



March 29, 2017

RE: Department of Commerce Request for Information on the Impact of Federal Regulations on Domestic Manufacturing (82 FR 12786)

IPC- The Association Connecting Electronics Industries, is pleased to respond to the Department of Commerce (DOC) Request for Information on the Impact (RFI) of Federal Regulations on Domestic Manufacturing. IPC – Association Connecting Electronics Industries, represents more than 4,000 member facilities in the electronics industry, including design, material and equipment suppliers, printed board manufacturing, electronics assembly, and original equipment manufacturers. Over 80 percent of IPC's members are small and medium businesses. IPC members are significantly affected by the government regulations and IPC appreciates the DOC's interest in regulatory reform.

Manufacturers face a complex and overwhelming regulatory compliance burden that negatively impacts their abilities to develop innovative technology, create jobs, and compete in a global marketplace. IPC members support cost effective, science based regulations. Regulations based upon ideological predispositions, instead of science, risk wasting valuable resources on projects that will not result in increased protection of the public and should be revised or withdrawn.

IPC previously submitted comments in 2004 regarding needed regulatory reforms.¹ While the OMB forwarded our nominations to the appropriate agency, in most cases, little to no action has been taken. Many of the agency regulations nominated by IPC still lack cost-benefit analysis. IPC hopes that this time agencies will promptly address the issues raised and appreciated DOC attention to this issue.

A recent report commissioned by the National Association of Manufacturers, [The Cost of Federal Regulation to the U.S. Economy, Manufacturing and Small Business](#)², estimated Federal regulation to have cost more than \$2 trillion in 2012 (in 2014 dollars). The study also reveals the extent to which manufacturers bear a disproportionate share of the regulatory burden, and that burden is heaviest on small manufacturers because their compliance costs are often not affected by economies of scale. The analysis finds that the average U.S. company pays \$9,991 per employee per year to comply with federal regulations. The average manufacturer in the United States pays nearly double that amount—\$19,564 per employee per year. Small manufacturers, or those with fewer than 50 employees, incur regulatory costs of \$34,671 per employee per year. This is more than three times the cost borne by the average U.S. company.

¹ May 20, 2004. IPC Comments in RE: Draft 2004 Report to Congress on the Cost and Benefits of Federal Regulations; Notice of Availability and Request for Comments

² September 10, 2014, The Cost of Federal Regulation to the U.S. Economy, Manufacturing and Small Business, W. Mark Crain and Nicole V. Crain. <http://www.nam.org/Data-and-Reports/Cost-of-Federal-Regulations/Federal-Regulation-Full-Study.pdf>.

SPECIFIC REGULATIONS IPC WOULD LIKE TO NOMINATE FOR REFORM

The IPC is pleased to provide the following list of regulations identified by our members as particularly burdensome.

Environmental Protection Agency (EPA) Hazardous Waste Generator Improvements Rule

- The rule updates the Resource Conservation and Recovery Act's (RCRA) Hazardous Waste Generator (HWG) Regulatory Program enacted in 1980 and includes some rational updates that will bring greater efficiency and clarity.
- Extremely troubling is a provision that will change the criteria under which a generator of hazardous waste is deemed to be in violation of the RCRA permitting program applicable only to facilities that treat, store or dispose of hazardous waste (TSDFs). Under the new rule, failure to meet any one of EPA's long list of 'conditions for exemption' could subject a generator to multiple violations and substantial penalties. Even a minor deviation in compliance would cause a generator to now be considered an illegal TSDF.
- On February 24, 2017, the IPC, the American Chemistry Council (ACC) and six other trade associations filed a petition for review with the D.C. Circuit Court of Appeals.

IPC urges the Administration to propose a new rule eliminating the provision.

Environmental Protection Agency, Toxic Substances Control Act

- Under current EPA interpretation of the Toxic Substances Control Act (TSCA) Chemical Data Reporting (CDR) rule, which is authorized by TSCA, most inorganic manufacturing byproducts sent for recycling are treated as new chemicals and therefore are subject to extensive reporting requirements.
 - Inorganic byproducts present a relatively low risk of environmental harm.
 - Reporting duplicates other EPA reporting requirements under the Resource Conservation and Recovery Act (RCRA) and Toxic Release Inventory (TRI).
 - Discourages recycling.
- Under the Lautenberg Chemical Safety Act (LCSA) passed last year, EPA is required to conduct a negotiated rulemaking and propose a regulation to reduce the reporting burden for byproducts sent for recycling.

This is an opportunity for the new Administration to encourage and support expedient good faith participation by EPA in the negotiation and subsequent speedy proposal of a rule.

Environmental Protection Agency, Resource Conservation and Recovery Act, Listed Hazardous Waste F006

- Wastewater treatment sludge from electroplating operations, represent one of the largest sources in the United States of untapped metal-bearing secondary material.

- Under the Resource Conservation and Recovery Act (RCRA), metal precipitate sludge is considered an F006 listed hazardous waste when a manufacturing facility ships it off-site for metals recovery. The original listing was made in 1980. Testing in two EPA projects have demonstrated that the concerns that triggered the listing are no longer applicable for the majority of wastewater treatment sludge from printed circuit board facilities.
- The listed hazardous waste designation discourages reuse, recycling and reclamation by greatly increasing the cost of recycling these valuable materials.
- Reducing regulatory barriers will encourage more facilities to reclaim electroplating sludge, reducing landfill volumes and decreasing the environmental impact of metals mining.

IPC urges the EPA to propose a rule exempting F006, when sent for recycling, from hazardous waste regulations.

Environmental Protection Agency, Resource Conservation and Recovery Act, Definition of Solid Waste Act

- The EPA definition of solid waste inappropriately regulates secondary materials that have been sent for recycling as hazardous wastes. This increases the cost of managing the materials and discourages recycling of valuable materials.
- The 2008 DSW rule sought to promote recycling by providing two conditional exclusions from the RCRA hazardous waste regulations. Under both exclusions, hazardous secondary materials would be exempt from hazardous waste regulations when recycled according to certain conditions.
- The 2008 DSW rule had the potential to save industry, including electronics manufacturers, approximately \$95 million per year while simultaneously providing an environmental benefit by reducing waste.
- The EPA 2014 DSW rule undercut the 2008 rule's potential to promote recycling of secondary materials by introducing many onerous and unnecessary requirements.

IPC urges the EPA to withdraw the 2014 Definition of Solid Waste rule and replace it with 2008 rule.

Environmental Protection Agency Toxic Release Inventory, Lead Rule

- EPA's reduced reporting threshold for lead under the Toxic Release Inventory (TRI) rule is extremely burdensome for a large number of small businesses that report extremely low releases of lead.
- In the first year of the rule, over 85 percent of reports forms were filed by the manufacturing sector, representing only six percent of reported releases.
- EPA's estimate of over \$4,000 per facility for reporting understates the true burden on small manufacturing facilities.

- The threshold for reporting lead inappropriately relied on Persistence, Bioaccumulation and Toxicity (PBT) criteria, which were developed for synthetic organic chemicals and are not useful indicia of hazards for metals and inorganic metal compounds. EPA should reinstate reevaluate this rule using the Metals Framework.

As a minimal step towards improving the cost-effectiveness of this rule, existing TRI burden reduction options should be made available to lead reporters including the use of the simplified Form A, de-minimis, and range reporting.

Department of Labor Overtime Regulations

- Implementation of the overtime regulations would have a negative effect on a broad range of businesses, including the electronics manufacturing industry.
- The immediate doubling of the minimum salary threshold is too much too soon.
- The rule will result in compression on other exempt classifications that will require wage raises for other exempt classifications that are already above the new minimum salary threshold.
- The rule fails to address regional differences as the average salaries in one region of the United States can be quite different from other regions.

IPC urges the Administration to not pursue the Obama Administration's appeal of the preliminary injunction that blocked the Department of Labor's (DOL) final overtime rule, or revise the final overtime rule with a phased in approach of a new minimum salary threshold.

Occupational Safety and Health Administration (OSHA) Process Safety Management Minimum Concentration Levels

- On July 18, 2016, OSHA issued a [revised interpretation of the minimum concentration thresholds for chemicals covered by its Process Safety Management \(PSM\) standard \(1910.119\)](#). Except for 11 chemicals for which the PSM designates minimum concentrations, the new interpretation sets the minimum concentration for the remaining 126 chemicals at 1 percent. The new minimum concentrations supersede previously interpreted minimum concentrations for some of the individual 126 chemicals.
- The change in interpretation will require a much larger number of companies to comply with the burdensome requirements of the PSM.

IPC urges the administration to withdraw the July 18, 2016 interpretation.

OSHA's Final Rule on the Tracking of Workplace Injuries and Illnesses

- OSHA's guidance indicates that the use of post-accident/injury drug testing as part of an investigation may be considered this practice retaliatory.

- OSHA's guidance on the whistleblower protections of Section 11(c), also indicates that safety incentive programs that include cash payouts or bonuses based upon injury reporting (i.e. reportable rates) may be considered an illegal disincentive to reporting and basis for a citation.

IPC urges the Administration to withdraw the guidance.

Securities and Exchange Commission, Conflict Minerals Regulations

- Dodd-Frank Section 1501 requires companies to conduct and report on due diligence regarding the origin of tin, tantalum, tungsten and gold in their products.
- Companies are required to trace, through their supply chain, back to the mine of origin in order to determine whether the metals in their products are associated with perpetrators of violence and human rights violations in the Democratic Republic of Congo (DRC) and the eight adjacent countries.
- Compliance with these regulations has been extremely burdensome for companies
- The rule has resulted in a de-facto ban on minerals purchases from the affected countries, which has removed income from those the law was designed to help.
- Implementation of these regulations does not appear to have improved the human rights issues in the DRC.

IPC urges the Administration to work with Congress to remove the requirement for these rules.

Financial Accounting Standards Board Revenue Recognition Requirements

- This change has already cost companies millions in order to comply.
- Will mean less transparency for investors.

IPC urges the administration to reconsider the rule

Government Contracting Rules Requiring Annual Renewal

- Government contract requirements that contracts be renewed annually should be changed.
- Not allowing multi-year contracts is inefficient for companies and for the government.

IPC urges the administration to reconsider the rule

IPC Comments on Burdensome Regulations

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CONCLUSION

IPC appreciates the DOC's attention to reducing manufacturing burdens. Please feel free to contact me at FernAbrams@ipc.org should you have any questions about these comments or if we can otherwise be of assistance in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Fern Abrams".

Fern Abrams
Director Regulatory Affairs