary materials shipped pursuant to its written contract with the tolling contractor. In both cases, the records must contain the name of the transporter, the date of the shipment, and the type and quantity of the

hazardous secondary material shipped or received pursuant to the written contract. EPA also requires generators to follow certain emergency preparedness and response regulations as a condition of the generator-controlled exclusion. Generators that accumulate less than 6,000 kg of hazardous secondary material on site must comply with the emergency preparedness and response requirements in 40 CFR Part 265, Subpart C, while generators accumulating more than 6,000 kg of hazardous secondary material on site must comply with 40 CFR Part 265, Subparts C and D. These emergency preparedness and response conditions include recordkeeping requirements for personnel training, as well as recordkeeping and reporting requirements for contingency planning and emergency procedures. These conditions contribute to EPA's goal of minimizing the potential for employee-related mistakes that may threaten human health and the environment, as well as minimizing unanticipated damage from the accumulation of hazardous waste at generator sites.

- (3) *Solid Waste Variances and Non-Waste Determinations:* The intent of the solid waste variance and non-waste determination petition process is to provide petitioners with an administrative procedure for receiving a formal determination that their material is not a solid waste. For cases where there is ambiguity about whether a secondary material is a solid waste, this process may be needed to provide regulatory certainty for both the facility and the Agency. EPA has the following requirements in 40 CFR Part 260:
  - (1) requiring facilities to send notice to the Administrator and potentially re-apply for a variance in the event of a change in circumstances that affect how a hazardous secondary material meets the criteria upon which a variance or non-waste determination has been based;
  - (2) establishing a fixed term not to exceed ten years for variance and non-waste determinations, at the end of which facilities must re-apply for a variance or non-waste determination;
  - (3) requirements that all the criteria for a partial reclamation variance must be met; and
  - (4) requirements that that petitioners demonstrate why they cannot meet, or should not have to meet, existing solid waste exclusions under 40 CFR 261.2 or 261.4.
- (4) *Remanufacturing Exclusion:* Under the remanufacturing exclusion at 40 CFR 261.4(a)(27), both the hazardous secondary material generator and the remanufacturer must maintain records of shipments and confirmations of receipts for a period of three years from the dates of the shipments. Regulatory authorities need such recordkeeping requirements to determine if ensures that hazardous secondary materials are being transferred to their intended destinations in accordance with the exclusions.
- (5) *Recordkeeping and Labeling for Speculative Accumulation:* Under the revised speculative accumulation requirement at 40 CFR 261.1(c)(8), all persons subject to the speculative accumulation requirements (including but not limited to persons operating under the generator-controlled exclusions at 40 CFR 261.4(a)(23)) must label the storage unit by indicating the first date that the material began to be accumulated. If placing a label on the storage unit is not practicable, the accumulation period must be documented through an inventory log or other appropriate method. Such information is needed by inspectors and other regulatory authorities to quickly ascertain how long a facility has been storing an excluded hazardous secondary material, and, therefore, whether that facility was in compliance with the storage time limits of 40 CFR 261.1(c)(8).

(6) *Recordkeeping for Export under the Transfer-Based Exclusion:* Generators can export their hazardous waste secondary materials under the transfer-based exclusion if they provide notice and obtain consent of the receiving country, and file an annual report. Such procedures help ensure, for example, that the materials will not be discarded and give the receiving country an opportunity to respond to the intended shipment (e.g., request additional information).

**2(b) Practical Utility and Users of the Data**

**(1) Off-Site Transfer Based Exclusion for Hazardous Secondary Material**

Generators that send their hazardous secondary materials to facilities that do not have a permit are required to conduct a “reasonable efforts” environmental audit of the receiving facilities. This information will be made available upon request by a regulatory authority to ensure generators conducted a creditable audit of the receiving facility. The emergency preparedness and response conditions include recordkeeping requirements for personnel training. This information will be used by both EPA and generators to determine whether employees have acquired the necessary expertise to perform their jobs. EPA also needs this information to review personnel records to determine whether employees are receiving a level of training that is commensurate with their duties and responsibilities as well as their ability to respond to any emergency situations at the facility. In addition, the contingency plans may be reviewed by EPA inspectors to determine whether generators have developed adequate procedures to respond to unplanned sudden or non-sudden releases of hazardous waste or hazardous constituents to air, soil, or surface water. EPA also has financial assurance requirements as a condition of exclusion. The associated paperwork requirements will be used by EPA to ensure owners/operators use a financial mechanism.

**(2) Hazardous Secondary Material Generated and Reclaimed under the Control of the Generator**

EPA has certification requirements for certain materials that are generated and reclaimed under the control of the generator (i.e., within the same company and under certain tolling arrangements) because of existing complexities in corporate ownership and liability. The certification will be used to hold the company accountable for knowing and complying with the definition of “hazardous secondary materials generated and reclaimed under the control of the generator” and to enable regulatory authorities to determine when facilities are eligible for this exclusion. The certification also will be used by the generator to increase the company’s awareness and accountability for ensuring that the generator and reclamation facilities are in fact under its ownership. The emergency preparedness and response conditions include recordkeeping requirements for personnel training. This information will be used by both EPA and generators to determine whether employees have acquired the necessary expertise to perform their jobs. EPA also needs this information to review personnel records to determine whether employees are receiving a level of training that is commensurate with their duties and responsibilities as well as their ability to respond to any emergency situations at the facility. In addition, the contingency plans may be reviewed by EPA inspectors to determine whether generators have developed adequate procedures to respond to unplanned sudden or non-sudden releases of hazardous waste or hazardous constituents to air, soil, or surface water.

### **(3) Solid Waste Variances and Non-Waste Determinations**

The non-waste determination and solid waste variance petition process provides petitioners with an administrative procedure for receiving a formal determination that their material is not a solid waste. For cases where there is ambiguity about whether a secondary material is a solid waste, this process may provide regulatory certainty for both the facility and Agency. The non-waste determination and variance requirements in 40 CFR Part 260 will foster greater consistency on the part of implementing agencies and help ensure the protectiveness of the implementation of the solid waste variances and non-waste determinations.

### **(4) Remanufacturing Exclusion**

Under the remanufacturing exclusion at 40 CFR 261.4(a)(27), both the hazardous secondary material generator and the remanufacturer must maintain records of shipments and confirmations of receipts for a period of three years from the dates of the shipments. Regulatory authorities need such recordkeeping requirements to ensure that hazardous secondary materials are being transferred to their intended destinations in accordance with the exclusions.

### **(5) Recordkeeping and Labeling for Speculative Accumulation**

Persons subject to the speculative accumulation requirements (including but not limited to persons operating under the generator-controlled exclusions of 40 CFR 261.4(a)(23)) must place a label on the storage unit indicating the first date that the excluded hazardous secondary material began to be accumulated. If placing a label on the storage unit is not practicable, the accumulation period must be documented through an inventory log or other appropriate method. Inspectors and other regulatory authorities will use this information to quickly ascertain how long a facility has been storing an excluded hazardous secondary material, and, therefore, whether that facility was in compliance with storage time limits.

### **(6) Recordkeeping for Export under the Transfer-Based Exclusion**

Generators can export their hazardous waste secondary materials under the transfer-based exclusion if they provide notice and obtain consent of the receiving country, and file an annual report. Such procedures help ensure, for example, that the materials will not be discarded and give the receiving country an opportunity to respond to the intended shipment (e.g., request additional information).

### **3. NONDUPLICATION, CONSULTATIONS, AND OTHER COLLECTION CRITERIA**

#### ***3(a) Nonduplication***

None of the information covered in this information collection is duplicative with information required by other existing Federal regulations.

#### ***3(b) Public Notice***

In compliance with the Paperwork Reduction Act of 1995, EPA issued a public notice in the Federal Register on June 28, 2021 ([86 FR 34008](#)). The public comment period extended through August 27, 2021. No comments were received in response to the Federal Register notice.

#### ***3(c) Consultations***

The table below identifies the hazardous secondary materials facilities contacted by EPA to solicit input for this ICR. Feedback from these facilities is reflected in the burden and cost assumptions of this ICR.

#### **Hazardous Secondary Materials Facilities Contacted by EPA for ICR Preparation**

November 2021

<b>Facility Name</b>	<b>Name of Representative</b>	<b>Phone Number</b>
ALVAR RESINS, INC.	Albert Snow	870-305-4542 ext 2014
HEXCEL CORPORATION	Jared Carling	385-441-2350
CRANE COMPOSITES	Todd Binning	574-534-0010
USAF PLANT NO. 44	Jason Mcginnis	520-794-4295
GOLD TECH INDUSTRIES	Mark Duschek	480-968-1930
TEPCO - OPERATING HEADQUARTERS	Monette Greer	520-918-8378
PROTOTRON CIRCUITS SOUTHWEST	Brian Ozbirn	520-745-8515
FORESIGHT FINISHING, LLC	Mark Williams	480-921-0000

#### ***3(d) Effects of Less Frequent Collection***

EPA is confident that the activities required of respondents are necessary, and to the extent possible, the Agency has attempted to minimize the burden imposed. In addition, other requirements can be satisfied by activities already being undertaken by respondents. If the minimum information collection requirements are not met, EPA will not be able to ensure that the hazardous secondary materials are being properly managed and do not pose a threat to human health and the environment.

#### ***3(e) General Guidelines***

This ICR adheres to the guidelines stated in the Paperwork Reduction Act of 1995, OMB's implementing regulations at 5 CFR 1320, EPA's ICR Handbook, and other applicable EPA and OMB guidance.

**3(f)    *Confidentiality***

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

**3(g)    *Sensitive Questions***

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

## 4. THE RESPONDENTS AND THE INFORMATION REQUESTED

### 4(a) *Respondents and NAICS Codes*

Entities potentially affected by the information collection requirements covered in this ICR include facilities in industry sectors that generate or recycle hazardous secondary materials that are excluded under RCRA DSW or excluded from RCRA Subtitle C under other solid waste exclusions or variances. The following is a list of North American Industry Classification System (NAICS) codes associated with industries most likely affected by the paperwork requirements covered in this ICR.

#### NAICS Codes of Potentially Affected Industries

Industry Sector	NAICS Codes
Agriculture, Forestry, Fishing and Hunting	11
Mining	21
Utilities	22
Construction	23
Manufacturing	31
Manufacturing	32
Manufacturing	33
Wholesale Trade	42
Retail Trade	44, 45
Transportation	48, 49
Information	51
Finance and Insurance	52
Real Estate, Rental, Leasing	53
Professional, Scientific & Technical Services	54
Management of Companies and Enterprises	55
Administrative Support, Waste Management & Remediation	56
Educational Services	61
Health Care & Social Assistance	62
Arts, Entertainment, Recreation	71
Accommodation and Food Services	72
Other Services	81
Public Administration	92

### 4(b) *Information Requested*

The sections below list the data items requested under each RCRA DSW requirements covered in this ICR, such as specific records that must be maintained or applications that must be submitted. In addition, the respondent activities associated with these data items are defined.

## **(1) Off-Site Transfer Based Exclusion for Hazardous Secondary Material**

The transfer-based exclusion requires facilities to maintain emergency preparedness and response conditions, financial assurance, and maintenance of records of hazardous secondary material shipments and confirmation of receipts for three years.

### **(a) Emergency Preparedness and Response**

#### **(i) Data items**

- Personnel training records should include job titles for each position and the name of each person filling each job, a written job description and necessary qualifications for each position, and the training given to the individual filling that position
- Contingency plans should include a description of response actions, a description of the arrangements agreed to by local police authorities, contact lists for emergency coordinators, a list of emergency equipment, and an evacuation plan for the facility personnel
- Documentation of whether State or local authorities decline to enter into agreement to become more familiar with the generator's facility and its waste
- Notification to fire department of imminent or actual emergency situation
- Emergency report to the on-scene coordinator (OSC) or National Response Center (NRC), including:
  - Name and telephone number of reporter;
  - Name and address of facility;
  - Time and type of incident;
  - Name and quantity of material(s) involved;
  - The extent of injuries; and
  - Possible hazards to human health or the environment outside the facility

#### **(ii) Respondent activities**

- Collect and maintain the personnel training records as described above
- Under contingency planning requirements, generators must:
  - Collect data required in contingency plan;
  - Document whether authorities decline arrangement;
  - Write contingency plan;
  - Maintain contingency plan;
  - Submit contingency plan to relevant emergency centers; and
  - Amend contingency plan, when appropriate

- Under emergency procedure requirements, generators accumulating less than 6,000 kg of hazardous secondary material must:
  - Observe scene of hazardous waste discharge;
  - Report by phone requested data for NRC;
  - Document that local officials declines to enter into arrangements for coordinating response; and
  - Providing post-emergency information by phone
- Under emergency procedure requirements, generators accumulating more than 6,000 kg of hazardous secondary material must:
  - Collect information required in emergency report;
  - Write emergency report; and
  - Call OSC or notify NRC; notify local authorities if advisable

**(b) Reasonable Efforts**

- (i) Data items
  - Documentation and certification that is available upon request by a regulatory authority within 72 hours, or within a longer period of time as specified by the regulatory authority
- (ii) Respondent activities
  - Conduct reasonable efforts for intermediate facilities and reclaimers and prepare certification statement using outside vendor
  - Maintain for a minimum of three years documentation and certification that reasonable efforts were made as specified

**(c) Financial Assurance**

An owner or operator of a reclamation or intermediate facility must have financial assurance as a condition of the exclusion, choosing from the options as specified in 40 CFR 261.143(a) through (e): trust fund, surety bond guaranteeing payment into a trust fund, letter of credit, insurance, and financial test and corporate guarantee.

**Trust Fund**

- (i) Data items
  - An originally signed duplicate of a trust agreement whose wording is identical to the wording specified in 40 CFR 261.151(a)(1).
  - A formal certification of acknowledgment, as required under 40 CFR 261.143(a)(2).
  - Update of Schedule A of the trust agreement, as required under 40 CFR 261.143(a)(2).

- A written request under 40 CFR 261.143(a)(5) to the Regional Administrator for release of the amount in excess of the current cost estimate, if the value of the trust fund is greater than the total amount of the current cost estimate.
- A written request under 40 CFR 261.143(a)(6) to the Regional Administrator for release of the amount in excess of the current cost estimate covered by the trust fund, if the owner or operator substitutes other financial assurance as specified in this section for all or part of the trust fund.
- A request for reimbursements under 40 CFR 261.143(a)(7) for partial or final closure expenditures, including itemized bills, to the Regional Administrator.

(ii) Respondent activities

- The owner/operator must perform the following activities:
  - Prepare and submit an originally signed duplicate of the trust agreement and formal certification of acknowledgement to EPA.
  - Update Schedule A of the trust agreement, as specified.
  - Whenever the current cost estimate changes:
    - o Compare the new estimate with the trustee's most recent annual valuation of the trust fund; and
    - o If the value of the fund is less than the amount of the new estimate, obtain other financial assurance to cover the difference, unless a deposit has been made as specified.
  - If the value of the trust fund is greater than the total amount of the current cost estimate, submit a written request to the Regional Administrator for release of the amount in excess of the current cost estimate.
  - If the owner or operator substitutes other financial assurance as specified in this section for all or part of the trust fund, submit a written request to the Regional Administrator for release of the amount in excess of the current cost estimate covered by the trust fund.
  - Submit a request for reimbursements, if applicable.
- The grantor (owner/operator) and trustee must comply with the terms of the trust agreement.

Surety Bond Guaranteeing Payment into a Trust Fund

(i) Data items

- A surety bond whose wording is identical to the wording specified in 40 CFR 261.151(b).
- Evidence of an increase in the penal sum or other financial assurance as specified to cover the increase, whenever the current cost estimate increases to an amount greater than the penal sum, as provided under 40 CFR 261.143(b)(7).
- Notice of bond cancellation, as provided under 40 CFR 261.143(b)(8).

(ii) Respondent activities

- The owner/operator must perform the following activities:
  - Prepare and submit the surety bond to EPA.
  - Whenever the current cost estimate increases to an amount greater than the penal sum, submit evidence of the increase in the penal sum to the Regional Administrator or obtain other financial assurance to cover the increase.
  - Obtain alternate financial assurance and obtain EPA approval if required because of cancellation of the bond.
- The surety company may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Regional Administrator.
- The owner or operator and surety company must comply with the terms of the surety bond.

Letter of Credit

(i) Data items

- Irrevocable standby letter of credit whose wording is identical to the wording specified in 40 CFR 261.151(c).
- Letter from the owner or operator under 40 CFR 261.143(c)(4), referring to the letter of credit by number, issuing institution, and date, and providing the following information: The EPA Identification Number (if any issued), name, and address of the facility, and the amount of funds assured for the facility by the letter of credit.
- A letter from the issuing institution under 40 CFR 261.143(c)(5), notifying both the owner or operator and the Regional Administrator by certified mail of a decision not to extend the expiration date.
- Evidence of an increase in the credit or other financial assurance as specified to cover the increase, whenever the current cost estimate increases to an amount greater than the amount of the credit, as provided under 40 CFR 261.143(c)(7).

(ii) Respondent activities

- The owner/operator must perform the following activities:
  - Prepare and submit letter of credit and letter referring to the letter of credit to the Regional Administrator.
  - Whenever the current cost estimate increases to an amount greater than the amount of the credit, submit evidence to the Regional Administrator of an increase in the credit or obtain other financial assurance as specified to cover the increase.
  - Obtain alternate financial assurance and obtain EPA approval if required because of termination of credit.

- The issuing institution may send a notice of a decision not to extend the expiration date of the credit by certified mail to the owner or operator and to the Regional Administrator.
- The owner/operator and issuing institution must comply with the terms of the letter of credit.

### Insurance

#### (i) Data items

- A certificate of insurance whose wording is identical to the wording specified in 40 CFR 261.151(d).
- A request for reimbursements for expenditures to EPA, including itemized bills, as specified under 40 CFR 261.143(d)(5).
- A notice sent by certified mail from the insurer that it has elected to cancel, terminate, or fail to renew the policy, as specified under 40 CFR 261.143(d)(8).
- Evidence of an increase in the credit or other financial assurance as specified to cover the increase, whenever the current cost estimate increases to an amount greater than the face amount of the policy, as specified under 40 CFR 261.143(d)(9).

#### (ii) Respondent activities

- The owner/operator must perform the following activities:
  - Prepare and submit a certificate of insurance to the Regional Administrator.
  - Request reimbursements for expenditures by submitting itemized bills to the Regional Administrator, if applicable.
  - Whenever the current cost estimate increases to an amount greater than the face value of the policy, submit evidence to the Regional Administrator of an increase in the policy or obtain other financial assurance as specified to cover the increase.
  - Obtain alternate financial assurance and obtain EPA approval if required because of cancellation, termination, or failure to renew the insurance.
- The insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the Regional Administrator.
- The owner/operator and insurer must comply with the terms of the certificate of insurance.

### Financial Test and Corporate Guarantee

#### (i) Data items

- Information required under 40 CFR 261.143(e)(3):

- A letter signed by the owner's or operator's chief financial officer and worded as specified in 40 CFR 261.151(e).
- A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year.
- A special report from the owner's or operator's independent certified public accountant to the owner or operator, if required. The special report shall be based upon an agreed upon procedures engagement in accordance with professional auditing standards and shall describe the procedures performed in comparing the data in the chief financial officer's letter derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements, the findings of the comparison, and the reasons for any differences.
- A letter as required under 40 CFR 261.143(e)(4) from the owner/operator's chief financial officer that:
  - Requests the extension;
  - Certifies that he has grounds to believe that the owner or operator meets the criteria of the financial test;
  - Specifies for each facility to be covered by the test the EPA Identification Number (if any issued), name, address, and current cost estimates to be covered by the test;
  - Specifies the date ending the owner's or operator's last complete fiscal year before the effective date of these regulations;
  - Specifies the date, no later than 90 days after the end of such fiscal year, when he will submit the documents specified in paragraph (e)(3) of this section; and
  - Certifies that the year-end financial statements of the owner or operator for such fiscal year will be audited by an independent certified public accountant.
- Annual update of information as required under 40 CFR 261.143(e)(5), after the initial submission of these items.
- Notice as required under 40 CFR 261.143(e)(6) from the owner/operator to the Regional Administrator of intent to establish alternate financial assurance as specified in this section.
- Reports as required under 40 CFR 261.143(e)(7) of financial condition from the owner or operator in addition to those specified in paragraph (e)(3) of this section, if requested by the Regional Administrator.
- A guarantee whose wording is identical to the wording specified in 40 CFR 261.151(g)(1). A certified copy of the guarantee must accompany the items sent to the Regional Administrator. The terms of the guarantee must address the criteria specified in 40 CFR 261.143(e)(10)(i)-(iii).
- A letter under 40 CFR 261.143(e)(10) from the guarantor's chief financial officer. If the guarantor's parent corporation is also the parent corporation of the owner or operator, the letter must describe the value received in

consideration of the guarantee. If the guarantor is a firm with a "substantial business relationship" with the owner or operator, this letter must describe this "substantial business relationship" and the value received in consideration of the guarantee.

(ii) Respondent activities

- The owner/operator must perform the following activities:
  - Prepare and submit to EPA a signed letter, copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements, a special report from the owner's or operator's independent certified public accountant if applicable, and a guarantee if applicable.
  - To obtain an extension of the time allowed for submission of the documents specified in 40 CFR 261.143(e)(3), prepare and send a letter to the Regional Administrator of each Region in which the owner's or operator's facilities to be covered by the financial test are located.
  - Prepare and submit updated information to EPA under 40 CFR 261.143(e)(5), at the close of each fiscal year, as specified.
  - Prepare and submit a notice to EPA by certified mail of intent to establish alternate financial assurance.
  - Prepare and submit reports of financial condition, if requested by the Regional Administrator.
  - Obtain alternate financial assurance and obtain EPA approval if required because the financial tests are no longer met or disallowed by EPA.
  - Comply with the terms in the letter from the chief financial officer and guaranteee.

**(d) Receipt Confirmations**

(i) Data items

- Records of shipments and confirmation of receipts

(ii) Respondent activities

- Maintain records of shipments and confirmations of receipts for a period of three years from the dates of the shipments

**(2) Hazardous Secondary Material Generated and Reclaimed under the Control of the Generator**

**(a) Recordkeeping Requirement for Tolling Arrangements**

(i) Data items

- Routine business records (e.g., financial records, bills of lading, copies of DOT shipping papers, or electronic confirmations) or new records that contain:

- The name of the transporter;
- The date of the shipment; and
- The type and quantity of the hazardous secondary material shipped or received pursuant to the written contract.

(ii) Respondent activities

- Prepare and maintain at the tolling contractor facility, for no less than three years, records of all hazardous secondary materials received pursuant to the written contract with the tolling manufacturer
- Prepare and maintain at the tolling manufacturer facility, for no less than three years, records of all hazardous secondary materials shipped pursuant to its written contract with the tolling contractor

**(b) Emergency Preparedness and Response**

(i) Data items

- Personnel training records should include job titles for each position and the name of each person filling each job, a written job description and necessary qualifications for each position, and the training given to the individual filling that position
- Contingency plans should include a description of response actions, a description of the arrangements agreed to by local police authorities, contact lists for emergency coordinators, a list of emergency equipment, and an evacuation plan for the facility personnel
- Documentation of whether State or local authorities decline to enter into agreement to become more familiar with the generator's facility and its waste
- Notification to fire department of imminent or actual emergency situation
- Emergency report to the OSC or NRC, including:
  - Name and telephone number of reporter;
  - Name and address of facility;
  - Time and type of incident;
  - Name and quantity of material(s) involved;
  - The extent of injuries; and
  - Possible hazards to human health or the environment outside the facility

(ii) Respondent activities

- Collect and maintain the personnel training records as described above
- Under contingency planning requirements, generators must:
  - Collect data required in contingency plan;
  - Document whether authorities decline arrangement;
  - Write contingency plan;

- Maintain contingency plan;
- Submit contingency plan to relevant emergency centers; and
- Amend contingency plan, when appropriate
- Under emergency procedure requirements, generators accumulating less than 6,000 kg of hazardous secondary material must:
  - Observe scene of hazardous waste discharge;
  - Report by phone requested data for NRC;
  - Document that local officials declines to enter into arrangements for coordinating response; and
  - Providing post-emergency information by phone
- Under emergency procedure requirements, generators accumulating more than 6,000 kg of hazardous secondary material must:
  - Collect information required in emergency report;
  - Write emergency report; and
  - Call OSC or notify NRC; notify local authorities if advisable

## **(c) Certifications**

### **(i) Data items**

- For generators generating and reclaiming within the same company, a certification from the generator stating one of the following:
  - “On behalf of [insert generator facility name], I certify that this facility will send the indicated hazardous secondary material to [insert reclaimer facility name], which is controlled by [insert generator facility name] and that [insert the name of either facility] has acknowledged full responsibility for the safe management of the hazardous secondary material;” or
  - “On behalf of [insert generator facility name], I certify that this facility will send the indicated hazardous secondary material to [insert reclaimer facility name], that both facilities are under common control, and that [insert name of either facility] has acknowledged full responsibility for the safe management of the hazardous secondary material.”
- For generators generating and reclaiming under a tolling arrangement, a certification from the tolling contractor stating the following: “On behalf of [insert tolling contractor name], I certify that [insert tolling contractor name] has a written contract with [insert toll manufacturer name] to manufacture [insert name of product or intermediate] which is made from specified unused materials, and that [insert tolling contractor name] will reclaim the hazardous secondary materials generated during this manufacture. On behalf of [insert tolling contractor name], I also certify that [insert tolling contractor name] retains ownership of, and responsibility for, the hazardous secondary materials that are generated during the course of the manufacture, including any releases of hazardous secondary materials that occur during the manufacturing process.”

(ii) Respondent activities

- The generator or tolling contractor must prepare the certification

**(3) Solid Waste Variances and Non-Waste Determinations**

**(a) Variances from Classification as a Solid Waste**

Under current 40 CFR 260.31, the Regional Administrator may grant a request for a variance from classification of a solid waste for (1) materials that are accumulated speculatively if sufficient amounts of the material will be recycled or transferred for recycling in the following year (§ 260.31(a)); (2) for materials that are reclaimed and then reused as feedstock within the original production process (§ 260.31(b)); and (3) for materials that have been reclaimed but must be reclaimed further if the resulting partially-reclaiming material is commodity-like (“partial reclamation variance”) (§ 260.31(c)).

(i) Data items

- Application under section 260.31(c) for partial reclamation variance:
  - Whether the degree of partial reclamation the material has undergone is substantial as demonstrated by using a partial reclamation process other than the process that generated the hazardous waste;
  - Whether the partially-reclaimed material has sufficient economic value that it will be purchased for further reclamation;
  - Whether the partially-reclaimed material is a viable substitute for a product or intermediate, produced from virgin or raw materials, which is used in subsequent production steps;
  - Whether there is a market for the partially-reclaimed material as demonstrated by known customer(s) who are further reclaiming the material (e.g., records of sales and/or contracts and evidence of subsequent use, such as bills of lading); and
  - Whether the partially-reclaimed material is handled to minimize loss.

(ii) Respondent activities

- Notify the Administrator in the event of a change in circumstances that affects how a hazardous secondary material meets the relevant criteria upon which a variance or non-waste determination has been based
- Re-apply for a variance at least every ten years
- Review and ensure that all revised factors for partial reclamation variance are met

**(b) Non-Waste Determinations under 40 CFR 260.34**

Under current 40 CFR 260.30, persons may apply for a non-waste determination in order to receive a formal determination that their hazardous secondary materials are not discarded and,

therefore, are not solid wastes when legitimately reclaimed. There are two types of non-waste determinations: (1) a determination for hazardous secondary materials reclaimed in a continuous industrial process; and (2) a determination for hazardous secondary materials indistinguishable in all relevant aspects from a product or intermediate. Each non-waste determination is based on a set of criteria that is codified in 40 CFR 260.34.

(i) Data items

- Application under section 260.34(b) for a non-waste determination for hazardous secondary material which is reclaimed in a continuous industrial process. The application must demonstrate that the material is a part of the production process and is not discarded and address the EPA criteria.
- Application under section 260.34(c) for a non-waste determination for hazardous secondary material which is indistinguishable in all relevant aspects from a product or intermediate. The application must demonstrate that the hazardous secondary material is comparable to a product or intermediate and is not discarded, and address the EPA criteria.
- Notification using EPA Form 8700-12

(ii) Respondent activities

- Prepare and submit applications under sections 260.34(b) and (c)
- For facilities applying for a non-waste determination, explain or demonstrate why they cannot meet, or should not have to meet, the existing DSW exclusions under §§ 261.2 or 261.4
- For facilities receiving non-waste determinations, re-notify EPA or the State Director, if the state is authorized for this aspect of the rule, every two years by March 1 of each even-numbered year

#### **(4) Remanufacturing Exclusion**

EPA requires that all of the following conditions will need to be satisfied for eligibility under a remanufacturing exclusion:

- The hazardous secondary material consists of one or more of the following solvents: toluene, xylenes, ethylbenzene, 1,2,4-trimethylbenzene, chlorobenzene, n-hexane, cyclohexane, methyl tert-butyl ether, acetonitrile, chloroform, chloromethane, dichloromethane, methyl isobutyl ketone, N,N-dimethylformamide, tetrahydrofuran, n-butyl alcohol, ethanol, and methanol;
- The hazardous secondary material originated from using one or more of the above-listed solvents in commercial grade for reacting, extracting, purifying, or blending chemicals in the pharmaceutical, organic chemical, or plastics and resins manufacturing sectors, or the paint and coatings sector;
- After re-manufacturing, the continuing use of the solvent is limited to reacting, extracting, purifying, or blending chemicals in the pharmaceutical, organic

chemical, or plastics and resins manufacturing sectors, or the paint and coatings sector, or using them as ingredients in a product. These allowed continuing uses correspond to chemical functional uses enumerated under the final modification to the Inventory Update Rule of the Toxic Substances Control Act (40 CFR Parts 704, 710–711), including Industrial Function Codes U015 (solvents consumed in a reaction to produce other chemicals) and U030 (solvents become part of the mixture); and

- After remanufacturing, the continuing use of the solvent does not involve cleaning or degreasing oil, grease, or similar material from textiles, glassware, metal surfaces, or other articles (i.e., disallowed continuing uses that correspond to chemical functional uses in Industrial Function Code U029 under the proposed modification of the Inventory Update Rule of the Toxics Substances Control Act).

(i) Data items

- Remanufacturing exclusion:
  - Remanufacturing plan including:
    - o Name, address and EPA ID number of the generator(s) and the remanufacturer(s)
    - o Types and expected annual volumes of solvents to be remanufactured;
    - o The processes and industry sectors that generate the solvents;
    - o The specific uses and industry sectors for the remanufactured solvents; and
    - o Certification from the remanufacturer
  - Records of shipments and confirmation of receipts
  - Management in tanks and containers
    - o Prior to remanufacturing, includes labels on the tanks and containers or a record of the material being stored
  - No speculative accumulation
    - o See requirements prohibiting speculative accumulation per 40 CFR 261.1(c)(8)
- Petition to add other chemicals, industries, and/or chemical functions to the remanufacturing exclusion (includes a waste characterization test)

(ii) Respondent activities

- Remanufacturing exclusion:
  - Both the hazardous secondary material generator and the remanufacturer will have to:
    - o Notify EPA or the State Director, if the state is authorized for the program, and update the notification every two years per 40 CFR 260.42;
    - o Develop and maintain a remanufacturing plan;
    - o Maintain records of shipments and confirmations of receipts for a period

- of three years from the dates of the shipments;
- o Prior to remanufacturing, store the hazardous spent solvents in tanks or containers that meet technical standards that would be the same as those found in 40 CFR part 264 subparts I and J, with the tanks and containers being labeled or otherwise having an immediately available record of the material being stored. During remanufacturing, and during storage of the hazardous secondary materials prior to remanufacturing, ensure that there is effective control of hazardous air emissions by complying with all applicable NESHAP standards, and with the requirements of 40 CFR part 264 or 265 subparts AA, BB, CC. This activity would be covered under existing EPA ICRs 1572: Hazardous Waste Specific Unit Requirements and Special Waste Processes and Types, 820: Hazardous Waste Generator Standards and 1593: Air Emission Standards for Tanks, Surface Impoundment and Containers; and
- o Meet the requirements prohibiting speculative accumulation per 40 CFR 261.1(c)(8)
- Petition process:
  - Prepare and submit a petition for adding to the eligibility criteria (e.g., adding industries, adding chemicals) of the exclusion

## **(5) Recordkeeping for Speculative Accumulation**

EPA requires the speculative accumulation start date to be labeled on each container, and allowing other procedures (such as posting of accumulation dates or entering dates in inventory logs) to ensure against speculative accumulation in other types of units not amenable to labeling.

- (i) Data items
  - Recordkeeping for Speculative Accumulation
    - Label on the storage unit indicating the first date that the excluded hazardous secondary material began to be accumulated; or
    - Inventory log to demonstrate that at least 75% by weight or volume of material being recycled is transferred to a different site for recycling in a calendar year.
- (ii) Respondent activities
  - Label and perform any recordkeeping to document speculative accumulation limits are being met.

## **(6) Recordkeeping for Export under the Transfer-Based Exclusion**

Generators are able to export their hazardous waste secondary materials under the transfer-based exclusion if they provide notice and obtain consent of the receiving country, and file an annual report.

- (i) Data items

- Keep copies of notifications and Acknowledgments of Consent to Export for a period of three years following receipt of the Acknowledgment.

(ii) Respondent activities

- Submit a complete notification to EPA at least sixty days before the initial shipment is intended to be shipped offsite. This notification may cover export activities extending over a twelve month or lesser period.
- Submit a renotification when specified conditions on the notification change as applicable.
- Re-notify EPA if a shipment cannot be delivered for any reason to the reclaimer, intermediate facility or the alternate reclaimer or alternate intermediate facility.
- Keep copies of notifications and Acknowledgments of Consent to Export for a period of three years following receipt of the Acknowledgment.
- Prepare and submit annual report no later than March 1 of each year.

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

### 5(a) *Agency Activities*

#### (1) Off-site Transfer Based Exclusion for Hazardous Secondary Material

As a matter of law, the orders issued by the United States Court of Appeals for the District of Columbia Circuit on July 7, 2014 and amended on March 6, 2018: (1) vacated the 2015 verified recycler exclusion for hazardous waste that is recycled off-site (except for certain provisions); (2) reinstate the transfer-based exclusion from the 2008 rule to replace the now vacated 2015 verified recycler exclusion; (3) upheld the containment and emergency preparedness provisions and the eligibility of spent petroleum catalysts for the reinstated transfer-based exclusion; (4) vacated factor 4 of the 2015 definition of legitimate recycling in its entirety; and (5) reinstated the 2008 version of factor 4 to replace the now-vacated 2015 version of factor 4; the rule is non-HSWA and implemented by the states.

#### (a) Emergency Preparedness

##### Emergency procedures

- Review submitted release report information
- Enter information into database tracking all releases
- Transmit information to respective response authorities

#### (b) Financial Assurance

##### Trust fund

- Receive and evaluate originally signed duplicate of the trust agreement and formal certification of acknowledgement
- Receive and evaluate other financial assurance
- Receive, review, and respond to request for release of the amount in excess of the current cost estimate
- Receive, review, and respond to request for release of the amount in excess of current cost estimate covered by trust fund
- Instruct the trustee to release to the owner/operator such funds as EPA specifies in writing
- Take other action as needed

##### Surety bond guaranteeing payment into a trust fund

- Receive and evaluate surety bond

- Receive, review, and file evidence of the increase in the penal sum or other financial assurance to cover the increase
- Receive and evaluate alternate financial assurance if required because of cancellation of the bond
- Receive, review, and file notice of cancellation from surety company
- Take other action as needed

#### Letter of credit

- Receive and evaluate letter of credit and letter referring to the letter of credit
- Receive, review, and file evidence of an increase in the credit or other financial assurance as specified to cover the increase
- Receive and evaluate alternate financial assurance if required because of termination of credit
- Receive, review, and file a notice of a decision not to extend the expiration date of the credit from the issuing institution
- Take other action as needed

#### Insurance

- Receive and evaluate certificate of insurance
- Receive, review, and approve reimbursements for expenditures
- Receive, review, and file evidence of an increase in the policy or approve other financial assurance as specified to cover the increase
- Receive and evaluate alternate financial assurance if required because of cancellation, termination, or failure to renew the insurance
- Receive, review, and file notice of cancellation
- Take other action as needed

#### Financial test and corporate guarantee

- Receive and evaluate a signed letter and accompanying material
- Receive, review, and approve an extension of the time allowed for submission of the documents specified in 40 CFR 261.143(e)(3)
- Receive, review, and file updated information at the close of each fiscal year
- Receive, review, and file a notice of intent to establish alternate financial assurance
- Request, receive, review and file reports of financial condition
- Receive and evaluate alternate financial assurance

- Prepare and transmit notice of disallowance
- Take other action as needed

**(2) Hazardous Secondary Material Generated and Reclaimed under the Control of the Generator**

**(a) Emergency Preparedness**

Emergency procedures

- Review submitted release report information
- Enter information into database tracking all releases
- Transmit information to respective response authorities

**(3) Solid Waste Variances and Non-Waste Determinations**

**(a) Re-Application**

- Receive, review, and file re-applications every ten years

**(b) Re-Notification**

- Receive, review, and file notifications in the event of a change in circumstances

**(c) Variance from Classification from Solid Waste (260.31(c) and 260.33(a))**

- Review the variance demonstration
- Request additional information if necessary
- Deliberate and issue draft determination
- Publicize draft determination
- Hold hearing, if required
- Review comments and make final determination

**(d) Non-Waste Determination**

- Review the non-waste determination application
- Request additional information if necessary
- Deliberate and issue draft determination
- Publicize draft determination
- Hold hearing, if required
- Review comments and make final determination

#### **(4) Remanufacturing Exclusion**

##### **(a) Petition Process**

- Review the petition
- Request additional information if necessary
- Deliberate and issue draft determination
- Publicize draft determination
- Hold hearing, if required
- Review comments and make final determination

##### **(b) Technical Standards**

- Conduct agency activities related to OMB Control No. 2050-0050 “Hazardous Waste Specific Unit Requirements and Special Waste Processes and Types” for additional facilities

##### **(c) NESHAP Standards**

- Conduct agency activities related to pollution standards covered by OMB Control No. 2050-0035 “Hazardous Waste Generator Standards” and OMB Control No. 2060-0318 “Air Emission Standards for Tanks, Surface Impoundment and Containers”.

#### **(5) Recordkeeping for Speculative Accumulation**

There are no agency activities associated with these requirements.

#### **(6) Recordkeeping for Export under the Transfer-Based Exclusion**

- Receive, review, and file shipment notifications and renotifications.
- Receive, review, and file annual reports.

##### ***5(b) Collection Methodology and Management***

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

##### ***5(c) Small Entity Flexibility***

The exclusions in this ICR are voluntary and deregulatory. As such, there is no adverse burden impact to large or small entities.

#### **5(d) Collection Schedule**

For most of the requirements under the transfer-based exclusion and the generator-controlled exclusion, a discussion of the collection schedule is not relevant. For the emergency preparedness and response requirements under the transfer-based exclusion and the generator-controlled exclusion, recordkeeping for personnel training is conducted onsite, so a discussion of a collection schedule is not relevant. There is no collection schedule for generators reporting releases of hazardous waste into the environment, as facilities only report on these occasions. The emergency coordinator must immediately notify the appropriate authorities of an imminent or actual emergency situation. A generator accumulating more than 6,000 kg of hazardous secondary material must submit a written report of any incident that requires the implementation of the contingency plan within 15 days of its occurrence. Because generators are not required to submit their contingency plans to EPA, discussion of a collection schedule for these facilities is not applicable.

No schedule is required for applications for non-waste determinations. The applicant must re-apply for non-waste determinations, in the event of a change in circumstances that affects how a hazardous secondary material meets the relevant criteria contained in 40 CFR 260.34 upon which a non-waste determination has been based.

No schedule is required for other applications and petitions covered in this ICR, but are prepared and submitted on a case-specific basis.

## **6. ESTIMATING THE HOUR AND COST BURDEN OF THE COLLECTION**

This section estimates the burden of reporting and recordkeeping under RCRA DSW exclusions.

### ***6(a) Estimating Respondent Burden Hours***

Exhibit 1 provides estimates of the respondent hourly burden associated with the RCRA DSW exclusion paperwork requirements covered in this ICR. Exhibit 1 includes burden hours (total and by labor type) per respondent, as well as the overall burden hours for all respondents.

### ***6(b) Estimating Respondent Costs***

Exhibit 1 provides estimates of the annual respondent costs associated with the RCRA DSW exclusion paperwork requirements covered in this ICR. These costs are based on the cost of labor, capital, and operation and maintenance (O&M).

#### **(1) Labor Costs**

The hourly labor wage rates used to estimate costs to respondents were calculated as shown in Table 1. The unloaded average hourly wage rates were obtained from the U.S. Bureau of Labor Statistics (BLS) May 2020 National Occupational Employment and Wage Estimates<sup>1</sup> and adjusted to 2021 dollars using Employment Cost Indices developed by BLS.<sup>2</sup> The fringe benefits cost factor is based on Employer Costs for Worker Compensation data published by BLS.<sup>3</sup> The overhead cost factor was obtained from the previously approved ICR.

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

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<sup>1</sup> U.S. Bureau of Labor Statistics, “[May 2020 National Occupational Employment and Wage Estimates](#),” March 31, 2021.

<sup>2</sup> U.S. Bureau of Labor Statistics, “Table 5. Employment Cost Index for total compensation, for private industry workers, by occupation and industry, continuous occupational and industry series (not seasonally adjusted);” [Employment Cost Index, Historical Listing – Volume V, Continuous Occupational and Industry Series, September 1975-September 2021 \(December 2005=100\)](#). Private Industry Workers, All Workers, June 2020=140.1 and September 2021=146.4.

<sup>3</sup> U.S. Bureau of Labor Statistics, “Table 9. Private industry workers, by major occupational group: employer costs per hour worked for employee compensation and costs as a percentage of total compensation;” [Employer Costs for Employee Compensation, Historical Listing, National Compensation Survey: March 2004 – June 2021](#); September 2021. All Workers, Total Compensation June 2021=36.64 and Total Benefits June 2021=10.76.

**Table 1**  
**Derivation of Respondent Hourly Labor Wage Rates Used in this ICR**

<b>Labor Category A</b>	<b>Standard Occupational Code B</b>	<b>2020 Unloaded Average (Mean) Hourly Wage Rate C</b>	<b>2021 Adjustment Factor D</b>	<b>Fringe Benefits Cost Factor E</b>	<b>Overhead Cost Factor F</b>	<b>Loaded Average (Mean) Hourly Wage Rate G = [C x D x E x F]</b>
1. Legal	23-1011 Lawyers	\$71.59	1.045	1.294	1.336	\$129.33
2. Managerial	11-1021 General & Operations Managers	\$60.45	1.045	1.294	1.336	\$109.21
3. Technical	17-2081 Environmental Engineers	\$46.58	1.045	1.294	1.336	\$84.15
4. Clerical	43-9061 Office Clerks, General	\$18.16	1.045	1.294	1.336	\$32.81

## **(2) Capital Costs**

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

## **(3) Operation & Maintenance Costs**

O&M costs are those costs associated with a paperwork requirement incurred continually over the life of the ICR. They are defined by the Paperwork Reduction Act of 1995 as “the recurring dollar amount of costs associated with O&M or purchasing services.” This ICR includes the following O&M costs:

- Postage<sup>4</sup>
  - Regular mail (weight not over 1 ounce): \$0.58
  - Certified mail: \$3.75
  - Registered mail (declared value \$0.00): \$13.75
- Sampling and analytical costs for a hazardous secondary material characterization: \$369 per sample<sup>5</sup>
- Copy of plans: \$0.13<sup>6</sup>

<sup>4</sup> U.S. Postal Service; “Price List,” [Notice 123](#), effective October 3, 2021.

<sup>5</sup> Cost in the previously approved ICR (\$334) adjusted to 2021 dollars using BLS Consumer Price Indices. U.S. Bureau of Labor Statistics; [Historical Consumer Price Index for All Urban Consumers \(CPI-U\): U.S. city average, all items, by month](#). April 2018=250.546 and October 2021=276.589.

<sup>6</sup> Cost in the previously approved ICR (\$0.12) adjusted to 2021 dollars using BLS Consumer Price Indices. U.S. Bureau of Labor Statistics; [Historical Consumer Price Index for All Urban Consumers \(CPI-U\): U.S. city average, all items, by month](#). April 2018=250.546 and October 2021=276.589.

- Long distance phone call: \$6.26<sup>7</sup>
- Prepare and submit a re-application and to provide additional information on whether partial reclamation is substantial: \$31.20<sup>8</sup>
- Preparation of an initial variance application: \$31.11<sup>9</sup>
- Re-application or renewal of the variance: \$15.56<sup>10</sup>
- Hiring an outside auditor to conduct a reasonable efforts audit (for generators using the transfer-based exclusion): \$4,217<sup>11</sup>
- In-house employee audit (for generator-controlled exclusion): \$780<sup>12</sup>
- Hiring an outside vendor for preparation of legitimacy documentation: \$3,900<sup>13</sup>

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<sup>7</sup> Cost in the previously approved ICR (\$5.67) adjusted to 2021 dollars using BLS Consumer Price Indices. U.S. Bureau of Labor Statistics; [Historical Consumer Price Index for All Urban Consumers \(CPI-U\): U.S. city average, all items, by month](#). April 2018=250.546 and October 2021=276.589.

<sup>8</sup> Cost in the previously approved ICR (\$28.26) adjusted to 2021 dollars using BLS Consumer Price Indices. U.S. Bureau of Labor Statistics; [Historical Consumer Price Index for All Urban Consumers \(CPI-U\): U.S. city average, all items, by month](#). April 2018=250.546 and October 2021=276.589.

<sup>9</sup> Cost in the previously approved ICR (\$28.18) adjusted to 2021 dollars using BLS Consumer Price Indices. U.S. Bureau of Labor Statistics; [Historical Consumer Price Index for All Urban Consumers \(CPI-U\): U.S. city average, all items, by month](#). April 2018=250.546 and October 2021=276.589.

<sup>10</sup> Cost in the previously approved ICR (\$14.09) adjusted to 2021 dollars using BLS Consumer Price Indices. U.S. Bureau of Labor Statistics; [Historical Consumer Price Index for All Urban Consumers \(CPI-U\): U.S. city average, all items, by month](#). April 2018=250.546 and October 2021=276.589.

<sup>11</sup> Cost in the previously approved ICR (\$3,820) adjusted to 2021 dollars using BLS Consumer Price Indices. U.S. Bureau of Labor Statistics; [Historical Consumer Price Index for All Urban Consumers \(CPI-U\): U.S. city average, all items, by month](#). April 2018=250.546 and October 2021=276.589.

<sup>12</sup> Cost in the previously approved ICR (\$706.52) adjusted to 2021 dollars using BLS Consumer Price Indices. U.S. Bureau of Labor Statistics; [Historical Consumer Price Index for All Urban Consumers \(CPI-U\): U.S. city average, all items, by month](#). April 2018=250.546 and October 2021=276.589.

<sup>13</sup> Cost in the previously approved ICR (\$3,532.60) adjusted to 2021 dollars using BLS Consumer Price Indices. U.S. Bureau of Labor Statistics; [Historical Consumer Price Index for All Urban Consumers \(CPI-U\): U.S. city average, all items, by month](#). April 2018=250.546 and October 2021=276.589.

### 6(c) Estimating State Agency Hour and Cost Burden

The information collection requirements covered in this ICR will be administered by RCRA-Authorized State government regulatory programs and EPA. The States administer the program – thus there is no Federal burden. The hourly labor wage rates used to estimate costs to agencies were calculated as shown in Table 2. Unloaded mean hourly labor wage rates for agency activities were taken from the May 2020 National Industry-Specific Occupational Employment and Wage Estimates for Federal, State, and local government<sup>14</sup> and adjusted to 2021 dollars using Employment Cost Indices developed by BLS.<sup>15</sup> The fringe benefits cost factor is based on Employer Costs for Worker Compensation data published by BLS.<sup>16</sup> The overhead cost factor was obtained from the previously approved ICR.

**Table 2**  
**Derivation of State Agency Hourly Labor Wage Rates Used in this ICR**

<b>Labor Category A</b>	<b>Standard Occupational Code B</b>	<b>2020 Unloaded Average (Mean) Hourly Wage Rate C</b>	<b>2021 Adjustment Factor D</b>	<b>Fringe Benefits Cost Factor E</b>	<b>Overhead Cost Factor F</b>	<b>Loaded Average (Mean) Hourly Wage Rate G = [C x D x E x F]</b>
1. Legal	23-1011 Lawyers	\$56.06	1.033	1.383	1.336	\$107.00
2. Managerial	11-0000 Management Occupations	\$51.66	1.033	1.383	1.336	\$98.60
3. Technical	17-2081 Environmental Engineers	\$44.58	1.033	1.383	1.336	\$85.09
4. Clerical	43-9061 Office Clerks, General	\$18.96	1.033	1.383	1.336	\$36.19

<sup>14</sup> U.S. Bureau of Labor Statistics, “[May 2020 National Industry-Specific Occupational Employment and Wage Estimates: NAICS 999000 - Federal, State, and Local Government, excluding state and local schools and hospitals and the U.S. Postal Service \(OEWS Designation\)](#),” March 31, 2021.

<sup>15</sup> U.S. Bureau of Labor Statistics, “Table 7. Employment Cost Index for total compensation, for State and local government workers, by occupation and industry, continuous occupational and industry series (not seasonally adjusted);” [Employment Cost Index, Historical Listing – Volume V, Continuous Occupational and Industry Series, September 1975-September 2021 \(December 2005=100\)](#). State and Local Government Workers, All Workers, June 2020=142.9 and September 2021=147.6.

<sup>16</sup> U.S. Bureau of Labor Statistics, “Table 5. State and local government workers, by major occupational group: employer costs per hour worked for employee compensation and costs as a percentage of total compensation;” [Employer Costs for Employee Compensation, Historical Listing, National Compensation Survey: March 2004 – June 2021](#); September 2021. All Workers, Total Compensation June 2021=53.59 and Total Benefits June 2021=10.76.

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

In this section, EPA first describes the estimated respondent universe. EPA then estimates the annual burden to respondents for the DSW paperwork requirements.

### **(1) Respondent Universe**

Following are the primary respondent universe estimates used in this ICR:

- **79 generators will participate in the transfer-based exclusion at 40 CFR 261.4(a)(24) each year.** This estimate is based on the average annual number of generators that, during the 2018-2020 period, submitted a Site Identification (ID) Form notifying that they transfer hazardous secondary material offsite to a permitted or verified site (Facility Code 06 in the Hazardous Secondary Material Addendum to the Site ID Form).
- **13 generators will need to conduct a reasonable efforts environmental audit for reclaimers and intermediate facilities each year.** This estimate is based on the average annual number of facilities that, during the 2018-2020 period, submitted a Site ID Form notifying that they are reclaimers or intermediate facilities receiving hazardous secondary material from off-site (Facility Codes 07 and 08 in the Hazardous Secondary Material Addendum to the Site ID Form).
- **110 generators will generate and reclaim their hazardous secondary materials at facilities under the control of the generator per the exclusion at 40 CFR 261.4(a)(23) each year.** This estimate is based on the average annual number of facilities that, during the 2018-2020 period, submitted a Site ID Form notifying as hazardous secondary material generators that participated in the generator-controlled exclusion. Of these generators, 109 reported that they reclaimed hazardous secondary material on-site or transferred hazardous secondary material to a reclaimer within the same company (Facility Codes 01 and 02 in the Hazardous Secondary Material Addendum to the Site ID Form), and 1 reported that they managed hazardous secondary material under a tolling arrangement (Facility Code 05 in the Hazardous Secondary Material Addendum to the Site ID Form).
- **2 facilities will re-submit a variance petition annually due to the provision at 40 CFR 260.33(d) that variances and non-waste determinations should be effective for a fixed term not to exceed ten years.** This estimate is based on the average annual number of facilities that, during the 2018-2020 period, submitted a Site ID Form notifying that they operate under an approved variance for: (1) materials that are accumulated speculatively, (2) materials that are reclaimed and then reused within the original production process, (3) materials that are partially reclaimed, (4) materials transferred for reclamation and managed at a verified reclamation site, (5) materials transferred and managed at an intermediate site, and (6) materials imported and managed at a verified reclamation site (Facility Codes 14, 15, 16, 17, 18, and 19 in the Hazardous Secondary Material Addendum to the Site ID Form).

- **4 variance re-applications will be submitted annually due to the requirement to re-apply for a variance if material no longer meets relevant variance criteria.** This assumption was taken from the previously approved ICR.
- **0 facilities will re-submit a non-waste determination petition annually due to the provision at 40 CFR 260.33(d) that non-waste determinations should be effective for a fixed term not to exceed ten years.** During the 2018-2020 period, no facility submitted a Site ID Form notifying that they were operating under: (1) a non-waste determination for hazardous secondary material reclaimed in a continuous industrial process or (2) a non-waste determination for hazardous secondary material that is indistinguishable from a product or intermediate (Facility Codes 20 and 21 in the Hazardous Secondary Material Addendum to the Site ID Form).
- **1 generator will generate and reclaim their hazardous secondary materials under the remanufacturing exclusion.** During the 2018-2020 period, no facility submitted a Site ID Form notifying that they were remanufacturing hazardous secondary material received from an off-site domestic hazardous secondary material generator (Facility Code 13 in the Hazardous Secondary Material Addendum to the Site ID Form). However, for purposes of this analysis, EPA assumes that 1 generator will generate and reclaim their hazardous secondary material under the remanufacturing exclusion.
- **4,800 facilities utilize the pre-2008 DSW exclusions.** This estimate is based on the number of facilities in the following sectors that reported recycling<sup>17</sup> hazardous wastes in 2019: Agriculture, Forestry, Fishing and Hunting (NAICS code 11); Mining (NAICS code 21); Utilities (NAICS code 22); Construction (NAICS code 23); Manufacturing (NAICS code 31); Manufacturing (NAICS code 32); Manufacturing (NAICS code 33); Wholesale Trade (NAICS code 42); Retail Trade (NAICS codes 44 and 45); Transportation (NAICS codes 48 and 49); Information (NAICS code 51); Finance and Insurance (NAICS code 52); Real Estate, Rental, Leasing (NAICS code 53); Professional, Scientific & Technical Services (NAICS code 54); Management of Companies and Enterprises (NAICS code 55); Administrative Support, Waste Management & Remediation (NAICS code 56); Educational Services (NAICS code 61); Health Care, Social Assistance (NAICS code 62); Arts, Entertainment, Recreation (NAICS code 71); Accommodation & Food Services (NAICS code 72); Other Services (NAICS code 81); and Public Administration (NAICS code 92).
- **2 exporters will complete a notification to EPA prior to shipment, keep copies of notifications and Acknowledgements of Consent to Export, and submit an annual report.** This estimate is based on the average annual number of facilities that, during the 2018-2020 period, submitted a Site ID Form notifying that they generate and plan to send hazardous secondary material for reclamation to a foreign entity for reclamation and will meet the notice and consent procedures in 40 CFR 261.4(a)(25) (Facility Code 09 in the Hazardous Secondary Material Addendum to the Site ID Form).

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<sup>17</sup> For purposes of this analysis, recycling includes Biennial Report Management Method Codes H010 (metals recovery), H011 (mercury recovery), H020 (solvents recovery), and H039 (other recovery or reclamation for reuse).

## **(2) Annual Respondent Burden**

Assumptions used in the development of annual respondent burden and costs are reflected in Exhibit 1.

### **(1) Off-site Transfer Based Exclusion for Hazardous Secondary Material**

EPA estimates that 79 generators will be eligible for the transfer-based exclusion during the period covered by this ICR.

#### **(a) Emergency Preparedness and Response**

##### **(a1) Generators that accumulate less than 6,000 kg of hazardous secondary material**

###### Personnel Training

The RCRA DSW requirements include training requirements for generators who are accumulating less than 6,000 kg of hazardous secondary material and recycling them under the DSW transfer-based exclusion. Of the total of 79 generators participating in the transfer-based exclusion, 14 percent are very small quantity generators (VSQGs)<sup>18</sup>. As a result, EPA estimates that 11 generators will conduct personnel training each year (i.e.,  $79 \times 0.14$ ).

###### Emergency Procedures

EPA estimates that, each year, 1.7 percent<sup>19</sup> of generators that are accumulating less than 6,000 kg of hazardous secondary material and recycling them under the transfer-based exclusion (i.e., 11 generators) have an emergency incident. As a result, EPA estimates that none of the generators accumulating less than 6,000 kg of hazardous secondary material will conduct emergency procedure activities (i.e.,  $11 \times 0.017$ ).

##### **(a2) Generators that accumulate more than 6,000 kg of hazardous secondary material**

###### Contingency Plan

Under the DSW requirements, generators that accumulate more than 6,000 kg of hazardous secondary material are required to prepare and implement a contingency plan if they are recycling under the transfer-based exclusion or are intermediate facilities and recyclers that do not have a RCRA permit. Of the total of 79 generators participating in the transfer-based exclusion, 86 percent are small quantity generators (SQGs) or large quantity generators (LQGs). As a result, EPA estimates that 68 generators will conduct contingency planning activities each year (i.e.,  $79 \times 0.86$ ). In addition, EPA assumes that 10 percent of these generators will amend their contingency plans each year (i.e.,  $68 \times 0.10 = 7$ ).

###### Emergency Procedures

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<sup>18</sup> Based on Federal generator status data reported by generators that submitted a Site ID Form notifying that they transfer hazardous secondary material offsite to a permitted or verified site (Facility Code 06 in the Hazardous Secondary Material Addendum to the Site ID Form).

<sup>19</sup> Assumption taken from previously approved ICR.

EPA estimates that, each year, 1.7 percent<sup>20</sup> of generators that are accumulating more than 6,000 kg of hazardous secondary material and recycling them under the transfer-based exclusion (i.e., 67 generators) have an emergency incident. As a result, EPA estimates that, each year, 1 generator accumulating more than 6,000 kg of hazardous secondary material will conduct emergency procedure activities (i.e., 67 x 0.017).

#### **(b) Reasonable Efforts**

EPA assumes an equal distribution of: (1) reclaimers and intermediate facilities receiving hazardous secondary material from off-site to (2) generators that ship hazardous secondary materials to reclaimers and intermediate facilities.<sup>21</sup> As a result, EPA estimates that, each year, 13 generators will conduct a reasonable efforts environmental audit under the requirements found at 261.4(a)(24).

#### **(c) Financial Requirements**

EPA estimates that, each year, 13 reclaimers and intermediate facilities will claim an exclusion under 40 CFR 261.4(a)(24) and, therefore, be subject to the financial assurance requirements. Of these 13 facilities, 9 are expected to have a RCRA Part B permit or interim status. The 4 facilities that do not have a RCRA Part B permit must prepare a cost estimate under 40 CFR 261.142. Each of these facilities also must update the cost estimate annually, revise it as required, and maintain records of the most up-to-date version. In addition, each facility must establish financial assurance as required under 40 CFR 261.143. Facilities must establish coverage by using one or more of the following: trust fund, surety bond guaranteeing payment into a trust fund, letter of credit, insurance, and financial test or guarantee.

#### **(d) Receipt Confirmations**

Generators must maintain at the generating facility for no less than three (3) years confirmations of receipt from each reclaimer and, if applicable, each intermediate facility for all off-site shipments of hazardous secondary materials. Reclaimers and intermediate facilities must send to the hazardous secondary material generator confirmations of receipt for all off-site shipments of hazardous secondary materials.

### **(2) Hazardous Secondary Material Generated and Reclaimed under the Control of the Generator**

EPA estimates that 110 generators will utilize DSW exclusion for generator-controlled recycling during the period covered by this ICR.

#### **(a) Recordkeeping for the Tolling Provision**

EPA estimates that 1 generator operating under the exclusion at 40 CFR 261.4(a)(23) will operate under a tolling arrangement. Both the generator and the contractor must maintain records of all hazardous secondary materials shipped pursuant to the tolling arrangement.

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<sup>20</sup> Ibid.

<sup>21</sup> This assumption is consistent with the assumption used in the previously approved ICR.

## **(b) Legitimacy Documentation**

All 110 facilities recycling hazardous secondary materials under the generator-controlled exclusions of 40 CFR 261.4(a)(23) must maintain documentation of their legitimacy determination onsite. EPA estimates that facilities will perform their legitimacy determination once during the three-year period covered by this ICR. As a result, EPA estimates that, each year, 37 facilities will be subject to this requirement (i.e.,  $110 \div 3$ ). Of these facilities, one-third will prepare documentation using an in-house employee audit, one third will prepare documentation using an outside vendor, and one third will prepare documentation using readily available information.

In addition, EPA estimates that, each year, 5 facilities will make documentation available upon request by a regulatory authority within 72 hours, or within a longer period of time as specified by the regulatory authority.<sup>22</sup>

## **(c) Emergency Preparedness and Response**

### **(c1) Generators that accumulate less than 6,000 kg of hazardous secondary material**

#### Personnel Training

The RCRA DSW requirements include training requirements for generators who are accumulating less than 6,000 kg of hazardous secondary material and recycling them under the generator-controlled exclusion. Of the total of 110 generators participating in the generator-controlled exclusion, 4 percent are VSQGs<sup>23</sup>. As a result, EPA estimates that 5 generators will conduct personnel training each year (i.e.,  $110 \times 0.04$ ).

#### Emergency Procedures

EPA estimates that, each year, 1.7 percent<sup>24</sup> of generators that are accumulating less than 6,000 kg of hazardous secondary material and recycling them under the generator-controlled exclusion (i.e., 5 generators) have an emergency incident. As a result, EPA estimates that none of the generators accumulating less than 6,000 kg of hazardous secondary material will conduct emergency procedure activities (i.e.,  $5 \times 0.017$ ).

### **(c2) Generators that accumulate more than 6,000 kg of hazardous secondary material**

#### Contingency Plan

Under the DSW requirements, generators that accumulate more than 6,000 kg of hazardous secondary material are required to prepare and implement a contingency plan if they are recycling under the generator-controlled exclusion or are intermediate facilities and recyclers that do not have a RCRA permit. Of the total of 110 generators participating in the generator-

<sup>22</sup> This assumption was taken from the previously approved ICR.

<sup>23</sup> Based on Federal generator status data reported by generators that submitted a Site ID Form notifying that they transfer hazardous secondary material offsite to a permitted or verified site (Facility Codes 01, 02, and 05 in the Hazardous Secondary Material Addendum to the Site ID Form).

<sup>24</sup> Assumption taken from previously approved ICR.

controlled exclusion, 96 percent are SQGs or LQGs. As a result, EPA estimates that 105 generators will conduct contingency planning activities each year (i.e.,  $110 \times 0.96$ ). In addition, EPA assumes that 10 percent of these generators will amend their contingency plans each year (i.e.,  $105 \times 0.10 = 11$ ).

#### Emergency Procedures

EPA estimates that, each year, 1.7 percent<sup>25</sup> of generators that are accumulating more than 6,000 kg of hazardous secondary material and recycling them under the generator-controlled exclusion (i.e., 105 generators) have an emergency incident. As a result, EPA estimates that, each year, 2 generators accumulating more than 6,000 kg of hazardous secondary material will conduct emergency procedure activities (i.e.,  $105 \times 0.017$ ).

### **(d) Certifications**

All 110 facilities are expected to prepare certifications for hazardous secondary material generated and reclaimed under the control of the generator.

## **(3) Solid Waste Variances and Non-Waste Determinations**

### **(a) Variances**

#### **(a1) Variance from Classification as a Solid Waste**

Facilities applying for partial reclamation variances are required to meet a revised list of five factors to obtain the variance. EPA estimates that there are an average of four variance applications annually under 40 CFR 260.31(c).<sup>26</sup> The facilities applying for these variances will be required to document that their applications meet these five factors.

#### **(a2) Notice and Potential Re-Application for Solid Waste Variances in the Event of a Change**

EPA estimates that, each year, there will be four variance re-applications under 40 CFR 260.33(c).

#### **(a3) Re-Application for Solid Waste Variances Every Ten Years**

EPA anticipates that, each year, two facilities will submit a solid waste variance due to the provision at 40 CFR 260.33(d) that variances should be effective for a fixed term not to exceed ten years. At the end of this term, facilities must re-apply for a variance.

### **(b) Non-Waste Determinations**

#### **(b1) Application for Non-Waste Determination**

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<sup>25</sup> Ibid.

<sup>26</sup> Ibid.

EPA estimates that, each year, seven facilities will seek non-waste determinations.<sup>27</sup>

### **(b2) Change to Non-Waste Determination Process**

EPA estimates that, each year, seven facilities will seek non-waste determinations.<sup>28</sup> Facilities seeking a non-waste determination under 40 CFR 260.34 are required to demonstrate why they cannot or should not meet existing exclusions to the definition of solid waste.

### **(b3) Re-Application for Non-Waste Determinations Every Ten Years**

EPA does not anticipate that any facility will re-submit a non-waste determination petition during the three-year period covered by this ICR.

## **(4) Remanufacturing Exclusion**

EPA estimates that one generator will utilize the remanufacturing exclusion.

### **(a) Petition Process**

EPA estimates that one facility will file a petition to add chemicals or industrial and/or chemical functions to the exclusion, which also will require sampling and analytical costs to document hazardous secondary material characterization. EPA estimates that, on average, these petitions are submitted once every five years. As a result, on an annual basis, 0.04 facilities will perform petition process activities.<sup>29</sup>

### **(b) Exclusion Conditions**

#### **(b1) Generator**

##### Remanufacturing Plan

Remanufacturing plans are prepared by the generator and the remanufacturer. EPA assumes the one generator will work with a single remanufacturer. Based on this information, EPA estimates that 0.3 generators per year will be required to make advance arrangements for remanufacturing and to prepare a remanufacturing plan in accordance with the finalized remanufacturing exemption.<sup>30</sup>

Generators will be required to maintain this plan on-site for three years, and therefore the equivalent of one-third of generators (1) will perform this activity on an annual basis.

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<sup>27</sup> Ibid.

<sup>28</sup> Ibid.

<sup>29</sup> Ibid.

<sup>30</sup> Ibid.

EPA estimates that generators will submit contractual arrangements with every twentieth shipment. Because each generator will ship an average of 10.6 shipments per year, an average of 53 percent of facilities (0.5) will be required to submit contractual arrangements in a single year.<sup>31</sup>

#### Record of Shipments and Confirmations of Receipts

Facilities operating under the finalized remanufacturing exclusion will be required to maintain records of shipments and confirmations of receipts for a three-year period from the date of shipment. EPA estimates that one eligible facility will be required to maintain these records over three years, and that each facility will produce 10.6 shipments per year.<sup>32</sup> On an annual basis, one facility will produce a total of 10.6 shipments per year and will perform each of these two activities with each shipment. Therefore, the annual number of respondent activities is 3.5 (one facility over three years, multiplied by 10.6 shipments per year).

#### Management in Tanks and Containers

EPA estimates that the one facility operating under the remanufacturing exclusion will be required to label or record in a log materials stored in tanks or containers prior to manufacturing.

### **(b2) Remanufacturer**

#### Remanufacturing Plan

Remanufacturing plans are prepared by the generator and the remanufacturer. EPA assumes the number of remanufacturers is equivalent to the number of generators. Based on this assumption, EPA estimates that, each year, one remanufacturer will be required to make advance arrangements with a generator and to prepare a remanufacturing plan in accordance with the finalized re-manufacturing exemption.

Remanufacturers will be required to maintain this plan on-site for three years, and therefore the equivalent of one-third of remanufacturers (0.3) will perform this activity on an annual basis.

EPA estimates that remanufacturers will submit contractual arrangements with every twentieth shipment. Because each generator will ship an average of 10.6 shipments per year, and the number of generators and remanufacturers is assumed to be equal, an average of 53 percent of facilities (0.5) will be required to submit contractual arrangements in a single year.

#### Record of Shipments and Confirmations of Receipts

Remanufacturers operating under the remanufacturing exclusion will be required to maintain records of shipments and confirmations of receipts for a three-year period from the date of shipment. EPA estimates that one eligible facility will be required to maintain these records over three years, and that the facility will produce 10.6 shipments per year. On an annual basis,

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<sup>31</sup> Ibid.

<sup>32</sup> Ibid.

one re-manufacturer will produce a total of 10.6 shipments per year. Therefore, the annual number of respondent activities is 3.5.

#### Management in Tanks and Containers

EPA estimates that the one remanufacturer operating under the re-manufacturing exclusion will be required to label or record in a log the materials stored in tanks or containers prior to remanufacturing.

#### **(5) Recordkeeping for Speculative Accumulation**

EPA estimates that the 4,800 facilities eligible for pre-2008 DSW recycling exclusions will be required to label containers in satellite and accumulation areas.

In addition, these 4,800 facilities must demonstrate that no speculative accumulation is occurring. This includes preparing procedures to ensure waste is not stored for more than a year and documenting that these procedures are satisfied, as well as preparing a description of waste generation and management practices and documenting that the unit is emptied at least once annually. Documentation is estimated on an annual basis. However, preparing procedures and description only occur once over the three-year period covered by this ICR. Therefore, the 4,800 facilities are annualized over the three-year ICR period for these two activities (i.e.,  $4,800 \div 3$ ).

#### **(6) Recordkeeping for Export under the Transfer-Based Exclusion**

EPA estimates that 2 exporters will complete a notification to EPA prior to shipment, keep copies of notifications and Acknowledgements of Consent to Export, and submit an annual report.

##### **6(e) Bottom Line Hour and Cost Burden**

###### **(1) Respondent Tally**

Exhibit 1 summarizes the total annual respondent hour and cost burden associated with all the requirements covered in this ICR. As shown in the exhibit, EPA estimates the annual respondent burden to be 36,760 hours.

###### **(2) State Agency Tally**

Exhibit 2 summarizes the total annual state agency hour and cost burden associated with all the requirements covered in this ICR. As shown in the exhibit, EPA estimates the annual state agency burden to be 1,708 hours.

##### **6(f) Reasons for Change in Burden**

There is an increase of 1,877 hours compared to the currently approved ICR due to the inclusion of State Agency burden. There were no program changes.

##### **6(g) Public Burden Statement**

The annual public reporting and recordkeeping burden for this collection of information is estimated to average 1.0 hour 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 Number EPA-HQ-OLEM-2018-0013, which is available for online viewing at [www.regulations.gov](http://www.regulations.gov), or in person viewing at the Resource Conservation and Recovery Act (RCRA) Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW, Washington, D.C. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744. The telephone number for the RCRA Docket is (202) 566-0270, and the fax number is (202) 566-9744. An electronic version of the public docket is available at [www.regulations.gov](http://www.regulations.gov). This site can be used to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. When in the system, select "search," then key in the Docket ID Number identified above. Also, you can send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, D.C. 20503, Attention: Desk Officer for EPA. Please include the EPA Docket ID Number EPA-HQ-OLEM-2018-0013 and OMB Control Number 2050-0202 in any correspondence.











## EXHIBIT 1 (CONTINUED)

ESTIMATED ANNUAL RESPONDENT HOUR AND COST BURDEN <sup>a</sup>

	Hours per Respondent Activity				Hours/ Respondent	Labor Cost/ Respondent	Capital Costs/ Respondent	O&M Costs/ Respondent	Number of Respondents	Total Hours/ Year	Total Cost/ Year
	Legal @ \$129.33/hr	Managerial @ \$109.21/hr	Technical @ \$84.15/hr	Clerical @ \$32.81/hr							
<b>RECORDKEEPING FOR SPECULATIVE ACCUMULATION</b>											
Prepare procedures ensuring waste is stored no more than one year	0	0	1	0.1	1.1	\$87.43	\$0.00	\$0.00	1,600	2,750.00	\$217,126.05
Document that storage procedures are satisfied	0	0	0.25	0	0.25	\$21.04	\$0.00	\$0.00	4,800	1,875.00	\$157,005.63
Prepare a description of waste generation and waste management practices	0	0	1.5	0.1	1.6	\$129.51	\$0.00	\$0.00	1,600	4,000.00	\$321,796.48
Document that the unit is emptied at least once a year	0	0	1	0.4	1.4	\$97.27	\$0.00	\$0.00	4,800	10,500.00	\$721,445.01
Label containers in accumulation area with start date	0	0	1	0	1	\$84.15	\$0.00	\$0.00	4,800	7,500.00	\$628,022.54
Label containers in satellite accumulation area with start date	0	0	0.5	0	0.5	\$42.08	\$0.00	\$0.00	4,800	3,750.00	\$314,011.27
<b>EXPORT REQUIREMENTS</b>											
Submit notification electronically	0	1	2	0	3	\$277.51	\$0.00	\$0.00	2	108.00	\$10,110.95
Maintain copy of consent document	0	0	0	0.5	0.5	\$16.41	\$0.00	\$0.00	2	18.00	\$560.53
Develop and submit annual report	0	1	2	0.5	3.5	\$293.92	\$0.00	\$0.00	2	0.00	\$0.00
<b>Total</b>	<b>Varies</b>	<b>Varies</b>	<b>Varies</b>	<b>Varies</b>	<b>Varies</b>	<b>\$68,422.22</b>	<b>\$0.00</b>	<b>\$18,403.39</b>	<b>Varies</b>	<b>35,052.48</b>	<b>\$2,793,420.89</b>



