SUPPORTING STATEMENT FOR
EPA INFORMATION COLLECTION REQUEST #1647.03

"EXPORTS FROM AND IMPORTS TO
THE UNITED STATES UNDER INTERNATIONAL AND
BILATERAL WASTE AGREEMENTS"

***** 11/01/2000 *****

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1. IDENTIFICATION OF THE INFORMATION COLLECTION

1(a) Title and Number of the Information Collection

The title of this ICR **(ICR #1647.03)** is "Exports from and Imports to the United States Under International and Bilateral Waste Agreements."

1(b) Short Characterization

On March 30, 1992, the Organization for Economic Cooperation and Development (OECD) adopted Council Decision C(39)92/FINAL on the *Control of Transfrontier Movements of Wastes Destined for Recovery Operations* ("OECD Decision"). The U.S., a member of the OECD, supported the OECD Decision; therefore, the OECD Decision is legally binding upon the United States Government. At the time the OECD Decision was adopted, member countries noted that most countries would find it necessary to change domestic regulations to implement the OECD Decision, although most modifications would be minor. To implement this legally binding Decision in the U.S., it was necessary for the U.S. Environmental Protection Agency (EPA) to modify certain regulations under the Resource Conservation and Recovery Act (RCRA). As a result, EPA developed a Final Rule to codify the requirements of the OECD Decision as it is implemented in the U.S. in 40 CFR Part 262, subpart H.[1] It is important to note that the new rule effectively modified the existing requirements for hazardous waste exports and imports to incorporate the additional requirements of the OECD Decision. The regulations are necessary to create requirements that are enforceable against U.S. hazardous waste exporters and importers.

Aside from the OECD Convention, the United States also imposes requirements on U.S. exports and imports of hazardous wastes to and from other countries at 40 CFR part 262, subpart E for exports and at subpart F for imports.

It is important to note that this ICR calculates the burden associated with waste exports from and imports to the U.S. under the OECD Decision (40 CFR Part 262, subpart H). This “OECD-only” burden is presented in separate exhibits in Section 6 of this supporting statement (see Exhibits 6.1a and 6.2a). This ICR also calculates the burden associated with U.S. exports and imports of hazardous wastes to and from other countries (non-OECD). This burden is presented along with the OECD burden in other exhibits in Section 6 (see Exhibits 6.1 and 6.2). The existing (non-OECD) export and import requirements (40 CFR Part 262, subparts E and F) already required Notifications of Intent to Export and manifests for exports and imports. Therefore, the “OECD-only” analysis in this ICR considers only the incremental burdens and costs associated with the minimal additional information collection requirements imposed by the OECD Decision. The analysis that includes exports and imports under the

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[1] Although there are requirements for foreign entities pursuant to the OECD Decision, this ICR estimates only the burdens to the U.S. regulated community and EPA. This is because the OECD Decision itself establishes the requirements for foreign entities. The rule codifying the OECD Decision in the U.S. (under RCRA authority) establishes requirements only for the regulated community within the United States.

OECD Decision plus other hazardous waste exports and imports ("OECD-plus") also considers only the incremental burdens associated with the OECD Decision, but applies them to a broader universe of shipments (i.e., non-OECD exports and imports). In this way, the burden figures and costs calculated for "OECD-plus" are somewhat misleading, since non-OECD shipments need not conform to the OECD Decision requirements.

The burden and costs estimated for the OECD-only scenario are far lower, due to the limited number of exports from and imports to the U.S. under the OECD Decision. However, these numbers reflect an accurate estimation of the burden associated with the OECD requirements.

The OECD Decision identifies an extensive array of wastes that are subject to a graduated system of procedural and substantive controls when they are moved across national borders within the OECD.[2] The applicable control scheme for any particular waste depends on the pre-established placement of a waste on one of three lists: green, amber, or red. Green-list wastes are subject to no additional controls under the OECD Decision beyond those imposed on normal international commercial shipments. Amber-list wastes either: (1) move on a shipment-by-shipment basis requiring prior written notification and consent (either written or tacit) from the importing and transit countries (if any); or (2) move to a facility that is pre-approved by the importing country to accept that waste type with prior written notification only. In both cases, the waste must be accompanied by a tracking document and shipped under a legally binding contract, chain of contracts, or equivalent arrangements (where the notifier and the receiving facility are part of the same corporate entity). Red-list wastes are handled in the same manner as amber-list wastes except that prior written consent from importing and transit countries is always required and no facilities are pre-approved to accept red-list wastes. Wastes not identified on any list are subject to red-list controls if they are identified or defined as a hazardous waste using a concerned country's (exporting, importing, and transit, if any) national procedures (*e.g.*, laws and regulations); otherwise, they move as green-list wastes.[3]

Many of the wastes identified on the amber and red lists are, in fact, categories of wastes rather than specific waste streams (*e.g.*, wastes from the formulation, production, and use of paints). OECD member countries are allowed to use their respective national procedures (*e.g.*, RCRA) to determine which specific waste streams are subject to the

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[2] OECD member countries currently include Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Korea, Luxembourg, Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, Spain, Sweden, Switzerland, Turkey, the United Kingdom, and the United States.

[3] An OECD work group, comprised of Member country delegates, is in the final stages of re-negotiating the legally binding international agreement, or "Council Decision", which facilitates trade in waste recyclables among developed countries. The renegotiation of the Council Decision will alter somewhat, the current procedural and substantive controls governing waste movement across national borders within the OECD. The OECD Member countries are expected to formally approve this revised international agreement in 2001. The agreement will not enter into force for the U.S. until relevant RCRA regulations are revised to reflect the OECD agreement.

OECD Decision. Under U.S. national procedures, those hazardous wastes subject to Federal manifesting requirements under RCRA, using the definition of hazardous waste found in the Federal regulations (40 CFR 261.3), are covered by EPA's regulations codifying the OECD Decision. The Agency's interpretation of the scope of coverage of the OECD Decision (hazardous wastes subject to RCRA manifesting requirements under Federal regulations) applies only to controls imposed within the jurisdiction of the U.S. Persons exporting wastes from the U.S. to other OECD countries also have to comply with any additional requirements imposed by the importing and transit countries, in accordance with the domestic laws of those countries, which is the *status quo*.

On April 12, 1996 (61 FR 16289), the newly modified regulations codifying the OECD Decision procedures replaced existing RCRA export/import regulations found in 40 CFR Part 262, subparts E and F only for those hazardous wastes destined for recovery within the scope of the OECD Decision. Those hazardous wastes not within the scope of the OECD Decision remain subject to the previously existing RCRA export/import requirements in 40 CFR Part 262, subparts E and F. Wastes not within the scope of the OECD Decision include all hazardous wastes moving to:

- Non-OECD member countries, and
- OECD member countries for treatment and disposal).

In addition, it is important to note that it is EPA's interpretation that the RCRA regulations codifying the terms of the OECD Decision are applicable only to hazardous waste destined for recovery that is:

1. Subject to the RCRA manifest requirements under the Federal regulations when it is sent for recovery, and

2. Sent to or received from an OECD member country.[4]

The collection of information from U.S. exporters and U.S. importers was an existing process under RCRA prior to the April 12, 1996 rulemaking. However, the regulations codifying the OECD Decision had the net effect of increasing the burden of information collection imposed on EPA and U.S. exporters and importers of hazardous wastes. This increased burden is not defined as a "significant regulatory action" under section 3(f) of Executive Order 12866, "Regulatory Planning and Review."

Under non-OECD hazardous waste export regulations, U.S. exporters of hazardous waste must complete and transmit to EPA a Notification of Intent to Export hazardous waste for each shipment unless the notice is a general, annual notice for multiple shipments

[4] Although Canada and Mexico are members of the OECD, the United States has separate bilateral agreements covering transboundary movements of waste with both Canada and Mexico. Therefore, while the requirements of 40 CFR Part 262, subpart H do not apply to U.S. exports and imports to and from Canada and Mexico, this ICR does consider the burden associated with shipments to and from Canada and Mexico, as well as other countries with which the U.S. maintains a bilateral waste trade agreement.

of the same hazardous waste to the same recovery facility (40 CFR Part 262, subpart E). The OECD Decision did not significantly change this requirement, but does require the submittal of additional information as part of the Notification of Intent to Export. These new requirements are discussed in Section 4(b) of this ICR. No additional recordkeeping burden is imposed by the OECD Decision; recordkeeping requirements continue to be the same as requirements imposed under existing export regulations.

Under the Part 262, subpart E export regulations, U.S. exporters also must complete and transmit a Uniform Hazardous Waste Manifest. The OECD Decision requires exporters of hazardous waste to complete and transmit a tracking document.[5] Some information required in the tracking document exceeds that presently required for the hazardous waste manifest. Most of the additional information required for the tracking document under the OECD Decision is information necessary for the OECD Notification of Intent to Export. A tracking document is required each time an export shipment of hazardous waste is initiated.

Under the non-OECD hazardous waste import regulations, U.S. hazardous waste management facilities regulated under 40 CFR Part 264 or 265 must notify EPA at least four weeks prior to the date of receipt of hazardous waste imports. Importing facilities must confirm receipt of the shipment by sending a signed copy of the manifest to the generator, e.g., foreign generator or U.S. importer (40 CFR Part 262, subpart F). The OECD Decision also requires recovery facilities importing hazardous waste into the U.S. to return signed copies of the tracking document to the foreign exporter and competent authorities of the concerned countries (exporting, importing, and transit, if any). The OECD Decision did not significantly change the previously existing requirements, but required the signing and transmission of additional copies of the tracking document and an expedition of this process (three working days instead of 30 days).

The information collection burden imposed under both the OECD Decision and for U.S. hazardous waste exports to and from other countries, involves approximately 816 U.S. exporters and 746 U.S. importers. The annual cost associated with the additional OECD requirements in the first year covered by this ICR is estimated to be $441,360 for U.S. exporters and $38,582 for U.S. importers.

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[5] Although the OECD Decision requires the use of a tracking document, the OECD only recommends forms for notification and tracking purposes. Neither the OECD nor the U.S. requires their use. Therefore, OECD member countries are allowed to use any document, provided all of the required information is contained in the document. If OECD decides to require the use of OECD forms, EPA will codify this requirement and assess the burden.

2. NEED FOR AND USE OF THE COLLECTION

2(a) Need and Authority for the Information Collection

Authority to promulgate the April 12, 1996 rule is found in sections 2002(a) and 3017(a)(2) and (f) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, and as amended by the Hazardous and Solid Waste Amendments, 42 U.S.C. §6901 *et seq*.

The Final Rule codifying the OECD Decision was necessary to ensure implementation of the OECD Decision, which is considered legally binding on the United States under Articles 5(a) and 6(2) of the OECD Convention, 12 U.S.T. 1728. In addition, the OECD Decision and the rule implementing the OECD Decision ensure that exports and imports of recoverable hazardous waste between the U.S. and OECD member countries may proceed even though the U.S. is not yet a "Party" to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal. The Basel Convention entered into force on May 5, 1992 for countries that had ratified it by that date. The Convention prohibits trade of Basel-covered wastes between Parties and Non-parties, unless a bilateral, multilateral, or regional agreement or arrangement exists in accordance with Article 11 of the Convention. The OECD Decision satisfies the requirements of Article 11 of the Basel Convention because it is a pre-existing multilateral agreement compatible with the environmentally sound management of wastes as required by the Basel Convention. Therefore, the revisions to the RCRA hazardous waste export and import regulations, which are necessary to implement the OECD Decision, make it possible for the U.S. to continue exporting and importing Basel-covered wastes for recovery to and from OECD countries. The European Union's implementation of regulations for Basel and OECD became effective on May 6, 1994.

Although the OECD Decision is neither a statute nor a court order, it has similar impacts. Courts recognize international agreements as part of the law of the U.S. and as supreme over the law of the states. The State Department has determined that this OECD Decision is an international agreement binding on the U.S. under the terms of the OECD Convention. The U.S. had an obligation under that Convention to implement the OECD Decision as quickly as possible. Other OECD member countries may refuse to accept U.S. shipments of waste for recovery that do not conform to the OECD Decision. Such countries also may refuse to allow wastes to be exported to the U.S. if the U.S. cannot carry out its duties under the OECD Decision.

The State Department determined that the OECD Decision is not "self-executing" and therefore regulations are necessary to give its provisions the effect of law. In other words, the OECD Decision does not by itself impose any obligations directly on citizens of the U.S. Instead, by consenting to the OECD Decision, the United States Government agrees to enact legislation or promulgate regulations necessary to ensure that the U.S. can uphold the agreement. EPA and the State Department determined that no new legislation was needed because RCRA authorizes EPA to promulgate requirements for individual importers and exporters of hazardous waste that are needed to implement the OECD Decision.

The OECD Decision sets out very specific requirements for shipments of recoverable hazardous waste. EPA codified in the Code of Federal Regulations language that mirrors the OECD Decision to establish certain requirements that are enforceable against importers and exporters (40 CFR Part 262, subpart H).

2(b) Practical Utility and Users of the Data

The Office of Enforcement and Compliance Assurance, U.S. EPA, uses the information provided by each U.S. exporter and U.S. importer to determine compliance with the applicable RCRA regulatory provisions. In addition, the information is used to determine the number, origin, destination, and type of exports from and imports to the U.S. for tracking purposes and for reporting to the OECD. This information also is used to assess the efficiency of the program.

3. NONDUPLICATION, CONSULTATIONS, AND OTHER COLLECTION CRITERIA

3(a) Nonduplication

Except as described below, the OECD Decision does not result in the collection of duplicate data. Although some of the information required for the hazardous waste manifest and the tracking document is substantively the same, up to six pieces of additional information are required for the tracking document. In addition, these two documents serve different purposes. A signed copy of the hazardous waste manifest, which is not valid beyond U.S. borders, is dropped off at the U.S. Customs check point when the shipment leaves the U.S. to verify pertinent information, including point of departure, date, destination, and contents of the shipment. The tracking document must accompany the shipment until it reaches the foreign recovery facility. The signed tracking document is subsequently returned to EPA and the U.S. exporter to acknowledge receipt of the shipment in accordance with the OECD Decision.

In certain cases, some of the information on the tracking document also may be collected by the Department of Commerce in its Census Bureau form titled "Shipper's Export Declaration" (15 CFR Part 30). This form, which is required for all shipments that have a value in excess of $1,500, must be filed at the U.S. port of exit, similar to the current export requirements. However, the information contained in the Census Bureau's form is not adequate for EPA's purpose of tracking and identifying the export of hazardous waste from the U.S. For example, the wastes are identified by tariff codes that are less precise than the waste codes required by the tracking document.

Because the OECD Decision applies only to hazardous waste destined for recovery, it is likely that some of the wastes may have a value in excess of $1,500. EPA believes that the economic interest served by allowing recovery operations to continue within the OECD and the interest in protecting human health and the environment served by the tracking document outweigh the potential minor costs to a small number of exporters that may have to complete the Census Bureau form in addition to the tracking document.

3(b) Public Notice

When the regulations codifying the OECD Decision were published on April 12, 1996 (61 FR 16289), EPA promulgated the requirements without first providing notice and opportunity for public comment. Under the Administrative Procedure Act (APA), 5 U.S.C. 553 (b)(B), an agency may forgo notice and comment in promulgating a rule when the agency finds that such procedures are impracticable, unnecessary, and/or contrary to the public interest. EPA found that notice and comment procedures were unnecessary in connection with promulgating the OECD Decision because EPA was precluded from modifying the rule in any meaningful way in response to public comment. The requirement to implement the Decision virtually as written derived from the legally binding commitment made by the U.S. with the other OECD countries on implementing the Decision. As a result, the April 12, 1996 rulemaking is analogous to a codification of statutory requirements, where an agency assumes the nondiscretionary function of simply translating requirements into regulatory form.

On November 1, 2000, EPA published a notice in the *Federal Register* to inform the public that this proposed and continuing ICR, entitled "U.S. Exports and Imports of Hazardous Wastes", was being submitted to OMB for review and approval. The burden and cost figures presented in the *Federal Register* notice correspond to the "OECD-plus" scenario analyzed in this ICR and include exports and imports under the OECD Decision plus other bilateral waste agreements.

3(c) Consultations

EPA played a significant role in negotiating the U.S.' position in the OECD Decision. EPA benefitted from extensive industry involvement and support from such groups as the Institute for Scrap Recycling Industries, Aluminum Association, International Precious Metals Institute, National Forest and Paper Association, U.S. Chamber of Commerce, American Chemistry Council (then Chemical Manufacturers Association), World Resources Company, American Zinc Association, Cadmium Council, Non-ferrous Metal Producers Committee, National Mining Association, and the Zinc Corporation of America. Other Federal agencies involved included the State Department and the Department of Commerce.

3(d) Effects of Less Frequent Collections

The Agency believes that the tacit consent and general notification provisions for amber-listed waste are the minimum necessary to ensure compliance with domestic statutory and international requirements. The tacit consent and general notification provisions are a reduction in burden. Any further reduction in the information collection requirements would hinder the Agency from effectively tracking the disposition of hazardous waste.

3(e) General Guidelines

This information collection follows all of OMB's "General Guidelines for Information Collections." However, OMB's general guidelines require EPA to justify any reporting

requirements imposed more frequently than quarterly. Under the rules codifying the OECD Decision, copies of the tracking document are required to be sent to the Agency within 3 working days of receiving the shipment. It is possible that the timing of import shipments to the U.S. could trigger the obligation of importers to forward tracking documents to EPA more frequently than on a quarterly basis. There is, however, no accurate or dependable method to predict how often this would occur under the OECD Decision, since the shipments are tied solely to market conditions and patterns of the hazardous waste import/export business.

Within three working days of receiving the Notification of Intent to Export hazardous waste to the United States, EPA is required to transmit the Notification of Acknowledgment of Receipt to the competent authority(ies) of the foreign exporting country. This requirement codifies a provision of the OECD Decision that is binding on the United States Government as a signatory nation. EPA has no discretion to modify this response time requirement as it is set forth in the OECD Decision. Further, the practical effect of changing to a three-day response time results in the expedition of the shipping of these wastes and helps maximize the efficiency of the hazardous waste recovery process to the benefit of the regulated community.

3(f) Confidentiality

The Agency will comply with all applicable provisions of Section 3007(b) of RCRA and 40 CFR Part 2, subpart B, and 40 CFR 260.2. These regulations define EPA's general policy on the public disclosure of information.

3(g) Sensitive Questions

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

4. THE RESPONDENT AND THE INFORMATION REQUESTED

4(a) Respondents' SIC Codes

Businesses with the following SIC codes potentially are affected by this effort:

28 Chemicals and allied products
29 Petroleum refining and related industries
33 Primary metal industries
34 Fabricated metal products, except machinery and transportation equipment
35 Industrial and commercial machinery and computer equipment
36 Electronic and other electrical equipment and components, except computer equipment
37 Transportation equipment
38 Measuring, analyzing, and controlling instruments
39 Miscellaneous manufacturing industries
49 Electronic, gas, and sanitary services

4(b) Information Requested

The information requirements imposed on respondents under the OECD Decision are basically the same as the requirements previously imposed under the general export and import requirements of 40 CFR Part 262, subparts E and F, except for the additional information items described below.[6]

(i) Data Items

The following information, which is required by the OECD Decision, is in addition to the information required for non-OECD exports and imports, under 40 CFR Part 262, subparts E and F, respectively:

U.S. Exporters:

Export Notification (40 CFR 262.83):

- Fax number
- Serial number/identifier of notification form
- Intended carrier(s) and/or agents
- Countries of export, import, and transit and relevant competent authorities
- Certification of the existence of written contract, chain of custody, or equivalent arrangement with consignee, between exporter and importer
- Certification that the information is complete and correct
- Certification of financial guarantee if required by any concerned country (importing and transit).

Tracking Form (40 CFR 262.84):

- Fax numbers of the export notifier, consignee, and carrier
- Technologies employed by the recovery facility

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[6] For the purposes of this ICR, under the OECD Decision it is assumed that only amber-listed wastes are exported or imported for recovery. The Agency believes that most of the RCRA wastes subject to Federal manifesting are amber-listed wastes. The number of red-listed waste shipments are probably very small because the U.S. has banned the export of some of the wastes (*e.g.,* PCBs) and other countries similarly have instituted restrictions on some red wastes. In addition, most red-listed wastes are not as amenable to recovery as amber-listed wastes, and thus, are unlikely to be shipped under this OECD Decision.

- Means and mode of transport, including types of packaging
- Countries of export, import, and transit and relevant competent authorities
- Frequency of shipment (single or general notification).

Certification of Contracts (40 CFR 262.85):

(This is not an additional burden because it has long been standard business practice.)

U.S. Importers:

The rule codifying the OECD Decision did not impose any significant new or additional information collection requirements on U.S. importers of hazardous waste destined for recovery. However, U.S. recovery facilities that import hazardous waste are required to sign additional copies of the tracking document and transmit them to the appropriate parties within three working days instead of the previously required 30 days [see §§264.71(d) and 265.71(d)].

(ii) Respondent Activities

U.S. Exporters:

- Obtain and read the regulations codifying the OECD Decision and assess applicability
- Complete the additional information for the Notification of Intent to Export
- Complete the additional information for the tracking document.

U.S. Importers:

- Obtain and read the regulations codifying the OECD Decision and assess applicability
- Sign and transmit the additional copies of the tracking document to EPA, competent authority of exporter country, and competent authority of transit country (if applicable)
- Expedite the response time (three working days) to transmit copies of the signed tracking document to the foreign exporter, EPA, competent authority of exporter country, and competent authority of transit country (if applicable).

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

The following subsections discuss how EPA collects the information, what activities, if any, EPA performs after receiving the information, and how EPA manages the information

that it collects. Only those additional information collection and management activities required by the OECD Decision (performed by EPA) are considered in this section of the supporting statement.

5(a) Agency Activities

The OECD Decision requires the Agency to perform the following additional information collection and management activities. These activities are in addition to the baseline (non-OECD) information collection and management requirements already imposed by RCRA for hazardous waste exports and imports.[7]

Exports From the U.S.:

- Receive and record the Acknowledgment of Receipt from the importing country
- Receive and record the Tracking Document received from the foreign recovery facility.

Imports To the U.S.:

- Transmit an Acknowledgment of Receipt to the foreign exporter, competent authority of the foreign exporting country, and competent authority of transit country(ies) if applicable
- Receive and record the Tracking Document received from the U.S. recovery facility.

[7] The quantifiable benefit to EPA in implementing the OECD Decision is the reduced burden cost to EPA to implement the exporter procedures required under the OECD Decision. The Agency is relieved of having to forward the importing country's Acknowledgment of Consent or denial to the U.S. exporter.

5(b) Collection Methodology and Management

As with the information collection activities under the non-OECD hazardous waste export and import program, the collection and management of the information submitted to EPA via the Notification of Intent to Export, tracking documents, and Acknowledgments of Receipt is stored by EPA in file cabinets and/or electronically to be compiled in an annual status report. In addition, this information is collected and stored for possible future use in enforcement actions.

5(c) Small Entity Flexibility

In promulgating the rule codifying the OECD Decision, EPA evaluated the impact on regulated small entities. The decision to export or import hazardous waste is voluntary. Thus, no business, small or otherwise, is required to export or import its hazardous waste. Therefore, there is no mandatory burden on the regulated community, including small businesses. Furthermore, for small businesses that do choose to export or import hazardous waste, EPA exempted conditionally exempt small quantity generators (less than 100 kilograms per month) from the requirements of the rule.

5(d) Collection Schedule

Under the rule codifying the OECD Decision, Notification of Intent to Export submissions and tracking documents are generated and sent to EPA on a random, occurrence-specific basis for which there is no formalized schedule. Once these events do occur, notifications must be sent to EPA within 45 days prior to initiating waste exports, and tracking documents must be sent to EPA by U.S. recovery facilities within three working days of receipt of imported wastes.

6. ESTIMATING THE COST AND BURDEN OF THE COLLECTION

6(a) Estimating Respondent Burden

(1) Requirements for Exports of Hazardous Waste from the U.S.

The OECD Decision imposes incremental burdens on U.S. exporters of hazardous waste destined for recovery. These burdens result from the activities discussed in Section 4(b)(ii)--reading the regulations, completing the Notification of Intent to Export, and completing the tracking document. The burden and costs associated with the few additional activities imposed on U.S. importers are shown in Exhibits 6.1 and 6.1a (all Exhibits are presented at the end of Section 6).

Data on exports were obtained from EPA's Office of Enforcement and Compliance Assurance (OECA). The level of certainty associated with available export data is high, except for per-company shipment estimates. The level of certainty associated with the number of per-company shipment estimates is low because of the use of brokering agents that may represent multiple companies.

The affected universe of U.S. exporters and export shipments of hazardous waste from the U.S. as a result of the OECD Decision (and other bilaterals) includes the following:

- *U.S. Exporters*:
  The precise total number of U.S. exporters affected by the OECD Decision cannot be determined. This is because it is difficult to account for the number of companies that use waste brokers who may trade several companies' wastes, and who file notices and annual export reports for wastes for multiple generators (exporters). However, the number of exporters who filed a Notification of Intent to Export to OECD countries only in 1999 was 44. The total number of companies in 1999 that filed a Notification of Intent to Export to either an OECD country or a country covered by a bilateral agreement was 816. For the purposes of this ICR, these numbers of exporters are used to estimate burden.

- *Export Shipments*:
  Based on data obtained from the Office of Enforcement and Compliance Assurance, the number of export shipments from the U.S. to OECD countries only is estimated to be 1,320. The number of export shipments to OECD countries and to other countries under bilateral agreements (including Canada and Mexico) is estimated to be 25,000.

(2) Requirements for Imports of Hazardous Waste to the U.S.

The OECD Decision imposes only minor, incremental burdens on U.S. importers of hazardous wastes destined for recovery. These burdens stem from those few activities identified in Section 4(b)(ii)--reading the regulations, signing the various copies of the tracking document, and transmitting the signed copies within three working days rather than 30. The Agency recognizes that there is an increased burden to U.S. importers associated with the expedited response time for signing and transmitting the completed tracking document (30 days reduced to three working days). However, because there is no additional labor effort, paperwork burden, recordkeeping, reporting, or capital costs associated with this decrease in response time, there is no reasonable, accurate cost burden that can be estimated for this effort. It is assumed that such costs are understood intuitively to be slight in relation to other requirements imposed by the OECD Decision. The burden and costs associated with the few additional activities imposed on U.S. importers are shown in Chart 6.2.

The affected universe of U.S. importers and hazardous waste import shipments to the U.S. as a result of the OECD Decision (and other bilaterals) includes the following:

- *U.S. Importers:*
  Based on data from OECA, there were 746 U.S. importers in 1999. This includes U.S. facilities importing wastes from OECD countries, as well as from other countries under bilateral agreements. 34 importers received wastes only from OECD countries in 1999.

- *Import Shipments*:
  OECA has no information on the number of import shipments originating in all

countries, so it was assumed that each of the 746 importers receives four (4) shipments per year, for a total of 2,984 annual import shipments. OECA provided information that one U.S. facility regularly imports wastes from another OECD country and estimated the annual number of OECD import shipments to be approximately 350 shipments per year. For purposes of this ICR, these numbers of U.S. importers and import shipments are used to estimate burden.

6(b) Estimating Respondent Costs

As shown in Chart 6.1, the estimated annual incremental costs incurred by U.S. companies **exporting** hazardous waste to an OECD country include costs associated with the time necessary to:

- Obtain and read the regulations and assess applicability (new entrants only)
- Complete a Notification of Intent to Export hazardous waste
- Complete the Tracking Document

As shown in Chart 6.2, the estimated incremental costs incurred by U.S. recovery facilities **importing** hazardous waste include costs associated with the time necessary to:

- Sign and transmit copies of the tracking document
- Reduce response time (3 working days as compared to 30 days) to transmit a signed copy of a tracking document

EPA estimates an average hourly respondent cost of $73 for managerial staff, $53 for technical staff, and $27 for clerical staff. These rates were used in the most recent version of the Land Disposal Restrictions ICR (EPA ICR #1442.17). To derive these figures, EPA consulted the *Handbook of U.S. Labor Statistics*, Second Edition, and the EPA report *Estimating Costs for the Economic Benefits of RCRA Noncompliance*. These publications summarize the base hourly rates for various labor categories in U.S. firms. EPA then applied an overhead factor of 2.3 for non-legal staff and 3.0 for legal staff to derive the loaded hourly rates. Loaded rates include salary, benefits, and other overhead.

There are no significant start-up costs associated with this ICR. With respect to operation and maintenance costs, the tracking document requirements for U.S. importers of hazardous waste (*i.e.*, recovery facilities transmitting additional copies of the tracking document), the Agency assumes that the tracking document is sent by telefax. The telefax is a one-page copy of the tracking document. Currently, 70 percent of all hazardous waste imports to the U.S. originate in Canada. Deriving the most conservative cost estimates assumes that 70 percent of the telefaxed documents are sent to Canada at a cost of $0.11 per minute; the remaining 30 percent of the faxed documents are assumed to be sent to Australia (the most distant OECD member country from the U.S. mainland borders) at a cost of $0.13 per minute. (These rates are based on peak rates for private businesses that spend $25 or more each month.) Based on these data, a weighted average per fax cost of $0.11 was used. This assumes that it takes one minute to fax each page of the tracking document. The annual total telefax costs are approximately $.35 per importer, for a total estimated operation and maintenance cost of $1,015 per year.

6(c) Estimating Agency Burden and Cost

Additional EPA information collection and management responsibilities under this rulemaking involve only administrative functions. Therefore, no management or technical cost figures are included in this ICR. The EPA clerical labor rate used to estimate costs to the Agency is $18.32. This labor rate, used to estimate incremental annual costs, was used in the most recent ICR for the Land Disposal Restrictions program (EPA ICR #1442.17).

In 1999, 95 percent of all hazardous waste exports from the U.S. were to Canada, which did not involve a transit country. Although exports to other countries may require the use of a transit country, the precise number is unknown. However, to estimate the maximum possible burden, it is assumed that all exported shipments of hazardous waste not going to Canada (5 percent) are transported through a transit country. Therefore, it is assumed that a maximum of 1,250 export shipments (25,000 shipments x 5 percent) require the receipt and recording by EPA of an Acknowledgment of Receipt from the competent authority in the transit country. As explained earlier, completion of a Notification of Intent to Export is required annually for each shipment of one type of waste sent to the same recovery facility, but not required with every shipment of like waste.

As stated previously, the total number of import shipments to the U.S. in 1999 from OECD and other countries was 746. Thus, for the purposes of this ICR, this number of import shipments is used to estimate Agency burden associated with importer provisions.

With regard to the tracking document requirements for U.S. importers of hazardous waste (*i.e.*, importer facilities sending additional copies of the tracking document), the Agency is assuming that the Tracking Document is sent by telefax. The telefax is a one-page copy of the Tracking Document. Currently, 70 percent of all hazardous waste imports to the U.S. originate in Canada. Deriving the most conservative cost estimates assumes that 70 percent of the telefaxed documents are sent to Canada at a cost of $0.12 per minute; the remaining 30 percent of the faxed documents are assumed to be sent to Australia (the most distant OECD member from the U.S. mainland borders) at a cost of $0.11 per minute. These rates are based on current rates for government agencies. Based on these data, a weighted average per fax cost of $0.12 was used. This assumes that it takes one minute to fax each page of the Tracking Document.

The Agency used its substantial experience in developing and implementing the existing RCRA regulatory program for estimating the burden hours associated with the various information collection and management activities required by the OECD Decision.

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

In estimating the respondent universe, EPA used data from the Office of Enforcement and Compliance Assurance (OECA). These data indicate that 816 Notices of Intent to Export were filed in 1999 for exports to OECD and other countries. Only 44 such notices were filed for exports to OECD countries alone. Similarly, OECA provided data indicating that 746 importers received shipments from OECD and other countries in 1999, while 34 received imports from OECD countries alone.

Using these numbers to estimate burden, the total annual burden and cost for U.S. exporters and importers under the OECD Decision and other bilaterals is 9,334 hours and $479,942. The total annual burden and cost under the OECD Decision alone is 607 hours and $30,856.

6(e) Bottom Line Burden Hours and Costs

"OECD-plus" Scenario

The total annual burden for all U.S. exporters of hazardous waste impacted by the OECD Decision and other bilaterals is 8,349 burden hours (10.23 hours per exporter). The total burden hours for all U.S. importers of hazardous waste impacted by the OECD Decision and other bilaterals is 985 burden hours (1.32 hours per importer). The total annual combined bottom-line burden hours and costs for U.S. importer and U.S. exporter respondents equal 9,334 burden hours and $479,942 (see Exhibit 6.1).

The total annual burden associated with EPA implementing the OECD Decision for exports of hazardous waste to OECD and other countries is 6,454 hours. The total annual burden for EPA to implement the OECD Decision for waste imports from OECD and other countries is 1,492 hours. The total annual Agency cost for U.S. exporters is $118,237. The total annual Agency cost for U.S. importers is $27,696. The total combined annual Agency burden and cost for respondents is 7,946 hours and $145,933 (see Exhibit 6.2).

"OECD-only" Scenario

The total annual burden for all U.S. exporters of hazardous waste affected by the OECD Decision is 491 burden hours (11.16 hours per exporter). The total annual burden for all U.S. importers of hazardous waste affected by the OECD Decision is 116 burden hours (3.4 hours per importer). The total annual combined bottom-line burden hours and costs for U.S. exporter and importer respondents (OECD-only) equal 607 hours and $30,856 (see Exhibit 6.1a).

The total annual burden associated with EPA implementing the OECD Decision for

exports is 341 hours. The total annual burden for EPA to implement the OECD Decision for waste imports is 175 hours. The total annual Agency cost for U.S. exporters is $6,247 and, for importers, $3,348. The total combined annual Agency burden and cost for respondents under the OECD Decision is 516 hours and $9,595.

6(f) Reasons for Change in Burden

The rule codifying the OECD Decision imposes minimal new information collection requirements on U.S. companies that export and import hazardous waste destined for recovery. As a result of these requirements, the total burden for all respondents has increased. The change in burden is a direct result of the OECD Decision and the U.S. becoming a signatory to the OECD Decision.

6(g) Burden Statement

Public reporting burden for the collection of information under the OECD Decision plus other bilateral agreements is estimated to average 10 hours for exporters and 1 hour for importers. The reporting burden under the OECD Decision alone is estimated to average 11 hours for exporters and 3 hours for importers. The reason for the significant discrepancies between exporter and importer burden in this ICR is due mainly to the fact that this analysis does not consider any importer burden associated with reading the regulations. The number of importers has decreased since the last ICR was developed, so it was impossible to assign this burden to the new entrants to the system. There are fewer requirements for importers than for exporters, but the actual difference in paperwork burden is probably less than that reflected by this analysis.

There is no change in recordkeeping requirements; therefore, no additional burden associated with increased recordkeeping was calculated. The calculated burden includes the time for reviewing the rule, completing any required forms such as the Notification of Intent to Export hazardous wastes and tracking documents, and associated administrative labor hours for the actual transmission of these documents to their proper locations, as specified by the rule codifying the OECD Decision.

Send comments regarding these burden statements or any other aspect of this collection, including suggestions for reducing the burden, to the following locations:

Director, Office of Environmental Information
U.S. Environmental Protection Agency
1200 Pennsylvania Ave, N.W.
Washington, DC 20460

and:

Desk Office for EPA
Office of Information and Regulatory Affairs
Office of Management and Budget
Washington, DC 20503