

SUPPORTING STATEMENT FOR
EPA INFORMATION COLLECTION REQUEST NUMBER 1189.14
IDENTIFICATION, LISTING AND RULEMAKING PETITIONS
September 13, 2004

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EXECUTIVE SUMMARY

This Information Collection Request (ICR) supporting statement summarizes the estimated reporting and recordkeeping burden placed upon both respondents and implementing agencies for developing and reviewing rulemaking petitions, solid waste and boiler variances, hazardous waste exclusions, and hazardous waste listing exemptions under 40 CFR Parts 260 and 261. EPA estimated the number of respondents performing each activity based on feedback from EPA Regions and States.

This ICR also incorporates data from EPA's consultations with fewer than ten respondents to obtain estimates of the burden associated with developing, reporting, and maintaining information under these provisions. EPA has averaged these burden estimates for the purpose of this ICR. Agency burden estimates also were developed by obtaining data from EPA staff with program experience. All burden estimates are presented in Section 6 of this ICR.

The total annual respondent burden has increased to 21,511 hours from 20,810 hours in the previously approved ICRs. This increase is due primarily to respondents submitting a greater number of relatively more complex delisting petitions to EPA..

1. IDENTIFICATION OF THE INFORMATION COLLECTION

1(a) TITLE AND NUMBER OF THE INFORMATION COLLECTION

This information collection request (ICR) is entitled "Identification, Listing, and Rulemaking Petitions," ICR #1189.14.

1(b) SHORT CHARACTERIZATION

Under the authority of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, Congress directed the U.S. Environmental Protection Agency (EPA) to implement a comprehensive program for the safe management of hazardous waste. In addition, Congress wrote that "[a]ny person may petition the Administrator for the promulgation, amendment or repeal of any regulation" under RCRA (section 7004(a)).

40 CFR Parts 260 and 261 contain provisions that allow regulated entities to apply for petitions, variances, exclusions, and exemptions from various RCRA requirements. In Sections 1 through 5 of this ICR, EPA presents a comprehensive description of these paperwork requirements. In Section 6, EPA estimates the total annual burden and cost to respondents and the government associated with these paperwork requirements.

In preparing this ICR, EPA consolidated two previously approved ICRs. The ICR entitled, "Identification, Listing and Rulemaking Petitions," ICR #1189.09, was the previously approved "base" ICR. The ICR entitled, "Zinc Fertilizers Made From Recycled Hazardous Secondary materials" ICR #1189.11, was an amendment ICR.¹ This current ICR (#1189.14) replaces these two ICRs and therefore becomes the new "base" ICR for the Parts 260 and 261 paperwork requirements.

In the following paragraphs, EPA briefly describes the 40 CFR Parts 260 and 261 paperwork requirements.

RULEMAKING PETITIONS

In section 7004(b)(1) of RCRA, Congress directed the Administrator to develop and publish minimum guidelines for public participation in rulemaking petition processes. 40 CFR Part 260, Subpart C establishes procedures for submitting rulemaking petitions. Under section 260.20(b), all rulemaking petitioners must submit basic information with their demonstrations, including name, address, and statement of interest in the proposed action. Under section 260.21, all petitioners for equivalent testing or analytical methods must include specific information in their petitions and demonstrate to the satisfaction of the Administrator that the proposed method is equal to or superior to the corresponding method in terms of its sensitivity, accuracy, and reproducibility. Under section 260.22, petitions to amend Part 261 to exclude a waste produced at a particular facility (more simply, to delist a waste) must meet extensive informational requirements. When a petition is submitted, the Agency reviews materials, deliberates, publishes its tentative decision in the Federal Register, and requests public comment. EPA also may hold informal public hearings (if requested by an interested person or at the discretion of the Administrator) to hear oral

¹ ICR #1189.11 addressed the paperwork requirements at 40 CFR 261.4(a)(20) and (21).

comments on its tentative decision. After evaluating all comments, EPA publishes its final decision in the Federal Register.

SOLID WASTE AND BOILER VARIANCE REQUIREMENTS

In 1985, EPA promulgated regulations governing procedures and informational requirements for variances from classification as a solid waste or for classification as a boiler in sections 260.30 - 260.33. Sections 260.30, 260.31, and 260.33 comprise the standards, criteria, and procedures for variances from classification as a solid waste for three types of materials: materials that are collected speculatively without sufficient amounts being recycled; materials that are reclaimed and then reused within the original primary production process in which they were generated; and materials that have been reclaimed, but must be reclaimed further before the materials are completely recovered. In sections 260.32 and 260.33, EPA promulgated regulations governing the procedures and criteria for obtaining a variance for classification as a boiler. This variance is available to owner or operators of enclosed flame combustion devices.

HAZARDOUS WASTE EXCLUSIONS

Sections 261.3 and 261.4 contain provisions that allow generators to obtain a solid or hazardous waste exclusion for certain types of wastes. Facilities applying for these exclusions must either submit supporting information or keep detailed records. Under section 261.3(a)(2)(iv), generators may obtain a hazardous waste exclusion for wastewater mixtures subject to Clean Water Act regulation. Under section 261.3(c)(2)(ii)(C), generators may obtain an exclusion for certain nonwastewater residues resulting from high metals recovery processing (HTMR) of K061, K062, and F006 waste.

In addition, under section 261.4(a)(9), generators may claim a solid waste exclusion for spent wood preserving solutions and wastewaters from the wood preserving process, as specified. Section 261.4(a)(17) provides that secondary materials, other than listed hazardous wastes, generated within the primary mineral processing industry from which minerals, acids, cyanide, water or other values are recovered by mineral processing or beneficiation, are excluded from being a solid waste so long as certain criteria are met.² Under section 261.4(a)(20)(ii)(A), generators and intermediate handlers may obtain a hazardous waste exclusion for zinc-bearing hazardous secondary materials that are to be incorporated into zinc fertilizers. Section 261.4(a)(20)(iii)(B), allows manufacturers of zinc fertilizers or zinc fertilizer ingredients made from excluded hazardous secondary materials to obtain a hazardous waste exclusion. Under section 261.4(b)(6), generators of chromium-containing waste may obtain a hazardous waste exclusion under certain conditions.

Also addressed under this section is the shipment of samples between generators and laboratories for the purpose of testing to determine its characteristics or composition. Sample handlers who are not subject to U.S. Department of Transportation (DOT) or U.S. Postal Service (USPS) shipping requirements must comply with the information requirements of section 261.4(d)(2).

In 1988, EPA promulgated regulations for generators, collectors, and testers of treatability study samples in sections 261.4(e) and (f). When intended for treatability studies, hazardous waste otherwise

² Note that this exclusion was originally promulgated at 40 CFR 261.4(a)(15). EPA subsequently moved it to 40 CFR 261.4(a)(17).

subject to regulation under Subtitle C of RCRA is exempted from these regulations, provided that the requirements in sections 261.4(e) and (f) are met, including the following information requests: initial notification, recordkeeping, reporting, and final notification. In addition, generators and collectors of treatability study samples also may request quantity limit increases and time extensions, as specified in section 261.4(e)(3).

HAZARDOUS WASTE LISTING EXEMPTIONS

In 1990, EPA promulgated regulations under 40 CFR 261.31(b)(2)(ii) governing procedures and informational requirements for generators and treatment, storage and disposal facilities proving their sludges are exempt from listing as F037 and F038 wastes. Sections 261.35 (b) and (c), which were also promulgated in 1990, govern procedures and informational requirements for the cleaning or replacement of all process equipment that may have come into contact with chlorophenolic formulations or constituents thereof, including, but not limited to, treatment cylinders, sumps, tanks, piping systems, drip pads, fork lifts, and trams.

2. NEED FOR AND USE OF THE COLLECTION

2(a) NEED AND AUTHORITY FOR THE COLLECTION

EPA promulgated the provisions for identification, listing, and rulemaking petitions under the authority of Subtitle C of RCRA.

RULEMAKING PETITIONS

Section 260.20 requires petitioners seeking to modify or revoke any provision in 40 CFR Parts 260 - 265 and 268 to submit specific information. This information is used by EPA to determine each petitioner's interest in the proposed rulemaking petition, and contributes to EPA's goal of comprehensively protecting human health and the environment.

Section 260.21 requires petitioners for equivalent testing or analytical methods to demonstrate to the satisfaction of the Administrator that the proposed method is equal to or superior to the corresponding method in terms of its sensitivity, accuracy, and reproducibility. EPA needs this information to determine whether the proposed method is equivalent or superior to the specified method. This requirement contributes to EPA's goal of preventing contamination to the environment.

Section 260.22 requires petitioners seeking to delist a specific waste to demonstrate that the waste does not meet any hazardous waste criteria. The delisting petition provides an alternative to facilities whose wastes are generally described (listed) in Subpart D of Part 261, yet may not be hazardous. EPA needs the information to evaluate the accuracy of each delisting petition and determine whether an exclusion is warranted.

SOLID WASTE AND BOILER VARIANCE REQUIREMENTS

Section 260.33 requires persons requesting variances from classification as a solid waste for specified recycled materials (e.g., speculatively collected materials) to address the relevant criteria contained in section 260.31. EPA needs this information to ensure that these materials are actually being recycled and not being accumulated to evade hazardous waste regulation. The practice of recycling specific materials from waste streams reduces the need to use natural resources, energy, and disposal capacity. By allowing legitimate recyclers an opportunity to exempt specific recycled materials from hazardous waste regulation, EPA promotes this environmentally and socially beneficial practice.

Section 260.33 requires persons requesting variances for classification as a boiler (for enclosed devices using controlled flame combustion) to submit demonstrations that address the relevant criteria detailed in section 260.32. EPA needs this information to evaluate the compatibility of the proposed device to classification as a boiler. Because boilers may be used to treat hazardous wastes (boilers that treat hazardous wastes are subject to substantive requirements in 40 CFR Part 266), the specific petition informational requirements aid in realizing EPA's goal of insuring that only properly designed hazardous waste treatment units are in operation.

HAZARDOUS WASTE EXCLUSIONS

Sections 261.3(a)(2) and 261.3(c)(2) require facilities to prepare and submit materials in support of a wastewater or nonwastewater exemption, respectively. EPA needs to collect this information to ensure that facilities qualify for the exemption and can manage these wastes in a manner protective of human health and the environment.

Section 261.4(a)(9) allows facilities to obtain a solid waste exclusion for spent wood preserving solutions, as specified, and wastewaters from the wood preserving process that have been reclaimed and are reused to treat wood. EPA needs to be notified of this exclusion to ensure that the materials handled by the facility qualify for the exclusion and that facilities can manage these wastes in a manner protective of human health and the environment.

Section 261.4(a)(17) provides that secondary materials (i.e., sludges, by-products, and spent materials as defined in section 261.1) (other than listed hazardous wastes) generated within the primary mineral processing industry from which minerals, acids, cyanide, water or other values are recovered by mineral processing or beneficiation, are excluded from being a solid waste so long as certain criteria are met. EPA needs specified paperwork (e.g., one-time notification and application) to learn about the exclusion claim and, if necessary, to make a site-specific determination regarding on-site units.

Section 261.4(a)(20) establishes conditions for excluding zinc fertilizers made from recycled hazardous secondary materials. EPA needs specified paperwork (e.g., one-time notification and appropriate records) to track the exclusions and to ensure that they are warranted.

Section 261.4(b)(6) allows facilities to obtain a hazardous waste exclusion for chromium-containing waste under certain conditions. EPA needs this information to determine whether an exclusion is appropriate.

Section 261.4(d) requires persons who generate or collect samples for the sole purpose of testing to determine its characteristics or composition comply with all applicable DOT, USPS or other applicable shipping requirements. EPA needs the generator and laboratory to maintain appropriate shipping records to ensure that the package does not leak, spill, or vaporize from its packaging into the environment.

Section 261.4(e)(2) requires persons who generate or collect samples for the purpose of conducting treatability studies to comply with specific informational provisions. EPA needs this information to document the legitimate activities of sample generators or collectors and to track these wastes to ensure their proper handling and management. Section 261.4(e)(3) contains provisions for generators and collectors to increase the sample quantity limits or receive a time extension. EPA needs to collect this information to ensure that an increase or extension is warranted.

Section 261.4(f) requires testing facilities conducting treatability studies to comply with a number of informational requirement provisions. EPA needs the information in sections 261.1 (e) and (f) to document that only the legitimate users of treatability samples obtain relief from comprehensive hazardous waste regulation. By requiring treatability study sample generators, collectors, and testing facilities to comply with alternate provisions, EPA promotes the development and research of new, less expensive, and more environmentally benign treatment technologies. These new technologies, in turn, will aid in the reduction of environmental contamination and safeguard human health and the environment.

HAZARDOUS WASTE LISTING EXEMPTIONS

Section 261.31(b)(2)(ii) requires generators and treatment, storage and disposal facilities to prove that their sludges are exempt from listing as F037 and F038 wastes. These persons must maintain in their operating or other on-site records, documents and data sufficient to prove that: (A) the unit is an aggressive biological treatment unit as defined in this subsection; and (B) the sludges sought to be exempted from the definitions of F037 and/or F038 were actually generated in the aggressive biological treatment unit. EPA needs this information to document these legitimate activities and to ensure proper handling and management.

Sections 261.35 (b) and (c) require generators of wood preserving process wastes to clean or replace all process equipment that may come into contact with chlorophenolic formulations or constituents thereof in order to avoid a F032 hazardous waste listing. EPA needs the generator to prepare and demonstrate compliance with an equipment cleaning or replacement plan in order to validate the claims that the wood preserving process wastes equipment has been cleaned or replaced in a manner that precludes it from being listed as a F032 waste.

2(b) PRACTICAL UTILITY AND USERS OF THE DATA

RULEMAKING PETITIONS

EPA uses the general informational requirements required under section 260.20 to obtain basic information on petitioners and on each petitioner's interest in the proposed rulemaking petition. EPA uses petitions for equivalent testing or analytical methods to determine that the proposed method is equal to or superior to the corresponding method in terms of its sensitivity, accuracy, and reproducibility. EPA uses delisting petitions to evaluate whether a waste meets the hazardous waste criteria.

SOLID WASTE AND BOILER VARIANCE REQUIREMENTS

EPA uses the information contained in requests for variances from classification as a solid waste to substantiate that these materials actually are recycled and are not accumulated to evade hazardous waste regulations. EPA uses the information contained in requests for variances from classification as a boiler to ascertain the compatibility of the proposed device to classification as a boiler.

HAZARDOUS WASTE EXCLUSIONS

EPA uses the various information required under sections 261.3 and 261.4 to ensure that hazardous waste exclusions and exemptions are granted only under certain protective conditions.

HAZARDOUS WASTE LISTING EXEMPTIONS

EPA uses the information maintained under sections 261.31(b)(2)(ii) and 261.35(b) and (c) to substantiate and confirm the proper handling and management of these materials according to prescribed conditions.

3. NONDUPLICATION, CONSULTATIONS, AND OTHER COLLECTION CRITERIA

3(a) NONDUPLICATION

None of the information required by the regulations covered in this ICR is available from any source but the respondents. None of the regulations are duplicative of any other EPA regulations.

3(b) PUBLIC NOTICE REQUIRED PRIOR TO ICR SUBMISSIONS TO OMB

In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Agency issued a notice in the Federal Register on June 10, 2004, soliciting public comments on the accuracy of the burden estimates in this supporting statement (69 FR 32545). No comments were received.

3(c) CONSULTATIONS

The regulations covered by this ICR were promulgated using proper rulemaking procedures. In updating this ICR, EPA spoke with Agency staff in Headquarters and the Regions, State representatives, and industry representatives. Their feedback is reflected in this ICR. EPA's Burden Estimate Methodology, which is attached to this Supporting Statement, provides information on the consultations. Members of the States and regulated community who were contacted include:

- Yan Li, Rhode Island Dept. of Environmental Management (401) 222-2797
- Jack Storton, BWX Technology (434) 522-6677
- Renee Hudson Goodley, Georgia Env. Protection Division (404) 657-8828
- Larry Merritt, Ford Corp. (313) 322-5548
- Dave Berrey, Indiana Dept. of Env. Management (317) 308-3341

3(d) EFFECTS OF LESS FREQUENT COLLECTION

EPA has carefully considered the burden imposed upon the regulated community by these regulations. EPA is confident that those activities required of respondents are necessary, and to the extent possible, has attempted to minimize the burden imposed. EPA believes strongly that if the minimum requirements specified under the regulations are not met, EPA can not ensure that hazardous wastes are properly managed and do not pose a serious 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, OMB's Information Collection Review Handbook, and other applicable OMB guidance.

3(f) CONFIDENTIALITY

Section 3007(b) of RCRA and 40 CFR Part 2, Subpart B, which define EPA's general policy on the public disclosure of information, contain provisions for confidentiality. However, the Agency does not anticipate that businesses will assert a claim of confidentiality covering all or part of the regulations. If such a claim were asserted, EPA must and will treat the information in accordance with the regulations

cited above. EPA also will assure that this information collection complies with the Privacy Act of 1974 and OMB Circular 108.

3(g) SENSITIVE QUESTIONS

No questions of a sensitive nature are included in any of the information collection requirements.

4. THE RESPONDENTS AND THE INFORMATION COLLECTED

4(a) RESPONDENTS AND NAICS CODES

Table 1 presents a list of the North American Industry Classification System (NAICS) codes associated with industries most likely affected by the information collection requirements covered under this ICR.

Table 1
List of NAICS Codes

Description	NAICS Code
Lumber and Wood Products Manufacturing	321
Chemical Manufacturing	325
Petroleum Products Manufacturing	324
Plastics and Rubber Product Manufacturing	326
Primary Metal Industries	331
Fabricated Metal Products	332
Industrial and Commercial Machinery and Computer Equipment	333 334
Transportation Equipment	336
Business Services	541
Educational Services	611
Scientific Research and Development Services	5417
Environmental Services	924
Nonclassifiable Establishments	N/A
Fertilizer Manufacturing	32532
Zinc Sulfide Manufacturing	32531
Iron and Steel Mills	331111
Zinc Refining, Primary	331419
Zinc Dust Reclaiming	331492
Hazardous Waste Collection	562112

4(b) INFORMATION REQUESTED

READING AND UNDERSTANDING THE REGULATIONS FOR IDENTIFICATION, LISTING, AND RULEMAKING PETITIONS

(i) Data items:

The petitioner must read and understand all of the regulations that pertain to the identification, listing, and rulemaking petitions.

(ii) Respondent activities:

- The respondent must read and understand the appropriate regulations for identification, listing, and rulemaking petitions.

RULEMAKING PETITIONS**General Requirements**(i) Data items:

Section 260.20(b) requires petitioners seeking to modify or revoke any provision in 40 CFR Parts 260 - 265 and 266 to submit the following general information:

- The petitioner's name and address;
- A statement of the petitioner's interest in the proposed action;
- A description of the proposed action, including, when appropriate, the proposed regulatory language; and
- A statement of the need and justification for the proposed action, including any supporting tests, studies, or other information.

(ii) Respondent activities:

All rulemaking petitioners need to undertake the following activities to comply with the general requirements detailed in section 260.20(b):

- Gather information and prepare a statement about the petitioner's interest in and a description of the proposed action; and
- State the need and justification for the proposed action and compile supporting evidence.

Equivalent Methods Petitions(i) Data items:

Section 260.21 requires petitioners for equivalent testing or analytical methods to demonstrate to the satisfaction of the Administrator that the proposed method is equal to or superior to the corresponding method in terms of its sensitivity, accuracy, and reproducibility. Specifically, a petitioner must submit the following data items:

- A full description of the proposed method, including all procedural steps and equipment used in the method;
- A description of the types of wastes or waste matrices for which the proposed method may be used;

- Comparative results obtained from using the proposed method with those obtained from using the relevant or corresponding methods prescribed in 40 CFR Parts 261, 264, and 265;
 - An assessment of any factors which may interfere with, or limit the use of, the proposed method;
 - A description of the quality control procedures necessary to ensure the sensitivity, accuracy, and reproducibility of the proposed method; and
 - Any additional information that the Administrator reasonably may require to evaluate the petition.
- (ii) Respondent activities:

In order to comply with the requirements for petitions for equivalent testing or analytical methods, petitioners are required to perform the following activities:

- Describe the proposed method;
- Describe all the procedural steps and equipment required for the proposed method;
- Describe all wastes or waste matrices for which the proposed method may be used;
- Compare the results obtained from using the proposed method with those obtained from using the corresponding prescribed method in 40 CFR Parts 261, 264, or 265;
- Assess any factors which may interfere with or limit the use of the proposed method;
- Describe the quality control procedures necessary to ensure the sensitivity, accuracy, and reproducibility of the proposed method; and
- Provide any additional information requested by the Administrator.

These petitioners also must comply with the general requirements for rulemaking petitions in section 260.20.

Delisting Petitions

(i) Data items:

Section 260.22 requires petitioners seeking to amend 40 CFR Part 261 to exclude a waste produced at a particular facility to demonstrate that the waste does not meet any of the criteria under which it was listed as a hazardous or an acutely hazardous waste. The petition also must demonstrate to the Administrator that the waste should not be listed for any other factor. Finally, the petition must demonstrate that the waste does not meet the characteristic hazardous criteria in Subpart C of Part 261.

Specifically, the petitioner must submit the following items:

- The name and address of the laboratory facility performing the sampling or tests of the waste;
- The names and qualifications of the persons sampling and testing the waste;
- The dates of sampling and testing;
- The location of the generating facility;
- A description of the manufacturing processes or other operations and feed materials producing the waste;
- An assessment of whether the manufacturing processes, operations, or feed materials can or might produce a waste that is not covered by the demonstration;
- A description of the waste and an estimate of the average and maximum monthly and annual quantities of waste covered by the demonstration;
- Pertinent data on and discussion of the factors delineated in the respective criterion for listing hazardous waste, where the demonstration is based on the factors in §261.11(a)(3);
- A description of the methodologies and equipment used to obtain the representative samples;
- A description of the sample handling and preparation techniques, including techniques used for extraction, containerization, and preservation of the samples;
- A description of the tests performed and their results;
- The names and model numbers of the instruments used to conduct the tests;
- A signed certification by the petitioner; and
- Any additional information the Administrator reasonably may require to evaluate the petition.

(ii) Respondent activities:

In order to comply with the requirements for petitions to delist a waste produced at a specific facility, petitioners are required to perform the following activities:

- Provide general information on the laboratory conducting the tests;
- Provide detailed information on individuals sampling and testing the waste samples;

- Provide the dates of sampling and testing;
- Provide information on the location of the facility;
- Describe the manufacturing processes or other operations and feed materials producing the waste;
- Assess whether the generator facility's processes, operations, or feed materials can or might produce a waste that is not covered by the demonstration;
- Describe the waste;
- Estimate the average maximum monthly and annual quantities of waste covered by the demonstration;
- Provide pertinent data on and discussion of the factors delineated in the respective criterion for listing hazardous waste, where the demonstration is based on the factors in §261.11(a)(3);
- Describe the methodologies and equipment used to obtain the representative samples;
- Describe the sample handling and preparation techniques, including techniques used for extraction, containerization, and preservation of the samples;
- Describe the tests performed and their results;
- Provide the names and model numbers of the instruments used to conduct the tests;
- Certify that the petition is true, accurate, and complete; and
- Provide any additional information required by the Administrator.

Petitioners also must comply with the general requirements for rulemaking petitions in section 260.20.

SOLID WASTE AND BOILER VARIANCE REQUIREMENTS

Variations from Classification as a Solid Waste

(i) Data items:

Section 260.33 requires persons that request variances from classification as a solid waste to address the relevant criteria contained in section 260.31. Section 260.31 contains criteria for variances from classification as a solid waste for the following three types of recycled materials:

- Materials that are collected speculatively without sufficient amounts being recycled;

- Materials that are reclaimed and then reused within the original primary production process in which they were generated; and
- Materials which have been reclaimed, but must be reclaimed further before the materials are completely recovered.

The informational requirements for each of the three types of recycled materials are discussed in turn.

Section 260.31(a) details requirements for persons that request a variance from classification as a solid waste certain materials that are accumulated speculatively without sufficient amounts being recycled or transferred for recycling in the following year. The person requesting a variance must submit the following information:

- The manner in which the material is expected to be recycled, when the material is expected to be recycled, and whether this expected disposition is likely to occur;
- The reason that the petitioner has accumulated for one or more years without recycling 75 percent of the volume accumulated at the beginning of the year;
- The quantity of the material already accumulated, and the quantity expected to be generated and accumulated before the material is recycled;
- The extent to which the material is handled to minimize loss; and
- Any additional relevant information.

Section 260.31(b) details requirements for persons that request a variance from classification as a solid waste those materials that are reclaimed and then reused as feedstock within the original primary production processes in which the materials were generated, if the reclamation operation is an essential part of the production process. The person that requests the variance must submit the following information:

- Provide information on the economic viability of the production process using virgin materials solely, rather than reclaimed materials;
- Provide information on the prevalence of the industry-wide practice;
- A description of the extent to which the material is handled before reclamation to minimize loss;
- A description of the time periods between the generation of the material and its reclamation, and between reclamation and return to the original primary production process;
- A description of the location of the reclamation operation in relation to the production process;
- A description of whether the reclaimed material is used for the purpose for which it was

originally produced when it is returned to the original process, and whether it is returned to the process in substantially its original form;

- A description of whether the person who generates the materials also reclaims it; and
- Any additional relevant information.

Section 260.31(c) details requirements for persons that request a variance from classification as a solid waste those materials that have been reclaimed but must be reclaimed further before recovery is completed if, after initial reclamation, the resulting material is commodity-like. The resulting material may be commodity-like even though it is not yet a commercial product, and has to be reclaimed further. The person that requests this variance must submit the following information:

- A description of the degree of processing the material has undergone and the degree of further processing that is required;
- Information on the value of the material after it has been reclaimed;
- A description of the degree to which the reclaimed material is like an analogous raw material;
- A description of the extent to which an end market for the reclaimed material is guaranteed;
- A description of the extent to which the reclaimed materials is handled to minimize loss; and
- Any additional relevant information.

(ii) Respondent activities:

In order to comply with the requirements for variances from classification as a solid waste those materials that are accumulated speculatively, as defined in section 260.31(a), persons that request a variance must perform the following activities:

- Provide information on the manner in which the material is expected to be recycled, when the material is expected to be recycled, and whether this expected disposition is likely to occur;
- Provide information on the reason that the petitioner has accumulated for one or more years without recycling 75 percent of the volume accumulated at the beginning of the year;
- Provide information on the quantity of the material already accumulated and the quantity expected to be generated and accumulated before the material is recycled;
- Provide information on the extent to which the material is handled to minimize loss; and
- Provide any additional relevant information.

In order to comply with the requirements for variances from classification as a solid waste those materials that are reclaimed and then reused as feedstock, as defined in section 260.31(b), persons that request a variance must perform the following activities:

- Provide information on the economic viability of the production process using virgin materials solely, rather than reclaimed materials;
- Describe the industry-wide prevalence of the practice;
- Describe the extent to which the material is handled before reclamation to minimize loss;
- Describe the time periods between the generation of the material and its reclamation, and between reclamation and return to the original primary production process;
- Describe the location of the reclamation operation in relation to the production process;
- Describe whether the reclaimed material is used for the purpose for which it was originally produced when it is returned to the original process, and whether it is returned to the process in substantially its original form;
- Describe whether the person who generates the material also reclaims it; and
- Provide any additional relevant information.

In order to comply with the requirements for variances from classification as a solid waste those materials that have been reclaimed but must be reclaimed further, as defined in section 260.31(c), persons that request a variance must perform the following activities:

- Provide information on the degree of processing the material has undergone and the degree of further processing that is required;
- Provide information on the value of the material after it has been reclaimed;
- Describe the degree to which the reclaimed material is like an analogous raw material;
- Examine the extent to which an end market for the reclaimed material is guaranteed;
- Describe the extent to which the reclaimed material is handled to minimize loss; and
- Provide any additional relevant information.

Variances from Classification as a Boiler

- (i) Data items:

Section 260.33 requires persons that request to classify as a boiler certain enclosed devices using

controlled flame combustion (even though these devices do not meet the definition of boiler as defined in §260.10) to address the relevant criteria in section 260.32. Section 260.32 lists the following informational requirements:

- A description of the extent to which the unit has provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases;
- A description of the extent to which the combustion chamber and energy recovery equipment are of integral design;
- A description of the efficiency of energy recovery, calculated in terms of the recovered energy compared with the thermal value of fuel;
- A description of the extent to which exported energy is utilized;
- A description of the extent to which the device is in common and customary use as a 'boiler' functioning primarily to produce steam, heated fluids, or heated gases; and
- Any additional relevant information.

(ii) Respondent activities:

In order to comply with the requirements for variances to be classified as a boiler, persons that request this variance must perform the following activities:

- Describe the extent to which the unit has provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases;
- Describe the extent to which the combustion chamber and energy recovery equipment are of integral design;
- Describe the efficiency of energy recovery, calculated in terms of the recovered energy compared with the thermal value of fuel;
- Describe the extent to which exported energy is utilized;
- Describe the extent to which the device is in common and customary use as a 'boiler' functioning primarily to produce steam, heated fluids, or heated gases; and
- Provide any additional relevant information.

HAZARDOUS WASTE EXCLUSIONS

Sections 261.3 and 261.4 set forth provisions for petitioning EPA (or the implementing agency) for a hazardous waste exclusion or other exemption for certain types of waste. The information collection requirements associated with these provisions are discussed in turn below.

Wastewater Exemption

(i) Data items:

Under section 261.3(a)(2)(iv), a generator may obtain a hazardous waste exemption for certain mixtures of hazardous and solid wastes if the generator can demonstrate that the mixture consists of wastewater whose discharge is subject to regulation under either section 402 or section 307(b) of the Clean Water Act (including wastewater at facilities which have eliminated the discharge of wastewater).

(ii) Respondent activities:

- Demonstrate the wastewater exclusion.

Nonwastewater Exemption

(i) Data items:

Under section 261.3(c)(2)(ii)(C), a facility may obtain a hazardous waste exclusion for certain nonwastewater residues, such as slag, resulting from high temperature metals recovery (HTMR) processing of K061, K062, or F006 waste in rotary kilns, flame reactors, electric furnaces, plasma arc furnaces, slag reactors, rotary hearth furnace/electric furnace combinations, or industrial furnaces. To obtain this exemption, a one-time notification and certification must be placed in the facility's files and sent to EPA or authorized State. The notification must state that the K061, K062, or F006 HTMR residues meet the generic exclusion levels for all constituents and do not exhibit any hazardous waste characteristics.

(ii) Respondent activities:

- Prepare and submit a one-time notification and certification for the K061, K062, or F006 HTMR residue; and
- Maintain the notification and certification in facility files.

Exclusion for Spent Wood Preserving Solutions and Wastewaters from Wood Preserving Processes

40 CFR 261.4(a)(9)(iii) requires that facilities generating and recovering wood preserving wastewaters and spent wood preserving solutions provide EPA (or the authorized State) with a one-time notification which certifies that the plant meets all the conditions under section 261.4(a)(9)(iii) and provides the date on which the plant operator certifies that the exclusion will go into effect.

(i) Data items:

- A notification which certifies that the recycling activities will meet the conditions set forth in section 261.4(a)(9)(iii); and
- A notification of violation and reinstatement.

(ii) Respondent activities:

Facilities seeking an exemption under section 261.4(a)(9)(iii) must:

- Prepare and submit the notification to EPA or the authorized State; and
- Update the notification to inform EPA of a violation of a condition and apply for reinstatement, if needed.

Exclusion for Secondary Materials from the Mineral Processing Industry

40 CFR 261.4(a)(17)(iv) provides that the Regional Administrator or the State Director may make a site-specific determination, after public review and comment, that only solid mineral processing secondary materials may be placed on pads, rather than in tanks, containers, or buildings. The decision-maker must affirm that pads are designed, constructed, and operated to prevent significant releases of the secondary materials into the environment. The pads must provide the same degree of containment afforded by the non-RCRA tanks, containers and buildings eligible for exclusion.

40 CFR 261.4(a)(17)(v) provides that facilities generating and recovering mineral processing secondary materials must provide EPA (or an authorized State) with a one-time notification which describes:

- The mineral processing materials to be recycled;
- The type and location of storage units and recycling process; and
- The annual quantities expected to be placed in non land-based units.

This notification must be updated when there is a change in the type of materials recycled or the location of the recycling process.

(i) Data items:

- An application for a site-specific determination.
- A notification describing the mineral processing materials to be recycled; type and location of storage units and recycling process; and annual quantities expected to be placed in non land-based units.

(ii) Respondent activities:

Facilities generating and recovering mineral processing secondary materials must:

- Prepare and submit application for a determination;

- Prepare and submit notification to EPA or the authorized State; and
- Update notification, if needed.

Exclusion for Hazardous Waste Secondary Materials Incorporated into Zinc Fertilizers

40 CFR 261.4(a)(20)(ii)(A) requires generators and intermediate handlers of zinc-bearing hazardous waste secondary materials that are to be incorporated into zinc fertilizers to submit a one-time notification to the Regional Administrator or State Director.

(i) Data Items

The one-time notification must include the following information:

- Name, address and EPA ID number of the generator facility;
- When the facility intends to begin managing hazardous secondary materials in accordance with the conditions in the rule.

(ii) Respondent Activity

- Complete and submit the one-time notification.

40 CFR 261.4(a)(20)(ii)(C) requires secondary materials generators and intermediate handlers to keep records of shipments of excluded hazardous secondary materials for no less than three years.

(i) Data Items

The shipping records must at a minimum contain the following information:

- Name of the transporter and date of the shipment;
- Name and address of the fertilizer manufacturer who received the excluded material; and
- Type and quantity of excluded secondary material in each shipment.

(ii) Respondent Activity

- Keep the following records of shipping activities:
 - Name of the transporter and date of the shipment;
 - Name and address of the fertilizer manufacturer who received the excluded material; and
 - Type and quantity of excluded secondary material in each shipment.

40 CFR 261.4(a)(20)(iii)(B) requires manufacturers of zinc fertilizers or zinc fertilizer ingredients made from excluded hazardous secondary materials to submit a one-time notification to the Regional Administrator.

(i) Data Items

The one-time notification must include the following information:

- Name of the manufacturer, address and EPA ID number of the manufacturing facility; and
- When the facility intends to begin managing hazardous secondary materials in accordance with the conditions in the rule.

(ii) Respondent Activity

- Complete and submit the one-time notification.

Under proposed 40 CFR 261.4(a)(20)(iii)(C), manufacturers of zinc fertilizers or zinc fertilizer ingredients made from excluded hazardous secondary materials must maintain for a minimum of three years records of all shipments of excluded secondary materials received by the manufacturers.

(i) Data Items

The shipping records would at a minimum contain the following information:

- Name and address of the generating facility;
- Name of transporter and date the materials were received;
- Quantity received; and
- Brief description of the industrial process that generated the waste.

(ii) Respondent Activity

- Keep the following records:
 - Name and address of the generating facility;
 - Name of transporter and date the materials were received;
 - Record of the quantity received; and
 - Brief description of the industrial process that generated the waste.

Under 40 CFR 261.4(a)(20)(iii)(D), manufacturers of zinc fertilizers or zinc fertilizer ingredients made from excluded hazardous secondary materials must submit to the Director an annual report that identifies the total quantities of all excluded hazardous secondary materials that were used to manufacture zinc fertilizer or zinc fertilizer ingredients in the previous year.

(i) Data Items

The annual report must include the following:

- Record of the total quantities of all excluded hazardous secondary materials that were used to manufacture zinc fertilizer or zinc fertilizer ingredients in the previous year;
- Name and address of each generating facility; and
- The industrial process(es) from which the materials were generated.

(ii) Respondent Activity

- Complete and submit the annual report.

Under 40 CFR 261.4(a)(21)(ii), the manufacturer must perform sampling and analysis of the fertilizer product to determine compliance with the contaminant limits for metals no less than every six months, and for dioxins no less than every twelve months. The manufacturer may use any reliable analytical method to demonstrate that no constituent of concern is present in the product at concentrations above the applicable limits. It is the responsibility of the manufacturer to ensure that the sampling and analysis are unbiased, precise, and representative of the product(s) that is introduced into commerce. The recordkeeping requirements for product sampling and analysis are listed in 40 CFR 261.4(a)(21)(iii), and require the manufacturer to maintain specified sampling/analysis records for no less than three years.

(i) Data Items

The records of sampling/analysis must include the following:

- The dates and times product samples were taken, and the dates the samples were analyzed;
- The names and qualifications of the person(s) taking the samples;
- A description of the methods and equipment used to take the samples;
- The name and address of the laboratory facility at which analyses of the samples were performed;
- A description of the analytical methods used, including any cleanup and sample preparation methods; and

- All laboratory analytical results used to determine compliance with the contaminant limits specified in this paragraph.
- (ii) Respondent Activities
- Sample and analyze the product as specified; and
 - Keep records of all sampling and analyses for three years.

Exemption for Chromium-Containing Waste

(i) Data items:

Under section 261.4(b)(6), a generator of waste that fails the test for Toxicity Characteristic because of the presence of chromium may obtain a hazardous waste exclusion if the generator can demonstrate that:

- The chromium in the waste is exclusively (or nearly exclusively) trivalent chromium;
- The waste is generated from an industrial process that uses trivalent chromium exclusively (or nearly exclusively), and the process does not generate hexavalent chromium; and
- The waste is typically and frequently managed in non-oxidizing environments.

(ii) Respondent activities:

- The generator must demonstrate the chromium-containing waste meets the hazardous waste exclusion.

Exemption for Samples

(i) Data items:

Handlers of samples used for the sole purpose of testing characteristics or composition under 40 CFR 261.4(d) are not subject to 40 CFR Parts 262 through 268 and Part 270 when specified activities occur. These include samples being transported to a laboratory for the purpose of testing, a sample being transported back to the sample collector after testing, a sample being stored by the sample collector before transport to a laboratory for testing, a sample being stored in the laboratory before testing, a sample being stored in the laboratory after testing but before it is returned to the sample collector, or a samples being stored temporarily in the laboratory after testing for a specific purpose. Samples that are not already covered by DOT or USPS shipping requirements must be accompanied by the following information, as specified in section 261.4(d)(2)(ii)(A):

- The sample collector's name, mailing address, and telephone number;
- The laboratory's name, mailing address, and telephone number;

- The quantity of the sample;
- The date of shipment; and
- A description of the sample.
- (ii) Respondent activities:
- Maintain information on the sample and collector that shows that the sample collectors and laboratories are complying with applicable shipping requirements.

Exemptions for Treatability Study Samples

(i) Data items:

Persons who generate or collect samples for the purpose of conducting treatability studies, as defined in section 260.10, are exempt from 40 CFR Parts 261, 262, and 263 and the notification requirements of section 3010 of RCRA provided that the sample is being: (1) collected and prepared for transportation by the generator or sample collector; (2) accumulated or stored by the generator or collector prior to transportation to a laboratory or testing facility; or (3) transported to the laboratory or testing facility for the purpose of conducting a treatability study. To qualify for this exemption, the sample must meet the quantity limits specified in section 261.4(e)(2).

To qualify for this exemption, the generator or sample collector must collect and maintain the following information for a period of three years after the completion of the treatability study:

- Copies of the shipping documents;
- A copy of the contract with the facility conducting the treatability study; and
- Documentation showing:
 - The amount of waste shipped under the exemption;
 - The name, address, and EPA identification number of the laboratory facility that received the waste;
 - The date the shipment was made; and
 - Whether unused samples or residues were returned to the generator.

In addition, the generator reports information regarding volumes shipped, laboratory, dates of shipment, and return of samples in its Biennial Report.

Persons who generate or collect samples for the purpose of conducting treatability studies also may apply for up to an additional two years for treatability studies involving bioremediation or to increase the quantity limits on treatability study samples. The limits may be increased for up to an additional 5,000 kg of media contaminated with non-acute hazardous waste, 500 kg of non-acute hazardous waste, 2,500 kg of

media contaminated with acute hazardous waste, and 1 kg of acute hazardous waste under certain circumstances (e.g., an equipment or mechanical failure during the conduct of the treatability study, or a need to verify the results of a previously conducted treatability study). Persons applying for time or quantity limit increases under section 261.4(e)(3) must submit the following information to the Regional Administrator:

- The reason why the generator or sample collector requires additional time or the quantity of sample for treatability study evaluation;
- The amount of the additional time or sample quantity needed;
- Documentation for all samples of hazardous waste from the waste stream which have been sent for or undergone treatability studies including the date each previous sample from the waste stream was shipped, the quantity of each previous shipment, the laboratory or testing facility to which it was shipped, what treatability study processes were conducted on each sample shipped, and the available results on each treatability study;
- A description of the technical modifications or change of specifications to be evaluated, and the expected results;
- Information on the cause of the equipment failure and the remedies taken to prevent its future occurrence (if the request for a limit increase was due to an equipment failure); and
- Any additional information considered necessary by the Administrator.

(ii) Respondent activities:

In order to comply with the informational provisions in section 261.4(e), generators or collectors of treatability study samples must undertake the following activities:

- Collect, copy, file, and maintain information for a period of three years after the completion of the treatability study;
- Prepare and report to EPA information regarding volumes shipped, testing facility, dates of shipment, and return of samples in the Biennial Report;
- If applying for a quantity limit increase under §261.4(e)(3), prepare and submit request; and
- If applying for an extension of up to two years under §261.4(e)(3) for a treatability study involving bioremediation, prepare and submit request.

Exemptions for Treatability Study Samples Undergoing Testing

(i) Data items:

Samples undergoing treatability studies and laboratories and testing facilities conducting such

treatability studies are not subject to requirements at 40 CFR Parts 124, 261-266, 268, and 270, or to the notification requirements of section 3010 of RCRA, provided that conditions detailed in section 261.4(f) are met. These conditions include the following informational requirements:

- Written notification to the Regional Administrator that the facility intends to conduct treatability studies (45 days before testing is initiated);
- Records showing compliance with the treatment rate limits and the storage time and quantity limits, including:
 - The name, address, and EPA identification number of the generator or sample collector of each waste sample;
 - The date the shipment was received;
 - The quantity of the waste accepted;
 - The quantity of 'as received' waste in storage each day;
 - The date the treatment study was initiated and the amount of 'as received' waste introduced to treatment each day;
 - The date the treatability study was concluded; and
 - The date any unused sample or residues generated from the treatability sample were returned to the generator or the sample collector or, if sent to a designated facility, the name of the designated facility and its EPA identification number.
- Copies of the treatability study contract and all associated sample shipping papers;
- An annual report to the Regional Administrator estimating the number of treatability studies and the amount of waste expected to be used in treatability studies during the current year and information on the past year's activities, including:
 - The name, address, and EPA identification number of the facility conducting the treatability study;
 - The types of treatability studies conducted;
 - The names and addresses of individuals for whom the treatability studies were conducted;
 - The total quantity of waste in storage each day;
 - The quantity and types of waste subjected to treatability studies each day;
 - The date each treatability study was conducted; and

- The final disposition of residues and unused samples from each treatability study.
- A letter informing the Regional Administrator that the facility is no longer planning to conduct any treatability studies at the site.
- (ii) Respondent activities:

In order to comply with requirements for samples undergoing treatability studies at testing facilities detailed in section 261.4(f), testing facility representatives must undertake the following activities:

- Notify the Regional Administrator that the facility intends to conduct treatability tests (45 days before testing is initiated);
- Maintain records for a period of three years after the completion of the treatability study that show compliance with the treatment rate limits, storage time and quantity limits, and contract and shipping paper requirements;
- By March 15 of each year, prepare and submit an annual report to the Regional Administrator estimating the number of treatability studies and the amount of waste expected to be used in treatability studies during the current year and information on the past year's activities; and
- Prepare and submit a termination letter informing the Regional Administrator that the facility is no longer planning to conduct any treatability studies at the site.

HAZARDOUS WASTE LISTING EXEMPTIONS

Hazardous Wastes from Non-Specific Sources

- (i) Data items:

Section 261.31(b)(2)(ii) requires generators and treatment, storage and disposal facilities to prove that their sludges are exempt from listing as F037 and F038 wastes by maintaining, in their operating or other on-site records, the following data items:

- Documents and data sufficient to prove that:
 - The unit is an aggressive biological treatment unit; and
 - The sludges sought to be exempted from the definitions of F037 and/or F038 were actually generated in the aggressive biological treatment unit.

- (ii) Respondent activities:

To qualify for an exemption, a facility must perform the following respondent activities:

- Develop data and documents to support the criteria for the exemption; and
- Maintain records on site.

Deletion of Certain Hazardous Waste Codes Following Equipment Cleaning and Replacement

(i) Data items:

Section 261.35 specifies procedures that wood preserving plants that used chlorophenolic formulations or constituents must follow to minimize or eliminate the escape of hazardous waste or constituents, leachate, contaminated drippage, or hazardous waste decomposition products to ground water, surface water, or the atmosphere. These generators must either develop and follow an equipment cleaning plan or an equipment replacement plan containing the following information:

- A written equipment cleaning plan that describes the following:
 - The equipment to be cleaned;
 - How the equipment will be cleaned;
 - The solvent to be used in cleaning;
 - How the solvent rinses will be tested; and
 - How cleaning residues will be disposed.
- A written equipment replacement plan that describes the following:
 - The equipment to be replaced;
 - How the equipment will be replaced; and
 - How the equipment will be disposed.

Generators also must keep records documenting the cleaning and replacement as part of the facility's operating record. These records must contain the following information:

- The name and address of the facility;
- Formulations previously used and the date on which their use ceased in each process at the plant;
- Formulations currently used in each process at the plant;
- The equipment cleaning or replacement plan;
- The name and address of any persons who conducted the cleaning or replacement;
- The dates on which cleaning or replacement was accomplished;
- The dates of sampling and testing;

- A description of the sample handling and preparation techniques used for extraction, containerization, preservation, and chain-of-custody of the samples;
 - A description of the tests performed, the date the tests were performed, and the results of the tests;
 - The name and model numbers of the instrument(s) used in performing the tests;
 - Documentation of QA/QC procedures; and
 - A certification statement by an authorized representative stating that all process equipment was cleaned or replaced according to the cleaning or replacement plan.
- (ii) Respondent activities:
- Prepare an equipment cleaning or replacement plan;
 - Prepare and maintain documentation showing that equipment was cleaned or replaced in accordance with the plan; and
 - Prepare and maintain a certification by an authorized representative that the cleaning or replacement occurred in accordance with the facility's plan.

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

5(a) AGENCY ACTIVITIES

REVIEW OF RULEMAKING PETITIONS

EPA follows specific procedures when reviewing all rulemaking petitions. As specified under section 260.22, the Agency will review the information and make a tentative decision, publish its tentative decision in the Federal Register and request written comments, hold a public meeting (if requested by an interested person or at the discretion of the Administrator), review all comments, and publish its final decision in the Federal Register. Depending on the complexity of the petition, the Agency may spend significant time in review.

EPA follows specific procedures in reviewing delisting petitions.³ All petitions received are logged in, filed, and reviewed. This initial review focuses on completeness of the documentation and representativeness of the analytical data. EPA may request additional information if the petition is judged incomplete. When all needed information is obtained, EPA will review the petition and make a tentative determination. A workgroup composed of staff from different offices within EPA reviews these determinations to evaluate the quality and representativeness of the data. When the workgroup's comments, if any, are addressed, the Office of General Counsel reviews the determination. If the Office of General Counsel concurs, the determination is reviewed by the Assistant Administrator for Solid Waste and Emergency Response. The Assistant Administrator's decision is published in the Federal Register, along with a request for comments. After public comments are received, the review process is repeated and concludes with the Assistant Administrator's final decision.

Specific Agency activities consist of the following:

- Review petition information;
- Request additional information, if required;
- Enter information into a database;
- Hold meetings;
- Deliberate;
- Make a draft determination and publish draft FR notice;
- Review comments and deliberate; and
- Make determination and publish final FR notice.

³ U.S. Environmental Protection Agency. Petitions to Delist Hazardous Wastes: A Guidance Manual. April 1985, EPA/530-SW-85-003.

REVIEW OF SOLID WASTE AND BOILER VARIANCE DEMONSTRATIONS

Agency activities associated with the variances from classification as a solid waste or classification as a boiler include the following:

- Review the demonstrations to verify whether they meet the relevant criteria as detailed in §260.31 for variances from classification as a solid waste, and in §260.32 for variances for classification as a boiler;
- Request additional information, if necessary;
- Deliberate and issue a draft determination;
- Publicize the draft determination by newspaper advertisement and radio broadcast in the local area of the petitioner;
- Hold a public hearing and initiate a 30-day public comment period; and
- Review comments and make the final decision.

REVIEW OF HAZARDOUS WASTE EXCLUSION PETITIONS

Agency activities associated with information submitted in support of sections 261.3 and 261.4 exclusions include the following:

- File the nonwastewater notifications;
- Review, approve, or deny the notifications and the updates, and keep records of these documents;
- Review applications for site-specific determinations and keep records of these documents;
- Process hazardous secondary materials generator notification;
- Process zinc fertilizer manufacturer notification;
- Process zinc fertilizer manufacturer annual report;
- Review requests for quantity increases for treatability studies and issue a decision;
- Review requests for extensions of up to two years for treatability studies and issue a decision;
- File notifications of testing of treatability samples;
- File annual reports on treatability study testing; and

- File termination letters of treatability study testing.

5(b) COLLECTION METHODOLOGY AND MANAGEMENT

In collecting and analyzing the information required under the identification, listing, and rulemaking petition requirements, EPA uses electronic equipment such as personal computers and applicable database software, when appropriate.

5(c) SMALL ENTITY FLEXIBILITY

When promulgating the regulations covered under this ICR, EPA considered the effect of these regulations on small businesses. The exclusions, delisting petitions, and other paperwork provisions included in Parts 260 and 261 and presented in this ICR are de-regulatory in nature. They relieve facilities generating or managing certain types of materials or wastes from the RCRA hazardous waste regulations. This can benefit small and large businesses alike by reducing their regulatory burden. In addition, EPA conditionally exempts from the hazardous waste regulations sites that generate 100 kilograms or less per month of hazardous waste (§261.5). EPA expects that a number of these conditionally exempt sites are owned by small entities.

5(d) COLLECTION SCHEDULE

Because rulemaking petitions are voluntarily submitted, there is no collection schedule for these information requests. A discussion of a collection schedule, therefore, is not relevant.

The zinc fertilizer rule (see 67 FR 48393; July 24, 2002) requires generators to submit to EPA a one-time notification of their intent to begin managing hazardous secondary materials under the terms of the exclusion. Generators would keep a record on site of all shipments of hazardous secondary materials for at least three years. The rule also requires manufacturers to sample and analyze the fertilizer product to determine compliance with the contaminant limits for metals no less than every six months, and for dioxins no less than every twelve months. In addition, manufacturers will submit an annual report to EPA describing the hazardous secondary materials used to make zinc fertilizer. Manufacturers also must keep a record of all shipments of hazardous secondary materials received for at least three years.

Generators and collectors of treatability study samples must submit additional information along with their Biennial Report. Facilities with samples undergoing treatability studies must comply with the following collection schedule:

- 45 days before they initiate treatability studies, facilities must notify the Regional Administrator;
- By March 15 of each year, facilities must submit to the Regional Administrator an annual report regarding their treatability study activities; and
- Upon determining to cease treatability studies, facilities must inform the Regional

Administrator.

6. ESTIMATING THE BURDEN AND COST OF THE COLLECTION

6(a) ESTIMATING RESPONDENT BURDEN

This ICR is a comprehensive presentation of all of the information collection activities required for identification, listing, and rulemaking petition regulations. EPA estimated respondent burden hours associated with all of the requirements covered in this ICR in Exhibits 1-6 (see attachment).⁴ Exhibit 1 addresses the burden for petitioners to read and understand the regulations for identification, listing, and rulemaking petitions. Exhibit 2 addresses general requirements for all rulemaking petitions as well as equivalent testing or analytical method petitions and delisting petitions. Exhibit 3 addresses variances from classification as a solid waste or for classification as a boiler. Exhibit 4 addresses provisions for obtaining hazardous waste exclusions and exemptions under sections 261.3 and 261.4. Exhibit 5 addresses the paperwork requirements under sections 261.31 and 261.35. Each of these exhibits includes the number of hours required to conduct each information collection activity and the cost associated with each requirement. Exhibit 6 summarizes the total annual burden hours and costs to respondents under all of these provisions.

6(b) ESTIMATING RESPONDENT COSTS

Estimating Labor Costs

EPA estimates an average hourly labor cost for respondents of \$121.08 for legal staff, \$92.09 for managerial staff, \$60.28 for technical staff, and \$31.53 for clerical staff. These wage rates are based on salaries, overhead and fringe benefits used in ICR #1189.06, and have been updated using the Bureau of Labor Statistics' Employment Cost Index to 2004 levels.

Estimating Capital and Operation and Maintenance Costs

EPA estimates there will be no capital costs incurred. Operation and maintenance (O&M) costs include postage, materials, and lump-sum purchased service costs. Examples of O&M costs include:

- Laboratory fees for analyzing samples;
- Contractor travel/lodging costs;
- Professional certifications for certain work performed; and
- Mailing and shipping costs.

6(c) ESTIMATING AGENCY BURDEN AND COST

Exhibit 7 presents the estimated annual Agency burden and costs associated with the requirements covered in this ICR (see attachment). The Agency labor costs are based on the 2004 GS pay schedule. EPA estimates an average hourly labor cost of \$78.21 for legal staff, \$49.84 for managerial staff, \$34.90

⁴ Please note that these exhibits may contain rounding errors.

for technical staff, and \$20.91 for clerical staff.

These hourly labor rates were derived by dividing the total annual salary for each labor category by 2,080, the number of hours in the standard work-year, and multiplying these hourly rates by 1.6 to account for overhead and fringe.

6(d) ESTIMATING THE RESPONDENT UNIVERSE AND TOTAL BURDEN AND COST

READING AND UNDERSTANDING THE REGULATIONS FOR IDENTIFICATION, LISTING, AND RULEMAKING PETITIONS (Exhibit 1)

The petitioner must read and understand all of the applicable regulations in 40 CFR Parts 260 and/or 261. This cost is a one-time cost. EPA estimates that all facilities submitting petitions and demonstrations will read the regulations. Thus, EPA estimates that 155 facilities will read the pertinent Part 260 and 261 regulations each year.

RULEMAKING PETITIONS (Exhibit 2)

Section 260.20 requires petitioners seeking to modify or revoke any provision in 40 CFR Parts 260 - 265 and 268 to submit specific information. Based on consultations with the Regions and States, EPA estimates that approximately 21 rulemaking petitions will be submitted every year.

Section 260.21 requires petitioners for equivalent testing or analytical methods to demonstrate to the satisfaction of the Administrator that the proposed method is equal to or superior to the corresponding method in terms of its sensitivity, accuracy, and reproducibility. EPA estimates that each year, one of the 21 rulemaking petitions submitted will be a petition for equivalent testing or analytical methods. The facility also is expected to comply with the section 260.20 general requirements.

Section 260.22 requires petitioners seeking to amend 40 CFR Part 261 to exclude a waste produced at a particular facility to demonstrate that the waste does not meet any hazardous waste criteria. EPA estimates that 20 of the 21 rulemaking petitions submitted annually will be delisting petitions for wastes produced at specific facilities. These facilities are also expected to comply with the section 260.20 general requirements.

SOLID WASTE AND BOILER VARIANCE REQUIREMENTS (Exhibit 3)

Section 260.33 requires facilities that request variances from classification as a solid waste for specified recycled materials (e.g., speculatively collected materials) to address the criteria contained in section 260.31. EPA estimates that for each of the three types of variances described in section 260.31, 10 facilities will submit a request each year, for a total of 30 variance requests annually.

Section 260.32 requires persons requesting to classify as a boiler certain enclosed devices (using controlled flame combustion) to submit a demonstration addressing the criteria detailed in section 260.32. EPA estimates that one facility will request this variance each year.

HAZARDOUS WASTE EXCLUSIONS (Exhibit 4)

EPA estimates that one facility will prepare a wastewater exemption under section 261.3(a)(2) each year. EPA also estimates that an additional facility will submit a nonwastewater exemption under section 261.3(c)(2).

Section 261.4(a)(9)(iii) allows facilities to exclude from being a solid waste spent wood preserving solutions and wastewaters from wood preserving processes. EPA believes that most facilities have already taken advantage of this exclusion, but EPA conservatively estimates that five new facilities each year will prepare and submit a notification. An additional 15 facilities will submit a notice of violation and apply for reinstatement annually.

Section 261.4(a)(17) allows facilities to prepare an application for a site-specific process unit determination for their solid mineral processing materials and to provide notice to EPA. Note that this exclusion was voided by the courts. Therefore, no respondents are expected to claim this exclusion.

Under section 261.4(a)(20)(ii)(A), generators and intermediate handlers may obtain a hazardous waste exclusion for zinc-bearing hazardous secondary materials that are to be incorporated into zinc fertilizers. Section 261.4(a)(20)(iii)(B), allows manufacturers of zinc fertilizers or zinc fertilizer ingredients made from excluded hazardous secondary materials to obtain a hazardous waste exclusion. EPA estimates that 24 generators of zinc-bearing hazardous secondary materials used to make fertilizers and five manufacturers of zinc fertilizers or zinc fertilizer ingredients will use the conditional exclusion. These facilities must submit a notification and maintain records. The manufacturers must also submit an annual report, perform sampling and analysis, and keep sampling and analysis records.

EPA estimates that one facility will prepare a demonstration for chromium-containing waste by following the requirements in section 261.4(b)(6).

EPA estimates that most of the samples shipped to or returned by a laboratory will be covered by DOT or USPS shipping requirements. EPA estimates that 45 samples per year will not be covered by these requirements and therefore will be subject to the information requirements specified in section 261.4(d)(2)(ii)(A).

Section 261.4(e)(2) requires persons who generate or collect samples for the purpose of conducting treatability studies to comply with specific informational collections. EPA estimates that two facilities will generate or collect treatability study samples every year, and therefore will need to collect and maintain information and report to EPA in the Biennial Report.

Section 261.4(e)(3) allows persons who generate or collect samples for the purpose of conducting treatability studies to petition to increase the quantity limits on treatability study samples. EPA estimates that one of the generators or collectors of treatability study samples will submit this request. Section 261.4(e)(3) also provides for a two-year extension for treatability studies involving bioremediation. EPA estimates that one of the generators or collectors of these samples will submit a request for an extension.

Section 261.4(f) requires testing facilities conducting treatability studies to comply with a number of informational requirement provisions. EPA estimates that two testing facilities will seek an exemption each year. These facilities must submit a notification, maintain records, submit an annual report, and submit a termination letter once testing has been completed.

HAZARDOUS WASTE LISTING EXEMPTIONS (Exhibit 5)

EPA estimates that one facility will claim the section 261.31(b)(2) sludge hazardous waste exemption each year. This facility will maintain information supporting the criteria for exemption.

EPA estimates that one facility per year will develop equipment cleaning or replacement plans under section 261.35, document cleaning or replacement in the facility operating record, and certify that procedures were followed.

**EXHIBIT 1
READING THE REGULATIONS
ANNUAL ESTIMATED RESPONDENT BURDEN AND COST**

INFORMATION COLLECTION ACTIVITY	Hours and Costs Per Respondent Per Activity									Total Hours and Costs	
	Leg. /Hour	Mgr. /Hour	Tech. /Hour	Cler. /Hour	Respon. Hours/ Year	Labor Cost/ Year	Capital/ Startup Cost	O & M Cost	Number of Respon. or Activ.	Total Hours/ Year	Total Cost/ Year
Reading and Understanding the Regulations for ID, Listing, and Rulemaking Petitions											
Read the Regulations	0.25	0.50	1.00	0.00	1.75	\$136.60	\$0.00	\$0.00	155	271.25	\$21,173.00
Total: Read the Regulations	0.25	0.50	1.00	0.00	1.75	\$136.60	\$0.00	\$0.00	155	271.25	\$21,173.00

**EXHIBIT 2
RULEMAKING PETITIONS
ANNUAL ESTIMATED RESPONDENT BURDEN AND COST**

INFORMATION COLLECTION ACTIVITY	Hours and Costs Per Respondent Per Activity									Total Hours and Costs	
	Leg. /Hour	Mgr. /Hour	Tech. /Hour	Cler. /Hour	Respon. Hours/ Year	Labor Cost/ Year	Capital/ Startup Cost	O & M Cost	Number of Respon. or Activ.	Total Hours/ Year	Total Cost/ Year
Rulemaking Petitions											
General Requirements (260.20)											
Describe/prepare a statement on proposed action	3.00	10.00	30.00	14.00	57.00	\$3,533.96	\$0.00	\$9,479.00	21	1,197.00	\$273,272.16
State the need and justification for the proposed action	0.00	10.00	100.00	0.00	110.00	\$6,948.90	\$0.00	\$0.00	21	2,310.00	\$145,926.90
Subtotal	3.00	20.00	130.00	14.00	167.00	\$10,482.86	\$0.00	\$9,479.00	21	3,507.00	\$419,199.06

EXHIBIT 2, continued
 RULEMAKING PETITIONS
 ANNUAL ESTIMATED RESPONDENT BURDEN AND COST

INFORMATION COLLECTION ACTIVITY	Hours and Costs Per Respondent Per Activity								Total Hours and Costs		
	Leg. \$121.08 /Hour	Mgr. \$92.09 /Hour	Tech. \$60.28 /Hour	Cler. \$31.53 /Hour	Respon. Hours/ Year	Labor Cost/ Year	Capital/ Startup Cost	O & M Cost	Number of Respon. or Activ.	Total Hours/ Year	Total Cost/ Year
Equivalent Methods Petitions (260.21)											
Describe the proposed method	0.00	3.00	20.00	1.00	24.00	\$1,513.40	\$0.00	\$0.00	1	24.00	\$1,513.40
Describe the proposed methods' procedural steps and equipment	0.00	2.00	10.00	1.00	13.00	\$818.51	\$0.00	\$0.00	1	13.00	\$818.51
Describe wastes/waste matrices for proposed method	0.00	3.00	20.00	2.00	25.00	\$1,544.93	\$0.00	\$0.00	1	25.00	\$1,544.93
Compare results from proposed method with results from prescribed method	0.00	2.00	10.00	0.00	12.00	\$786.98	\$0.00	\$0.00	1	12.00	\$786.98
Assess any limiting factors for the proposed method	0.00	5.00	30.00	2.00	37.00	\$2,331.91	\$0.00	\$0.00	1	37.00	\$2,331.91
Describe the quality and control procedures	0.00	3.00	20.00	1.00	24.00	\$1,513.40	\$0.00	\$0.00	1	24.00	\$1,513.40
Provide any additional information	0.00	2.00	10.00	1.00	13.00	\$818.51	\$0.00	\$0.00	1	13.00	\$818.51
Subtotal	0.00	20.00	120.00	8.00	148.00	\$9,327.64	\$0.00	\$0.00	1	148.00	\$9,327.64
Delisting Petition (260.22)											
Provide general information on the laboratory conducting the tests	0.00	0.00	15.00	0.00	15.00	\$904.20	\$0.00	\$0.00	20	300.00	\$18,084.00
Provide detailed information on the individuals sampling and testing the waste samples	0.00	7.50	1.50	1.50	10.50	\$828.39	\$0.00	\$1,400.00	20	210.00	\$44,567.80
Provide the dates of sampling and testing	0.00	0.00	1.50	0.00	1.50	\$90.42	\$0.00	\$0.00	20	30.00	\$1,808.40
Provide information on the location of the facility	0.00	0.00	1.50	1.50	3.00	\$137.72	\$0.00	\$0.00	20	60.00	\$2,754.30
Describe the manufacturing processes or other operations and feed materials producing the waste	0.00	7.50	150.00	1.50	159.00	\$9,779.97	\$0.00	\$0.00	20	3,180.00	\$195,599.40

EXHIBIT 2, continued
 RULEMAKING PETITIONS
 ANNUAL ESTIMATED RESPONDENT BURDEN AND COST

INFORMATION COLLECTION ACTIVITY	Hours and Costs Per Respondent Per Activity								Total Hours and Costs		
	Leg. \$121.08 /Hour	Mgr. \$92.09 /Hour	Tech. \$60.28 /Hour	Cler. \$31.53 /Hour	Respon. Hours/ Year	Labor Cost/ Year	Capital/ Startup Cost	O & M Cost	Number of Respon. or Activ.	Total Hours/ Year	Total Cost/ Year
Assess variability of generator's waste stream	0.00	0.00	150.00	0.00	150.00	\$9,042.00	\$0.00	\$0.00	20	3,000.00	\$180,840.00
Describe the waste	0.00	0.00	30.00	1.50	31.50	\$1,855.70	\$0.00	\$0.00	20	630.00	\$37,113.90
Estimate the average maximum monthly and annual quantities of waste covered by the demonstration	0.00	0.00	30.00	0.00	30.00	\$1,808.40	\$0.00	\$0.00	20	600.00	\$36,168.00
Provide pertinent data on discussion of factors per 261.11(a)(3)	0.00	0.00	75.00	1.50	76.50	\$4,568.30	\$0.00	\$0.00	20	1,530.00	\$91,365.90
Describe the methodologies and equipment used for representative samples	0.00	0.00	60.00	1.50	61.50	\$3,664.10	\$0.00	\$28,006.00	20	1,230.00	\$633,401.90
Describe the sample handling and preparation techniques	0.00	0.00	30.00	1.50	31.50	\$1,855.70	\$0.00	\$0.00	20	630.00	\$37,113.90
Describe the tests performed and their results	0.00	0.00	1.50	1.50	3.00	\$137.72	\$0.00	\$4,847.00	20	60.00	\$99,694.30
Provide the name and model numbers of instruments used	0.00	0.00	1.50	1.50	3.00	\$137.72	\$0.00	\$0.00	20	60.00	\$2,754.30
Certify petition	0.00	1.50	0.00	0.00	1.50	\$138.14	\$0.00	\$0.00	20	30.00	\$2,762.70
Provide any additional information	0.00	6.00	37.50	0.00	43.50	\$2,813.04	\$0.00	\$0.00	20	870.00	\$56,260.80
Subtotal	0.00	22.50	585.00	13.50	621.00	\$37,761.48	\$0.00	\$34,253.00	20	12,420.00	\$1,440,289.60
Total: Rulemaking Petitions	varies	varies	varies	varies	varies	\$57,571.98	\$0.00	\$43,732.00	varies	16,075.00	\$1,868,816.30

**EXHIBIT 3
SOLID WASTE AND BOILER VARIANCE REQUIREMENTS
ANNUAL ESTIMATED RESPONDENT BURDEN AND COST**

INFORMATION COLLECTION ACTIVITY	Hours and Costs Per Respondent Per Activity								Total Hours and Costs		
	Leg. \$121.08 /Hour	Mgr. \$92.09 /Hour	Tech. \$60.28 /Hour	Cler. \$31.53 /Hour	Respon. Hours/ Year	Labor Cost/ Year	Capital/ Startup Cost	O & M Cost	Number of Respon. or Activ.	Total Hours/ Year	Total Cost/ Year
Solid Waste and Boiler Variance Requirements											
Variance from Classification as a Solid Waste (260.31)(a) and 260.33(a))											
Provide information on the manner in which the material is expected to be recycled	0.00	0.00	30.00	0.00	30.00	\$1,808.40	\$0.00	\$22.00	10	300.00	\$18,304.00
Explain why the petitioner has accumulated for one or more years without recycling 75% of the volume accumulated at the beginning of the year	0.00	0.00	5.00	0.00	5.00	\$301.40	\$0.00	\$0.00	10	50.00	\$3,014.00
Provide information on the quantity of material already accumulated and the quantity expected to be generated and accumulated before the material is recycled	0.00	0.00	24.00	0.00	24.00	\$1,446.72	\$0.00	\$0.00	10	240.00	\$14,467.20
Provide information on the extent to which the material is handled to minimize loss	0.00	0.00	6.00	0.00	6.00	\$361.68	\$0.00	\$0.00	10	60.00	\$3,616.80
Provide any additional relevant info.	0.00	0.00	10.00	0.00	10.00	\$602.80	\$0.00	\$0.00	10	100.00	\$6,028.00
Subtotal	0.00	0.00	75.00	0.00	75.00	\$4,521.00	\$0.00	\$22.00	10	750.00	\$45,430.00
Variance From Classification as a Solid Waste (260.31(b) and 260.33(a))											
Provide information on the economic viability of the production process using virgin materials solely, rather than reclaimed materials	0.00	0.00	40.00	0.00	40.00	\$2,411.20	\$0.00	\$22.00	10	400.00	\$24,332.00

EXHIBIT 3, continued
 SOLID WASTE AND BOILER VARIANCE REQUIREMENTS
 ANNUAL ESTIMATED RESPONDENT BURDEN AND COST

INFORMATION COLLECTION ACTIVITY	Hours and Costs Per Respondent Per Activity								Total Hours and Costs		
	Leg. \$121.08 /Hour	Mgr. \$92.09 /Hour	Tech. \$60.28 /Hour	Cler. \$31.53 /Hour	Respon. Hours/ Year	Labor Cost/ Year	Capital/ Startup Cost	O & M Cost	Number of Respon. or Activ.	Total Hours/ Year	Total Cost/ Year
Describe the industry-wide prevalence of the practice	0.00	0.00	20.00	0.00	20.00	\$1,205.60	\$0.00	\$0.00	10	200.00	\$12,056.00
Describe the extent to which the material is handled before reclamation to minimize loss	0.00	0.00	24.00	0.00	24.00	\$1,446.72	\$0.00	\$0.00	10	240.00	\$14,467.20
Describe the time periods between material generation and reclamation, and between reclamation and return to original primary production process	0.00	0.00	20.00	0.00	20.00	\$1,205.60	\$0.00	\$0.00	10	200.00	\$12,056.00
Describe the location of the reclamation operation and production process	0.00	0.00	1.00	0.00	1.00	\$60.28	\$0.00	\$0.00	10	10.00	\$602.80
Describe whether the reclaimed material is used for the purpose for which it was originally produced when returned to the original process	0.00	0.00	20.00	0.00	20.00	\$1,205.60	\$0.00	\$0.00	10	200.00	\$12,056.00
Describe whether the person who generates the material also reclaims it	0.00	0.00	1.00	0.00	1.00	\$60.28	\$0.00	\$0.00	10	10.00	\$602.80
Provide any additional relevant information	0.00	0.00	20.00	0.00	20.00	\$1,205.60	\$0.00	\$0.00	10	200.00	\$12,056.00
Subtotal	0.00	0.00	146.00	0.00	146.00	\$8,800.88	\$0.00	\$22.00	10	1,460.00	\$88,228.80

EXHIBIT 3, continued
 SOLID WASTE AND BOILER VARIANCE REQUIREMENTS
 ANNUAL ESTIMATED RESPONDENT BURDEN AND COST

INFORMATION COLLECTION ACTIVITY	Hours and Costs Per Respondent Per Activity								Total Hours and Costs		
	Leg. \$121.08 /Hour	Mgr. \$92.09 /Hour	Tech. \$60.28 /Hour	Cler. \$31.53 /Hour	Respon. Hours/ Year	Labor Cost/ Year	Capital/ Startup/ Cost	O & M Cost	Number of Respon. or Activ.	Total Hours/ Year	Total Cost/ Year
Variance From Classification as a Solid Waste (260.31(c) and 260.33(a))											
Provide information on the degree of processing the material has undergone and the degree of further processing that is required	0.00	0.00	40.00	0.00	40.00	\$2,411.20	\$0.00	\$22.00	10	400.00	\$24,332.00
Provide information on the value of the reclaimed material	0.00	0.00	16.00	0.00	16.00	\$964.48	\$0.00	\$0.00	10	160.00	\$9,644.80
Describe the degree to which the reclaimed material is like an analogous raw material	0.00	0.00	40.00	0.00	40.00	\$2,411.20	\$0.00	\$0.00	10	400.00	\$24,112.00
Examine the extent to which an end market for the reclaimed material is guaranteed	0.00	0.00	20.00	0.00	20.00	\$1,205.60	\$0.00	\$0.00	10	200.00	\$12,056.00
Describe the extent to which the reclaimed material is handled to minimize loss	0.00	0.00	6.00	0.00	6.00	\$361.68	\$0.00	\$0.00	10	60.00	\$3,616.80
Provide any additional relevant information	0.00	0.00	20.00	0.00	20.00	\$1,205.60	\$0.00	\$0.00	10	200.00	\$12,056.00
Subtotal	0.00	0.00	142.00	0.00	142.00	\$8,559.76	\$0.00	\$22.00	10	1,420.00	\$85,817.60

EXHIBIT 3, continued
 SOLID WASTE AND BOILER VARIANCE REQUIREMENTS
 ANNUAL ESTIMATED RESPONDENT BURDEN AND COST

INFORMATION COLLECTION ACTIVITY	Hours and Costs Per Respondent Per Activity								Total Hours and Costs		
	Leg. \$121.08 /Hour	Mgr. \$92.09 /Hour	Tech. \$60.28 /Hour	Cler. \$31.53 /Hour	Respon. Hours/ Year	Labor Cost/ Year	Capital/ Startup Cost	O & M Cost	Number of Respon. or Activ.	Total Hours/ Year	Total Cost/ Year
Variance for Classification as a Boiler (260.32 and 260.33(a))											
Describe the extent to which the unit has provisions for recovering and exporting thermal energy from steam, heated fluids, or heated gases	0.00	1.00	10.00	0.00	11.00	\$694.89	\$0.00	\$0.00	1	11.00	\$694.89
Describe the extent to which the combustion chamber and energy recovery equipment are of integral design	0.00	1.00	20.00	0.00	21.00	\$1,297.69	\$0.00	\$0.00	1	21.00	\$1,297.69
Describe the efficiency of energy recovery, calculated in terms of the recovered energy compared with the thermal value of fuel	0.00	1.00	20.00	4.00	25.00	\$1,423.81	\$0.00	\$0.00	1	25.00	\$1,423.81
Describe the extent to which exported energy is utilized	0.00	0.00	16.00	3.00	19.00	\$1,059.07	\$0.00	\$0.00	1	19.00	\$1,059.07
Describe the extent to which the device is in common and customary use as a 'boiler' functioning primarily to produce steam, heated fluids, or heated gases	0.00	1.00	20.00	1.00	22.00	\$1,329.22	\$0.00	\$0.00	1	22.00	\$1,329.22
Provide any additional relevant information	0.00	0.00	10.00	8.00	18.00	\$855.04	\$0.00	\$0.00	1	18.00	\$855.04
Subtotal	0.00	4.00	96.00	16.00	116.00	\$6,659.72	\$0.00	\$0.00	1	116.00	\$6,659.72
Total: Solid Waste and Boiler Variance Requirements	varies	varies	varies	varies	479.00	\$28,541.36	\$0.00	\$66.00	varies	3,746.00	\$226,136.12

**EXHIBIT 4
EXCLUSIONS FROM THE DEFINITION OF HAZARDOUS WASTE
ANNUAL ESTIMATED RESPONDENT BURDEN AND COST**

INFORMATION COLLECTION ACTIVITY	Hours and Costs Per Respondent Per Activity									Total Hours and Costs	
	Leg. \$121.08 /Hour	Mgr. \$92.09 /Hour	Tech. \$60.28 /Hour	Cler. \$31.53 /Hour	Respon. Hours/ Year	Labor Cost/ Year	Capital/ Startup Cost	O & M Cost	Number of Respon. or Activ.	Total Hours/ Year	Total Cost/ Year
Hazardous Waste Exclusions											
Wastewater Exemption (261.3(a)(2)(iv))											
Demonstrate the wastewater exclusion	0.00	4.00	16.00	8.00	28.00	\$1,585.08	\$0.00	\$5.00	1	28.00	\$1,590.08
Nonwastewater Exemption (261.3(c)(2)(ii)(C))											
Prepare and submit notification and certification	0.00	1.00	1.00	1.50	3.50	\$199.67	\$0.00	\$11.00	1	3.50	\$210.67
Maintain documents in facility files	0.00	0.00	0.00	0.50	0.50	\$15.77	\$0.00	\$0.00	1	0.50	\$15.77
Exclusion for Spent Wood Preserving Solutions and Wastewaters from Wood Preserving Processes (261.4(a)(9)(iii))											
Prepare and submit notification	0.00	0.50	1.00	6.00	7.50	\$295.51	\$0.00	\$3.00	5	37.50	\$1,492.53
Update notification, if needed	0.00	1.00	8.00	2.00	11.00	\$637.39	\$0.00	\$3.00	15	165.00	\$9,605.85
Exclusion for Secondary Materials from the Mineral Processing Industry (261.4(a)(17))											
Prepare and submit application	0.00	1.00	8.00	1.00	10.00	\$605.86	\$0.00	\$3.00	0	0.00	\$0.00
Prepare and submit notification	0.00	0.50	1.00	8.00	9.50	\$358.57	\$0.00	\$3.00	0	0.00	\$0.00
Update notification, if needed	0.00	0.25	0.50	9.00	9.75	\$336.93	\$0.00	\$3.00	0	0.00	\$0.00
Exclusion for Recycled Hazardous Secondary Materials to Make Zinc Fertilizer Products (261.4(a)(20)-(21))											
Requirements for Generators											
Notification (261.4(a)(20)(ii)(B))											
Complete and submit notification	0.00	0.10	0.25	0.00	0.35	\$24.28	\$0.00	\$3.00	8	2.80	\$218.24
Record of Shipments (261.4(a)(ii)(C))											
Keep records of shipping activities	0.00	0.00	0.00	0.10	0.10	\$3.15	\$0.00	\$0.00	24	2.40	\$75.60

EXHIBIT 4, continued
 EXCLUSIONS FROM THE DEFINITION OF HAZARDOUS WASTE
 ANNUAL ESTIMATED RESPONDENT BURDEN AND COST

INFORMATION COLLECTION ACTIVITY	Hours and Costs Per Respondent Per Activity									Total Hours and Costs	
	Leg. \$121.08 /Hour	Mgr. \$92.09 /Hour	Tech. \$60.28 /Hour	Cler. \$31.53 /Hour	Respon. Hours/ Year	Labor Cost/ Year	Capital/ Startup Cost	O & M Cost	Number of Respon. or Activ.	Total Hours/ Year	Total Cost/ Year
Requirements for Manufacturers											
Notification (261.4(a)(20)(iii)(B))											
Complete and submit notification	0.00	0.10	0.25	0.00	0.35	\$24.28	\$0.00	\$3.00	2	0.70	\$54.56
Record of Shipments (261.4(a)(iii)(C))											
Keep records of shipping activities	0.00	0.00	0.00	0.10	0.10	\$3.15	\$0.00	\$0.00	5	0.50	\$15.75
Annual report (261.4(a)(20)(iii)(D))											
Complete and submit the annual report	0.00	0.25	2.00	0.50	2.75	\$159.35	\$0.00	\$3.00	5	13.75	\$811.75
Product sampling and analysis (261.4(a)(21)(ii)(iii))											
Sample and analyze the product	0.00	0.00	1.00	0.00	1.00	\$60.28	\$0.00	\$1,800.00	5	5.00	\$9,301.40
Keep sampling and analysis records	0.00	0.00	0.00	0.10	0.10	\$3.15	\$0.00	\$0.00	5	0.50	\$15.75
Exemption for Chromium-Containing Waste (261.4(b)(6))											
Demonstrate the waste meets the hazardous waste exclusion	0.00	4.00	16.00	8.00	28.00	\$1,585.08	\$0.00	\$5.00	1	28.00	\$1,590.08
Exemption for Samples (261.4(d)(2)(ii)(A))											
Collect and maintain information on the sample and the collector	0.00	1.00	16.00	4.00	21.00	\$1,182.69	\$0.00	\$5.00	45	945.00	\$53,446.05

EXHIBIT 4, continued
 EXCLUSIONS FROM THE DEFINITION OF HAZARDOUS WASTE
 ANNUAL ESTIMATED RESPONDENT BURDEN AND COST

INFORMATION COLLECTION ACTIVITY	Hours and Costs Per Respondent Per Activity								Total Hours and Costs		
	Leg. \$121.08 /Hour	Mgr. \$92.09 /Hour	Tech. \$60.28 /Hour	Cler. \$31.53 /Hour	Respon. Hours/ Year	Labor Cost/ Year	Capital/ Startup Cost	O & M Cost	Number of Respon. or Activ.	Total Hours/ Year	Total Cost/ Year
Exemption for Treatability Study Samples (261.4)(e)(2)-(3))											
Collect, copy, file and maintain the required information	0.00	0.00	4.00	0.00	4.00	\$241.12	\$0.00	\$22.00	2	8.00	\$526.24
Prepare and report to EPA required information (in the Biennial Report)*	0.00	0.00	4.00	0.00	4.00	\$241.12	\$0.00	\$0.00	2	8.00	\$482.24
Prepare and submit a request for an increase of the quantity limit	0.00	1.00	4.00	1.00	6.00	\$364.74	\$0.00	\$0.00	1	6.00	\$364.74
Prepare and submit a request for an extension of up to two years for treatability studies involving bioremediation	0.00	1.00	4.00	1.00	6.00	\$364.74	\$0.00	\$0.00	1	6.00	\$364.74
Exemption for Treatability Study Samples Undergoing Testing (261.4)(f))											
Notify the Regional Administrator	0.00	1.00	0.00	1.00	2.00	\$123.62	\$0.00	\$11.00	2	4.00	\$269.24
Maintain records for three years	0.00	0.00	0.00	1.00	1.00	\$31.53	\$0.00	\$5.00	2	2.00	\$73.06
Prepare and submit the annual report	0.00	2.00	10.00	4.00	16.00	\$913.10	\$0.00	\$11.00	2	32.00	\$1,848.20
Prepare and submit the termination letter	0.00	1.00	0.00	2.00	3.00	\$155.15	\$0.00	\$11.00	2	6.00	\$332.30
Total: Exclusions	varies	varies	varies	varies	175.50	\$9,515.29	\$0.00	\$1,910.00	varies	1,305.15	\$82,704.83

* Assumes all generators and collectors must submit Biennial Reports

**EXHIBIT 5
HAZARDOUS WASTE LISTING EXEMPTIONS
ANNUAL ESTIMATED RESPONDENT BURDEN AND COST**

INFORMATION COLLECTION ACTIVITY	Hours and Costs Per Respondent Per Activity								Total Hours and Costs		
	Leg. \$121.08 /Hour	Mgr. \$92.09 /Hour	Tech. \$60.28 /Hour	Cler. \$31.53 /Hour	Respon. Hours/ Year	Labor Cost/ Year	Capital/ Startup Cost	O & M Cost	Number of Respon. or Activ.	Total Hours/ Year	Total Cost/ Year
Hazardous Waste Listing Exemptions											
Hazardous Wastes from Non-Specific Sources (261.31(b)(2)(ii))											
Develop data and documents to support criteria for exemption	0.00	4.00	40.00	6.00	50.00	\$2,968.74	\$0.00	\$0.00	1	50.00	\$2,968.74
Maintain records	0.00	0.00	0.00	2.00	2.00	\$63.06	\$0.00	\$11.00	1	2.00	\$74.06
Subtotal	0.00	4.00	40.00	8.00	52.00	\$3,031.80	\$0.00	\$11.00	1	52.00	\$3,042.80
Deletion of Certain Hazardous Waste Codes Following Equipment Cleaning and Replacement (261.35)											
Prepare equipment cleaning or replacement plan	0.00	0.00	24.00	8.00	32.00	\$1,698.96	\$0.00	\$11.00	1	32.00	\$1,709.96
Prepare and maintain documentation supporting cleaning/replacement of equipment in accordance with plan	0.00	2.00	16.00	9.00	27.00	\$1,432.43	\$0.00	\$1,088.00	1	27.00	\$2,520.43
Prepare and maintain certification that equipment was cleaned or replaced in accordance with plan	0.00	2.00	0.00	1.00	3.00	\$215.71	\$0.00	\$0.00	1	3.00	\$215.71
Subtotal	0.00	4.00	40.00	18.00	62.00	\$3,347.10	\$0.00	\$1,099.00	1	62.00	\$4,446.10
Total: Lists of Hazardous Waste	varies	varies	varies	varies	114.00	\$6,378.90	\$0.00	\$1,110.00	varies	114.00	\$7,488.90

**EXHIBIT 6
TOTAL ANNUAL ESTIMATED RESPONDENT BURDEN**

INFORMATION COLLECTION ACTIVITY	Number of Respondents	Number of Activities	Total Hours/ Year	Total Labor Cost / Year	Total Capital Cost / Year	Total O&M Cost / Year	Total Cost/Year
Reading the Regulations	155	1	271	\$21,173	\$0	\$0	\$21,173
Rulemaking Petitions	varies	2	16,075	\$984,697	\$0	\$884,119	\$1,868,816
Solid Waste and Boiler Variances	varies	4	3,746	\$225,476	\$0	\$660	\$226,136
Hazardous Waste Exclusions	varies	9	1,305	\$73,226	\$0	\$9,470	\$82,705
Hazardous Waste Listing Exemptions	varies	2	114	\$6,379	\$0	\$1,110	\$7,489
TOTAL ANNUAL BURDEN	varies	18	21,511	\$1,310,951	\$0	\$895,359	\$2,206,319

**EXHIBIT 7
ANNUAL ESTIMATED AGENCY BURDEN AND COST**

Hours and Costs Per Respondent Per Activity Total Hours and Costs

INFORMATION COLLECTION ACTIVITY	Hours and Costs Per Respondent Per Activity						Number of Respon. or Activ.	Total Hours/ Year	Total Cost/ Year
	Leg. /Hour	Mgr. /Hour	Tech. /Hour	Cler. /Hour	Respon. Hours/ Year	Labor Cost/ Year			
Review of Equivalent Methods Petitions (260.20 and 260.21)									
Review general petition information	0.00	3.00	20.00	0.00	23.00	\$847.52	1	23.00	\$847.52
Request additional information if required	0.00	0.00	2.00	1.00	3.00	\$90.71	1	3.00	\$90.71
Enter information into a database	0.00	0.00	6.00	2.00	8.00	\$251.22	1	8.00	\$251.22
Hold meetings	0.00	1.00	8.00	0.00	9.00	\$329.04	1	9.00	\$329.04
Deliberate	0.00	2.00	18.00	0.00	20.00	\$727.88	1	20.00	\$727.88
Make a draft determination, and publish draft Federal Register Notice	10.00	3.00	25.00	4.00	42.00	\$1,887.76	1	42.00	\$1,887.76
Review comments and deliberate	4.00	2.00	10.00	0.00	16.00	\$761.52	1	16.00	\$761.52
Make determination and publish final Federal Register notice	6.00	2.00	24.00	5.00	37.00	\$1,511.09	1	37.00	\$1,511.09
Subtotal	20.00	13.00	113.00	12.00	158.00	\$6,406.74	1	158.00	\$6,406.74

EXHIBIT 7, continued
ANNUAL ESTIMATED AGENCY BURDEN AND COST

Hours and Costs Per Respondent Per Activity Total Hours and Costs

INFORMATION COLLECTION ACTIVITY	Leg. \$78.21 /Hour	Mgr. \$49.84 /Hour	Tech. \$34.90 /Hour	Cler. \$20.91 /Hour	Respon. Hours/ Year	Labor Cost/ Year	Number	Total Hours/ Year	Total Cost/ Year
							of Respon. or Activ.		
Review of Delisting Petitions (260.20 and 260.22)									
Review general petition information	8.00	2.00	133.00	12.00	155.00	\$5,617.98	20	3,100.00	\$112,359.60
Request additional information if required	8.00	2.00	41.00	4.00	55.00	\$2,239.90	20	1,100.00	\$44,798.00
Enter information into a database	0.00	0.00	17.00	0.00	17.00	\$593.30	20	340.00	\$11,866.00
Hold meetings	3.00	7.00	7.00	3.00	20.00	\$890.54	20	400.00	\$17,810.80
Deliberate*	25.00	8.00	58.00	8.00	99.00	\$4,545.45	15	1,485.00	\$68,181.75
Make a draft determination, and publish draft Federal Register Notice	8.00	25.00	99.00	20.00	152.00	\$5,744.98	15	2,280.00	\$86,174.70
Review comments and deliberate	16.00	25.00	83.00	0.00	124.00	\$5,394.06	15	1,860.00	\$80,910.90
Make determination and publish final Federal Register notice	16.00	4.00	21.00	4.00	45.00	\$2,267.26	15	675.00	\$34,008.90
Subtotal	84.00	73.00	459.00	51.00	667.00	\$27,293.47	varies	11,240.00	\$456,110.65
Review of Solid Waste and Boiler Variance Demonstrations (260.31(a),(b),(c), 260.32, and 260.33(a))									
Review the demonstrations	0.00	4.00	33.00	0.00	37.00	\$1,351.06	31	1,147.00	\$41,882.86
Request additional information if necessary	0.00	0.00	1.00	3.00	4.00	\$97.63	31	124.00	\$3,026.53
Deliberate and issue draft determination	7.00	3.00	46.00	4.00	60.00	\$2,386.03	31	1,860.00	\$73,966.93
Publicize draft determination	0.00	0.00	3.00	8.00	11.00	\$271.98	31	341.00	\$8,431.38
Hold hearing, if required	0.00	1.00	40.00	3.00	44.00	\$1,508.57	31	1,364.00	\$46,765.67
Review comments and make final determination	4.00	3.00	42.00	4.00	53.00	\$2,011.80	31	1,643.00	\$62,365.80
Subtotal	11.00	11.00	165.00	22.00	209.00	\$7,627.07	31	6,479.00	\$236,439.17

EXHIBIT 7, continued
ANNUAL ESTIMATED AGENCY BURDEN AND COST

Hours and Costs Per Respondent Per Activity Total Hours and Costs

INFORMATION COLLECTION ACTIVITY	Leg.	Mgr.	Tech.	Cler.	Respon.	Labor	Number of Respon. or Activ.	Total Hours/ Year	Total Cost/ Year
	\$78.21 /Hour	\$49.84 /Hour	\$34.90 /Hour	\$20.91 /Hour	Hours/ Year	Cost/ Year			
Review of Hazardous Waste Exclusion Petitions (261.3 and 261.4)									
File nonwastewater notification	0.00	0.00	1.00	1.00	2.00	\$55.81	1	2.00	\$55.81
Review, approve, or deny, and keep records of the notifications and updates	0.00	0.00	2.00	0.25	2.25	\$75.03	20	45.00	\$1,500.55
Review and keep records of applications	0.00	0.00	0.25	0.25	0.50	\$13.95	0	0.00	\$0.00
Process haz. materials generator notification	0.00	0.00	0.25	0.10	0.35	\$10.82	8	2.80	\$86.53
Process zinc fertilizer manufacturer notification	0.00	0.00	0.25	0.10	0.35	\$10.82	2	0.70	\$21.64
Process zinc fertilizer manufacturer annual report	0.00	0.00	1.00	0.10	1.10	\$36.99	5	5.50	\$184.96
Review requests for quantity increases for treatability study and issue decision	0.00	0.00	3.00	0.00	3.00	\$104.70	1	3.00	\$104.70
Review requests for two-year extension of treatability study and issue decision	0.00	0.00	3.00	0.00	3.00	\$104.70	1	3.00	\$104.70
File notification of testing of treatability sample	0.00	0.00	1.00	1.00	2.00	\$55.81	2	4.00	\$111.62
File annual report on treatability study testing	0.00	0.00	1.00	1.00	2.00	\$55.81	2	4.00	\$111.62
File termination letter of treatability study testing	0.00	0.00	1.00	1.00	2.00	\$55.81	2	4.00	\$111.62
Subtotal	0.00	0.00	13.75	4.80	18.55	\$580.24	varies	74.00	\$2,393.74
TOTAL: AGENCY ACTIVITIES	varies	varies	varies	varies	varies	varies	varies	17,951.00	\$701,350.30

* Assumes that five submissions will be withdrawn at the draft determination stage

6(e) BOTTOM LINE BURDEN HOURS AND COSTS**Respondent Tally**

As shown in Exhibit 6, EPA estimates a total respondent burden of 21,511 hours per year at a cost of \$2,206,319. The bottom line burden to respondents over three years is 64,533 hours, with a cost of approximately \$6,618,957.

Agency Tally

As shown in Exhibit 7, EPA estimates an annual Agency burden of **17,951 hours, at a cost of \$701,350 per year. The bottom line burden to the Agency over three years is 53,853 hours, at a cost of \$2,104,051.**

6(f) REASONS FOR CHANGE IN BURDEN

This ICR (i.e., # 1189.14) consolidates and replaces two previously approved ICRs on the Part 260 and 261 paperwork requirements. The ICR entitled, "Identification, Listing, and Rulemaking Petitions," ICR #1189.09, was the previously approved "base" ICR for the Part 260 and 261 requirements. The ICR entitled, "Zinc Fertilizers Made from Recycled Hazardous Secondary Materials," ICR #1189.11, amended 1189.09 by adding the zinc fertilizer exclusion. Collectively, these two ICRs estimated an annual respondent burden of 20,810 hours.

The annual respondent burden in this current ICR (# 1189.14) is estimated to be 21,511 hours, which is an increase of 701 hours from the previous ICRs. This increase in estimated burden occurred primarily because respondents are expected to submit a greater number of relatively more complex delisting petitions to EPA.

Based on consultations with EPA Regions and the regulated community, EPA believes that the annual estimate for the number of respondents that will prepare and submit new delisting petitions to the Regions will remain at 20 as in the previous ICR. However, based on consultations with the regulated community, EPA has slightly increased its estimate of the amount of time respondents will spend on preparing the delisting petitions. This increase is based largely on the expectation that respondents will be submitting a greater number of relatively more complex delisting petitions. For example, the delisting petitions could be for hazardous wastes from multiple facilities (multi-site delisting petitions) or mixed wastes (combination of hazardous and radioactive wastes) from Department of Defense (DOD) and Department of Energy (DOE) facilities. These type of delisting petitions usually have a greater number of issues that respondents must address prior to their submission to the Regions for review. Therefore, EPA estimates that the average burden per respondent for preparing a delisting petition will increase from 748 hours in the previous ICR to 788 hours in this ICR.

The annual estimated number of respondents petitioning for variances from solid waste and for hazardous waste exclusions and exemptions, based on consultations with the Regions and States, has been assumed to be the same as in the previous ICR. Therefore, EPA estimates that the average hourly burden per respondent for these types of petitions will remain unchanged from the previous ICR.

6(g) BURDEN STATEMENT

The annual public reporting and recordkeeping burden for each type of petition or demonstration submitted under provisions covered in this collection of information is estimated as average hours per respondent (see Exhibit 8 below).

EXHIBIT 8 AVERAGE RESPONDENT BURDEN

Type of Petition or Demonstration	Average Reporting Burden per Respondent	Average Record-keeping Burden per Respondent
Equivalent Methods Petitions	315.00	1.75
Delisting Petition	788.00	1.75
Solid Waste Variance	121.00	1.75
Boiler Variance	116.00	1.75
Wastewater Exemption	28.00	1.75
Nonwastewater Exemption	3.50	2.25
Wood Preserving Processes Exclusion	18.50	1.75
Mineral Processing Exclusion	29.25	1.75
Zinc Fertilizer Exclusion	4.45	2.05
Chromium Exemption	28.00	1.75
Exemption for Samples	21.00	1.75
Exemption for Treatability Study Samples	16.00	5.75
Exemption for Treatability Study Samples Undergoing Testing	21.00	2.75
Exemption for Waste from Non-Specific Sources	0.00	53.75
Equipment Cleaning and Replacement	0.00	63.75

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 RCRA-2004-0007, which is available for public viewing at the Office of Solid Waste and Emergency Response (OSWER) Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202)566-1744, and the telephone number for the OSWER Docket is (202)566-0270. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at <http://www.epa.gov/edocket>. Use EDOCKET to submit or view public comments, access the index listing

of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select “search,” then key in the docket ID number identified above. Also, you can send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503, Attention: Desk Office for EPA. Please include the EPA Docket ID No. (RCRA-2004-0007) and OMB control number (2050-0053) in any correspondence.

ATTACHMENT

INFORMATION COLLECTION REQUEST 1189.14
BURDEN ESTIMATE METHODOLOGY
August 2004

Introduction

40 CFR Parts 260 and 261 contain provisions that allow regulated entities to apply for petitions, variances, exclusions, and exemptions from various RCRA requirements. This application process entails some amount of burden that is shouldered by the regulated community and EPA staff. In accordance with the 1995 Paperwork Reduction Act (as amended), EPA must estimate respondent and Agency burden associated with all regulatory activities, including the petitions, variances, exclusions, and exemptions allowed for in 40 CFR Parts 260 and 261. Once burden estimates are developed, EPA submits an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for approval. This document describes the methodology for updating burden estimates for the renewal of the ICR covering the regulatory activities cited above.

The Regional, State, and industry officials were consulted in order to obtain data needed to update and/or verify respondent and EPA burden estimates for these regulatory activities. These consultations are described below. The consultations occurred during the months of July and August 2004.

Summary of Consultations

Judy Kleiman, U.S. EPA Region 5 (312-886-1482), is the delisting petition coordinator for Region 5. Currently, there are 5 sampling and analysis plans but no full petitions under review. She expects to receive 3 delisting petitions from General Motors (GM) this year. There are 3-4 delisting petitions that are likely to be received by Region 5 each year during the next few years. She is contacted approximately 6 times a year with new petition inquiries. She believes that an average of about 800 hours is still a reasonable estimate for the amount of time spent by EPA to review and make a decision on a delisting petition. Judy provided several names to contact at auto manufacturers to obtain estimates of hours needed to prepare a delisting petition. Finally, she was not aware of any requests for hazardous waste exclusions at Region 5 and verified that all Region 5 States are authorized for the RCRA program.

Dan Patulski, U.S. EPA Region 5 (312-886-0656), works in the Waste Pesticide and Toxics Division. He stated that all 6 states in Region 5 are authorized for the RCRA program. Therefore, the states handle requests for exclusions and exemptions. The states sometimes call

the Region for guidance, but states are the reviewing and decisionmaking authority.

Definition of Solid Waste Conference Call - representatives of three EPA Regions (Regions 3, 5, and 7) and about dozen states took part in this conference call. Two state representatives estimated that 1-2 definition of solid waste variances were received each year by their states. Several regional/state representatives were able to provide names of contacts who could provide estimates on the number of variances received each year by a particular region/state and hours spent by that region/state to review and make a decision on a variance.

David Friedman, U.S. EPA Region 3 (215-814-3395), is the delisting coordinator in Region 3. Currently, there is one delisting petition under review. There is at least 1 inquiry each year from a potential petitioner regarding delisting petition requirements. He did not have any estimate on the number of delisting petitions that are likely to be received by Region 3 each year during the next few years. He believes that an average of about 800 hours is still a reasonable estimate for the amount of time spent by EPA to review and make a decision on a delisting petition. David provided a contact name at the current petitioner who could provide an estimate of hours needed to prepare a delisting petition. There was one 260.31(c) variance received by the Region during the last three years, and it was forwarded to EPA HQ.

Yan Li, Rhode Island Department of Environmental Management (401-222-2797), received 2 definition of solid waste variance requests in the past three years. These variances were for reclaimed and partially reclaimed materials (260.31(b) and 260.31(c)). Based on a previous final decision on a variance, she estimated that it takes approximately 300 hours to review and finalize a decision on a variance. She estimated that it takes about 150 hours for a facility to prepare a variance.

Jack Storton, BWX Technology (434-522-6677), had a delisting petition for F006 filter cake approved by EPA's Region 3 in 2000 and another one was currently being processed by the Region. He estimated that it costs about \$100,000 to prepare a petition, which he said would be equivalent to about 1,000 hours (assuming hourly cost of \$100/hour). He stated that petitions submitted by his facility represented complex situations involving mixed wastes and old landfills. He estimated that 1/3 of the delisting petition cost was for administrative information requirements and 2/3 for the other information requirements.

Michelle Peace, U.S. EPA Region 6 (214-665-7430), is the delisting coordinator in Region 6. She works in the Multimedia Permitting and Planning Division, which handles delisting petitions and inquiries about hazardous waste exclusions/exemptions. Texas and Louisiana are the states that are most likely to receive requests for hazardous waste exclusions/exemptions. Michelle was aware of only one exclusion received recently by a Region 6 state (exclusion for trivalent chromium). Currently, she has 7 delisting petitions under review, which are also the average number of delisting petitions that are expected to be received by Region 6 each year. Michelle estimates that it takes an average of 400 hours to review and issue a final decision on a delisting petition. She estimates that it takes an average of 600 hours for the petitioner to prepare a

delisting petition.

Ken Herstowski, U.S. EPA Region 7 (913-551-7631), has not received any solid waste variances in the past 5 years. Nebraska is the only authorized state in Region 7 that can receive variances and the last one it approved was about 5 years ago. He does not believe there is very much time spent on preparing or reviewing the variances. Ken said that he does not see any requests for hazardous waste exclusions/exemptions. He said that the facilities either meet the requirements for the exemptions/exclusions or they don't, and the facilities are not usually required to make any submissions.

Renee Hudson Goodley, Georgia Environmental Protection Division (404-657-8828), said that 2 definition of solid waste variance requests are received on average each year by Georgia. She estimated that it takes approximately 117 hours to review and finalize a decision on a variance.

Larry Merritt, Ford Corp. (313-322-5548), had two delisting petitions for F019 wastes approved by EPA's Region 5 and the state of Michigan in 2003. The state used an expedited process to approve the delisting petitions based on approvals granted by Region 5. There were some pre-petition issues regarding constituents in the wastes that would have to be tested which had to be worked out with Region 5 and Michigan. Larry estimated that approximately 1150 hours were needed (by Ford and its consultants) to prepare a delisting petition for each facility.

Approximately 400 of the 1150 hours were spent on pre-petition activities and for obtaining a memorandum of understanding with Region 5/Michigan. Only 16 hours were spent on administrative portions of the two petitions.

Dave Berrey, Indiana Department of environmental Management (317-308-3341), is the contact person for definition of solid waste variances. He said that a number of variances (probably less than 10) were received by him in the past and most were granted years ago. All the variances were for partially reclaimed materials (such as F006 sludge, plastic chips from batteries, and other sludges). He has not seen a request for a variance for a couple of years now. He did not know how many hours it took someone to prepare a variance request, but he believed that it would not take much time (perhaps only few hours) to prepare a straight forward variance request.

Estimates of Burden

The estimates of burden associated with all regulatory activities identified in the Identification, Listing, and Rulemaking Petitions ICR are updated based on the information obtained from the consultations described above. If no information was obtained or available on an activity, it was assumed that the burden information contained in the previous ICR did not change for that activity.

Delisting Petitions Burden estimates

The estimate for total number of delisting petitions submitted every year, based on

consultations with Region 5 (3-4 petitions/yr) and Region 6 (7 petitions/yr), will remain at 20. This is based on an estimate that 10-11 petitions are going to be submitted to Regions 5 and 6 (Regions that normally have the highest numbers of petitions for review every year) and that at least one petition will be submitted to each of the other Regions.

The estimated respondent burden is based on information collected from Jack Storton (BWX Technology), Michelle Peace (U.S. EPA Region 6), and Larry Merritt (Ford Corp.). They estimated that 1,000 hours, 600 hours, and 750 hours (excluding hours for pre-petition activities) respectively were needed to prepare a delisting petition. This would result in an average of 783 hours per petition. The estimated time spent preparing the administrative portion of the delisting petition (260.20 requirements) varied from 33 percent (according to Jack Storton of BWX Technology) to 1 percent (according to Larry Merritt of Ford Corp.). The 1 percent comes from the 8 hours, out of a total of 750 hours, which are spent on preparing the administrative portion of the delisting petition. This would suggest that preparing the administrative portion of the delisting petition, on average, should not take more than 20 percent of the total time. Based on a total of 783 hours, the 20 percent would represent approximately 157 hours. The other 80 percent of the time (or 626 hours) is used to meet the information requirements under 260.22. In simplified terms, the respondent burden for 260.20 requirements goes down by approximately 50 percent (from 334 hours to 167 hours), while the respondent burden for 260.22 requirements goes up by approximately 50 percent (from 414 hours to 621 hours). The total burden, however, does not change much (estimated now to be 788 hours compared to 748 hours estimated previously) .

The estimated Agency burden for reviewing a delisting petition is based on information collected from Judy Kleiman (Region 5), David Friedman (Region 3), and Michelle Peace (Region 6). They estimated that 800 hours, 800 hours, and 400 hours respectively were needed to review a delisting petition. This would result in an average of 667 hours per petition review.

Variances

Based on consultations with the Regional and State representatives, there have not been many requests recently for variances from classification as a solid waste. There were no requests received for variances for classification as a boiler. A few State representatives said that they had received 1-2 definition of solid waste variances in a year. Assuming that about one-third of the States receive 2 variances each year, a little over 30 variances would be received annually. Therefore, as estimated in the previous ICR, it seems reasonable to leave the total number of 260.31(a), 260.31(b), and 260.31(c) variance requests from classification as a solid waste at 10 variances annually, and for classification as a boiler at one variance annually.

The estimated respondent burden is based on the information collected from Yan Li (Rhode Island Department of Environmental Management), Dave Berrey (Indiana Department of environmental Management), and Ken Herstowski (U.S. EPA Region 7). These variances were

mainly for reclaimed and partially reclaimed materials (260.31(b) and 260.31(c)). They estimated that it takes 150 hours and very few hours respectively to prepare a variance. Since 150 hours is the only quantified estimate and is not significantly different than the respondent burden hour estimates for these variances in the previous ICR (146 hours and 142 hours), it seems reasonable not to change the respondent burden hours estimates in the previous ICR. The consultations did not result in any new information about respondent burden for 260.31(a) and boiler variances. Therefore, the respondent burden hours for these will be assumed to be the same as in the previous ICR.

The estimated Agency burden for reviewing a variance is based on information collected from Yan Li (Rhode Island Department of Environmental Management) and Renee Hudson Goodley (Georgia Environmental Protection Division). They estimated that it takes 300 hours and 117 hours respectively to review and make a final decision on a variance. This would result in an average of 209 hours per variance review.

Exclusions and Exemptions

Based on consultations with the Regional representatives, there is not much information available on facilities requesting hazardous waste exclusions/exemptions. According to Ken Herstowski (U.S. EPA Region 7), the facilities either meet the requirements for the exclusions/exemptions or they don't. The facilities are not usually required to make any submissions for using the exclusions/exemptions, which means they can not be easily tracked. Therefore, it does not make sense to change the respondent burden hour estimates for hazardous waste exclusions/exemptions included in the previous ICR.