

# Congress of the United States

Washington, DC 20515

August 1, 2013

The Honorable Gina McCarthy  
Administrator  
Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Dear Administrator McCarthy,

We write with concern about the Environmental Protection Agency's (EPA) proposed change to the Definition of Solid Waste (DSW) under the Resource Conservation and Recovery Act (RCRA) on electroplating operations and the adverse effect these regulatory changes could have on the recycling of copper and other valuable secondary materials. These materials are a recyclable commodity that is of great importance to electronics manufacturers in our states who would be significantly impacted by the proposed rulemaking at the EPA.

We urge you to retain the current flexibility under the DSW rule that facilitates and encourages the recycling of valuable materials by easing regulatory burdens on the beneficial reuse of valuable industrial byproducts, especially for secondary material from electroplating operations with high value copper content. We believe such an approach is consistent with the spirit of RCRA.

This valuable manufacturing byproduct is one of the largest domestic sources of untapped metal-bearing secondary materials amenable to recycling and reclamation. The copper found in electroplating sludges can be recovered at less cost and far less environmental impact than mining raw copper ore, which generally contains less than 1 percent copper. However, the economics and practicalities of recycling electroplating sludge require that this recycling be undertaken offsite, as most electroplating operations do not have the volume, space or environmental permits to allow onsite recycling. It is over burdensome to expect small manufactures to retain all materials onsite least they come under a regulatory regime which is costly and time consuming.

Offsite transport and recycling would have been permitted under the EPA DSW regulation finalized in 2008, but the revisions to the regulations currently under final review within the Administration would prohibit that practice. Continued treatment of these materials as hazardous waste creates an economic disincentive for recycling and can lead to disposal in landfills rather than encouraging recycling a valuable recyclable resource. This process has an overall negative environmental impact rather than encouraging conservation of materials.

The remanufacturing exclusion, as included in the 2011 proposed DSW rule, should be expanded to include at least some metal-bearing hazardous secondary materials, such as F006. Broadening the remanufacturing exclusion will encourage the recycling of high value secondary materials that otherwise would be disposed of in a landfill.

It is unfortunate, then, that the regulations being advanced by EPA under the specific law designed to promote "Resource Conservation and Recovery" now serve to discourage those very activities. We urge you to bring the regulations back in line with the spirit of RCRA by providing

flexibility with respect to the transfer-based exclusion similar to the 2008 DSW rule, or by including a remanufacturing exclusion for high-value metal-bearing secondary materials such as F006.

We appreciate your timely consideration of this matter.

Sincerely,

Bill Johnson



Jim Sweeney

Dave Parker

Ann Wagner

Pat Timin

Jeff Duncan  
Virginia Fox



Mike Colkman

Mike Rague

Don Perata

Lee Terry

J. John

Michael M. Honda

