



July 21, 2004

RCRA Information Center  
Mailcode: 5305T  
Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

**RE: Hazardous Waste Generator Regulatory Program Evaluation, Advanced Notice of Proposed Rulemaking (69 FR 21800, April 22, 2004). Docket ID RCRA-2003-0014.**

IPC – The Association Connecting Electronics Industries - would like to submit the following comments on the Environmental Protection Agency’s (EPA’s) Advanced Notice of Proposed Rulemaking (ANPRM) on evaluating the Resource Conservation and Recovery Act (RCRA) Hazardous Waste Generator Program.

IPC represents nearly 2,200 member companies involved in the manufacture and assembly of printed circuit boards (PCBs). PCB based electronic assemblies are used in a variety of electronic devices including computers, cell phones, pacemakers, and sophisticated missile defense systems. The industry is vital to the U.S. economy, employing more than 400,000 people in every U.S. state and territory, and exceeding \$44 billion in sales. Although IPC members include electronic giants as Intel, Hewlett Packard, and IBM, the vast majority of IPC members meet the Small Business Administration’s definition of “small business.”

IPC members are heavily regulated by a number of EPA regulations, including RCRA. As the majority of our members are small and medium sized business, they are disadvantageously impacted by regulations. IPC appreciates the opportunity to comment on the agency’s proposed evaluation of the RCRA Generator Standards. Reforming regulatory programs, such as RCRA, to reduce unnecessary burdens that do not provide environmental protection are a benefit to both small and large businesses.

While IPC supports the agency’s intentions to evaluate and improve the RCRA Generator Standards, we are concerned that this approach, as delineated by EPA’s ANPRM, is

overly circumscribed and unlikely to be an effective use of the agency's limited resources.

EPA states in the ANPRM, "The goals of improving our generator regulatory program are to foster improved program effectiveness, foster a pollution prevention stewardship philosophy, and reduce regulatory compliance costs, where practicable." Unfortunately, EPA declared off limits a discussion of the very issues that would allow the agency to achieve these goals: the overly burdensome regulation of the reclamation and reuse of hazardous materials.<sup>1</sup> EPA's regulation of all secondary materials as hazardous waste has led to a situation where recovery and reclamation of hazardous materials is more expensive than disposal and subsequent use of virgin materials. Until EPA addresses this fundamental flaw in the RCRA program, all other efforts, including the RCRA Burden Reduction effort<sup>2</sup> and the current ANPRM are unlikely to have a significant effect.

EPA has the opportunity with its proposed rule on the Definition of Solid Waste (DSW)<sup>3</sup> to truly "foster improved program effectiveness, foster a pollution prevention stewardship philosophy, and reduce regulatory compliance costs." Without pursuing the broad based reform discussed in the preamble to the DSW rule, IPC believes EPA will be unable to achieve these goals. As discussed in our submitted comments on the DSW rule,<sup>4</sup> IPC believes that by revising the definition of solid waste to identify certain recyclable hazardous secondary materials as not discarded and thus no longer a "waste" and subject to regulation under RCRA, EPA would provide greater incentive for recovery and reuse of beneficial materials. IPC therefore encourages EPA to undertake the broad based reform outlined in the DSW Proposed Rule's Preamble by excluding those materials legitimately recycled or reclaimed from Subtitle C RCRA jurisdiction.

IPC believes EPA's limited resources would be better spent by focusing on core program issues, such as those that the DSW rule could address, rather than the narrowly circumscribed and fairly insignificant issues discussed in this ANPRM. Nevertheless, should EPA wish to pursue this rulemaking, IPC offers the following comments in response to the agency's request for information.

### **Program Effectiveness**

In this section, EPA asks if the existing RCRA hazardous waste generator regulatory program is meeting its goal of protecting human health and the environment. As EPA has already stated in previous publications, the answer to this question is yes: "In these

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<sup>1</sup> Page 21803 of the ANPRM states, "We are not addressing issues associated with the definition of solid waste, hazardous waste identifications regulations associated with listings and characteristics, or export provisions."

<sup>2</sup> Resource Conservation and Recovery Act Burden Reduction Initiative; Notice of Data Availability (68 FR 61662)

<sup>3</sup> Proposed Rule, Revisions to the Definition of Solid Waste [68 FR 61558].

<sup>4</sup> IPC Comments on Revisions to the Definition of Solid Waste [68 FR 61558], February 23, 2004.

past twenty years waste management practices have improved tremendously. Uncontrolled dumping of hazardous industrial wastes has decreased dramatically...<sup>5</sup> However, this achievement has been realized only at the cost of a high regulatory burden and consumption of natural resources, much of it reinforced by the unintended incentives of the RCRA regulatory system that reward the disposal of hazardous materials over reclamation and recovery.

Regarding the question of whether the regulations are easy to understand, the proliferation of RCRA training courses and like publications are strongly indicative that the regulations are not easy to understand.

### **Program Improvements**

In this section EPA asks, "...what parts of the RCRA hazardous waste generator regulatory program can be improved and why?" EPA lists several areas for discussion including waste accumulation times, satellite accumulation, and generator accumulation in containers or tanks. Generally, IPC believes the program could be improved by shifting from the current, highly prescriptive regulations to a more performance based system.

For example, in the area of containers and tanks, EPA requires storage in closed containers. Some states have interpreted this to require "sealed containers." As a result, several of our members report having to construct special drums for the accumulation of soiled rags. Rational observation would reveal that even if a drum of rags spilled inside a building, it could be easily cleaned up without any possible environmental impact. In the case of materials stored inside buildings that constitute secondary containment, detailed storage requirements may be unnecessary.

Regarding waste accumulation times, longer accumulation times would be beneficial, especially for small businesses. Longer accumulation times would allow more efficient shipping and disposal. If the materials are being safely stored, extending the accumulation time should have no environmental effect other than the savings in transportation fuel.

### **Measuring Program Performance and Environmental Results**

As an organization, EPA is shifting away from its past bean-counting type measurements of the number of inspections, enforcements, etc. and towards the more meaningful measure of changes in environmental quality. It is only through measuring the effect of the regulations, i.e. environmental quality, that we can gauge true success. Therefore, IPC recommends that EPA measure spills to land and or new remediation needs as a measure of the RCRA regulatory program's success.

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<sup>5</sup> US EPA, Office of Solid Waste. "Beyond RCRA, Waste and Materials Management in the Year 2020." EPA530-R-02-009. April 2003.

### **Burden Reduction**

Environmental regulations have a significant impact on the global competitiveness of U.S. firms. While environmental protection is important, all regulations should be held to a strict cost-benefit standard. EPA has already proposed two rulemakings focused on reduction of RCRA burdens<sup>6</sup> and should work to finalize provisions contained therein. EPA should finalize the elimination of unnecessary records documentation, such as employee job titles and descriptions from training logs and reducing the RCRA record retention policies from the life of the facility to 3 years. In addition, EPA should eliminate duplicative RCRA mandates or provide for the option of complying with Occupational Safety and Health Administration's (OSHA's) Hazardous Waste Operations and Emergency Response personnel training and contingency plan requirements in lieu of RCRA requirements.

IPC recommends that EPA staff carefully examine RCRA regulations and eliminate any unnecessary cost-ineffective regulations. It is recommended that particular attention be given to the areas of manifests, labeling and contingency plans.

Finally, IPC recommends that EPA finalize the agency's proposed uniform hazardous waste manifest system.<sup>7</sup> EPA should eliminate the current inconsistencies of the various manifest forms among states and provide for one form for use in any state without regard to the source of the manifest.

### **Fostering Pollution Prevention and Recycling**

As mentioned in the introduction to our comments, IPC believes that to foster pollution prevention and recycling EPA must remove the regulatory barriers and economic disincentives created by subjecting the recovery and reclamation of hazardous materials to RCRA regulations. IPC believes that EPA would provide greater incentive for recovery and reuse of beneficial materials by revising the definition of solid waste to identify certain recyclable hazardous secondary materials as not discarded and thus no longer a "waste" subject RCRA hazardous waste regulations.

Absent pursuit of a broad DSW reform, IPC suggests that EPA finalize, as expeditiously as possible, a RCRA exemption for the reclamation of valuable metals from electroplating sludge (F006). Wastewater treatment sludge from electroplating operations, predominantly from the metal finishing and circuit board industries represent one of the largest sources in the United States of untapped metal-bearing secondary material amenable to metals recovery. The hazardous waste designation greatly increases the cost of recycling, resulting in a large quantity of valuable metal bearing sludge being disposed of in hazardous waste landfills rather than being recycled. Because landfilling

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<sup>6</sup> See 67 Fed. Reg. 2518 (January 17, 2002) and 68 Fed. Reg. 61662 (October 29, 2003).

<sup>7</sup> 66 Fed. Reg. 28240 (May 22, 2001).

and associated treatment are generally less expensive than metals recovery, much metals-rich sludge is landfilled, wasting these valuable resources.<sup>8</sup>

### **Conclusions**

At the end of the ANPRM, EPA alludes to the need to prioritize agency efforts given limited available resources, asking commenters to, "Identify the top three priority projects you would like to see EPA undertake in the near future." IPC believes that while the intentions of evaluating the twenty year old RCRA Generator Standards are sound, limited resources require a more rigorous examination of the purpose, goals, and likely success of the proposed rule. IPC strongly believes that EPA should make it their highest priority to undertake the broad based reform outlined in the DSW Proposed Rule's Preamble by excluding those materials legitimately recycled or reclaimed from Subtitle C RCRA jurisdiction. Absent such reform, it is recommended that EPA pursue individual materials exclusions such as a RCRA exemption for the reclamation of metals containing F006.

IPC appreciates the opportunity to submit these comments. Should you have any questions about the comments, please contact me at 202-962-0460 or by e-mail at [fabrams@ipc.org](mailto:fabrams@ipc.org).

Sincerely,



Fern Abrams  
Director of Environmental Policy

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<sup>8</sup> The 1998 *Metal Finishing Common Sense Initiative F006 Benchmarking Study* found that landfilling was the dominant choice for final disposal of electroplating sludge.