



**ENVIRONMENTAL PROTECTION AGENCY**

**[EPA-HQ-OLEM-2018-0693, FRL-9985-81-OLEM]**

**Agency Information Collection Activities; Proposed Collection; Comment Request; Identification of Non-Hazardous Secondary Materials That Are Solid Waste (Renewal).**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) is planning to submit the information collection request (ICR), Identification of Non-Hazardous Secondary Materials that are Solid Waste (Renewal) (EPA ICR No. 2382.05, OMB Control No. 2050-0205) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (PRA). Before doing so, the EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through April 30, 2019. This ICR will be combined with the Categorical Non-Waste Determination for Selected Non Hazardous Secondary Materials (NHSM): Construction and Demolition Wood, Recycling Process Residuals, and Creosote-Treated Railroad Ties (Additions to List of Section 241.4 Categorical Non-Waste Fuels) (EPA ICR Number 2493.03, OMB Number 2050-0215), which is currently approved through March 31, 2019. 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.

**DATES:** Comments must be submitted on or before **[insert date 60 days after date of publication in the Federal Register]**.

**ADDRESSES:** Submit your comments, referencing by Docket ID No. EPA-HQ-OLEM-2018-0693, online using [www.regulations.gov](http://www.regulations.gov) (our preferred method), by email to [rcra-](mailto:rcra-)

docket@epa.gov, or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave., NW, Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** Jesse Miller, Office of Resource Conservation and Recovery, Materials Recovery and Waste Management Division, MC 5302P, Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: (703) 308-1180; fax number: (703) 308- 0522; email address: miller.jesse@epa.gov.

**SUPPLEMENTARY INFORMATION:**

Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at [www.regulations.gov](http://www.regulations.gov) or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The telephone number for the Docket Center is 202-566-1744. For additional information about EPA's public docket, visit <http://www.epa.gov/dockets>.

Pursuant to section 3506(c)(2)(A) of the PRA, the EPA is soliciting comments and information to enable it to: (i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected;

and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. The EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, the EPA will issue another Federal Register notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

*Abstract:* EPA published the Non-Hazardous Secondary Materials (NHSM) Rule on March 21, 2011. This rule finalized standards and procedures to be used to identify whether non-hazardous secondary materials are solid wastes when used as fuels or ingredients in combustion units.

“Secondary material” is defined as any material that is not the primary product of a manufacturing or commercial process, and can include post-consumer material, off-specification commercial chemical products or manufacturing chemical intermediates, post-industrial material, and scrap (codified in § 241.2). “Non-hazardous secondary material” is a secondary material that, when discarded, would not be identified as a hazardous waste under 40 CFR part 261 (codified in § 241.2). This RCRA solid waste definition determines whether a combustion unit is required to meet the emissions standards for solid waste incineration units issued under section 129 of the Clean Air Act (CAA) or the emissions standards for commercial, industrial, and institutional boilers issued under section 112 of the CAA. In this rule, EPA also finalized a definition of traditional fuels.

Amendments to this rule were published on February 7, 2013 (78 FR 9112), which added new materials to the list of categorical non-waste fuels. These amendments also provided clarification on certain issues on which EPA received new information, as well as specific targeted revisions.

Further amendments to this rule were published on February 8, 2016 (81 FR 6688) and on February 7, 2018 (83 FR 5317), which added more materials to the list of categorical non-waste fuels. The ICRs associated with the February 2013, February 2016 and February 2018 rules are being consolidated into this ICR.

*Form Numbers:* None.

*Respondents/affected entities:* Entities potentially affected by this action are Business or other for-profit.

*Respondent's obligation to respond:* Required to obtain benefit (Sections 1004 and 2002 of RCRA).

*Estimated number of respondents:* 2,076

*Frequency of response:* One time

*Total estimated burden:* 3,236. Burden is defined at 5 CFR 1320.03(b)

*Total estimated cost:* \$108,068 (per year), which includes \$106,716 in annualized labor and \$1,343 in annualized capital or operation & maintenance costs.

*Changes in Estimates:* The burden hours are likely to stay substantially the same.

Dated: October 18, 2018.

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Barnes Johnson, Director

Office of Resource Conservation and Recovery

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