



**ENVIRONMENTAL PROTECTION AGENCY**

**[EPA-HQ-OLEM-2018-0013, FRL-10025-53-OLEM]**

**Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Revisions to the RCRA Definition of Solid Waste.**

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

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) is planning to submit the information collection request (ICR), Revisions to the RCRA Definition of Solid Waste (EPA ICR No. 2310.07, OMB Control No. 2050-0202) 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 March 31, 2022. 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-2018-0013, online using [www.regulations.gov](https://www.regulations.gov) (our preferred method), by email to [rca-docket@epa.gov](mailto:rca-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:** Tracy Atagi, Environmental Protection

Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: 703-308-8672; fax number: 703-308-8880; email address: [Atagi.Tracy@epa.gov](mailto:Atagi.Tracy@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:* In 2018, the EPA published final revisions to the definition of solid waste that exclude certain hazardous secondary materials from regulation (83 FR 24664, May 30, 2018). The 2018 final rule was promulgated in response to orders issued by the United States Court of Appeals for the District of Columbia Circuit on July 7, 2017, and amended on March 6, 2018, vacating

certain provisions of the 2015 rule and reinstated corresponding provisions from the 2008 rule. The information requirements help ensure that (1) entities operating under the regulatory exclusions contained in today's action are held accountable to the applicable requirements; (2) state inspectors can verify compliance with the restrictions and conditions of the exclusions when needed; and (3) hazardous secondary materials exported for recycling are actually handled as commodities abroad. Recordkeeping requirements include:

- Under the generator-controlled exclusion at 40 CFR 261.4(a)(23), the tolling contractor has to maintain at its facility for no less than three years records of hazardous secondary materials received pursuant to its written contract with the tolling manufacturer, and the tolling manufacturer must maintain at its facility for no less than three years records of hazardous secondary materials shipped pursuant to its written contract with the tolling contractor. In addition, facilities performing the recycling of hazardous secondary materials under the generator-controlled exclusions at 40 CFR 261.4(a)(23) to maintain documentation of their legitimacy determination onsite.
- Under the transfer-based exclusion at 40 CFR 261.4(a)(24), a generator sending secondary hazardous materials to a facility that does not have a permit, would be required to conduct a "reasonable efforts" environmental audit of the receiving facility; and a hazardous secondary materials recycler must meet the following conditions: having financial assurance in place, having trained personnel, and meeting emergency preparedness and response conditions.
- Under the export requirements of the transfer-based exclusion at 40 CFR 261.4(a)(25), exporters of hazardous secondary material must provide notice and obtain consent of the receiving country and file an annual report.
- Under the remanufacturing exclusion at 40 CFR 261.4(a)(27), both the hazardous secondary material generator and the remanufacturer must maintain records of shipments and confirmations of receipts for a period of three years from the dates of the shipments.

- Under the revised speculative accumulation requirement in 261.1(c)(8), all persons subject to the speculative accumulation requirements must label the storage unit by indicating the first date that the material began to be accumulated.

This ICR renewal does not include the burden associated with filling out form 8700-12 because that burden is included under OMB Control Number 2050-0024.

*Form Numbers:* None.

*Respondents/affected entities:* Entities potentially affected by this action are private business or other for-profit, as well as State, Local, or Tribal governments.

*Respondent's obligation to respond:* Required to obtain or retain a benefit (42 U.S.C. 6921, 6922, 6923, and 6924.)

*Estimated number of respondents:* 7,674

*Frequency of response:* On occasion

*Total estimated burden:* 34,883 hours. Burden is defined at 5 CFR 1320.03(b).

*Total estimated cost:* \$2,752,557 (per year), which includes \$15,475 annualized capital or operation & maintenance costs.

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

Dated: June 23, 2021.

Carolyn Hoskinson, Director,

Office of Resource Conservation and Recovery.

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