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December 13, 2016

Mr. Scott Pruitt
EPA Administrator-Designee
Office of President-Elect Donald Trump
1800 F Street NW, Room G117
Washington, DC 20270-0117

Dear Mr. Pruitt:

Congratulations on your nomination by President-elect Trump to be the next Administrator of the Environmental Protection Agency (EPA). On behalf of IPC—Association Connecting Electronics Industries, I would like to draw your attention to a regulatory matter that the new leadership at the EPA could address quickly and in a manner that both reduces regulatory burdens on manufacturers and encourages the recycling of industrial byproducts.

Based in Bannockburn (Chicago), Illinois, IPC—Association Connecting Electronics Industries is a global trade association with over 2,100 members in the United States, representing every facet of the electronics supply chain, including printed circuit boards and electronics assembly. Like other manufacturing industries, one significant reason many of our U.S.-based members have struggled to remain globally competitive is due to regulatory burdens.

The electronics companies that IPC represents are committed to sound environmental practices and have participated in a number of voluntary programs with the EPA and other stakeholders. In order for our U.S. members to continue competing on a global basis, IPC supports science-based, cost-effective regulations that achieve the intended goals of protecting the environment, while at the same time minimizing the burden that they impose. Unfortunately, we remain concerned by the number of environmental regulations that drive up costs and create obstacles for manufacturing while providing questionable environmental benefits.

One specific area of concern for members of the electronics manufacturing supply chain, along with other industries, relates to reporting requirements for byproducts sent to recyclers for recycling and recovery of valuable metals. Recycling byproducts reduces the disposal of byproducts as waste. Under EPA interpretation of Toxic Substances Control Act (TSCA) regulations, many byproducts that are sent for recycling are treated as "new chemicals" subject to the full regimen of TSCA registration, notification, recordkeeping, and reporting provisions. If a chemical reaction is used to recycle the valuable metals in the byproduct, not only are the newly recycled metals considered a new chemical, but the byproduct is reclassified as a new chemical because it is a feedstock to the recyclers manufacturing process. However, if the byproduct is simply disposed, there is no TSCA reporting.

Regulation of byproducts sent for recycling as new chemicals reporting is duplicative and counterproductive. Requiring electronics manufacturers (not recyclers) to report byproducts sent for recycling as new chemicals under TSCA duplicates reporting of the byproducts required by other statutes as well as reporting by the recycler. Additionally, requiring the reporting of substances sent for recycling as new chemicals is counterproductive because it encourages companies to send valuable

byproducts to landfills to avoid the reporting cost and enforcement risks—a risk of \$37,500 per day in fines for each chemical they fail to report fully and accurately. Companies that send their byproducts for landfill disposal have no TSCA requirements or enforcement risk. This regulatory risk associated with TSCA is the single biggest factor now forcing companies to reconsider their decision to send their byproducts for recycling.

In the 2011 final *Chemical Data Reporting Rule*, in response to industry concerns, the EPA stated their intention to reexamine reporting requirements based on the data received during the 2012 reporting cycle to identify whether some reporting could be eased or eliminated. They have yet to complete this analysis of CDR data despite repeated requests by industry and Congressional members since 2013 to do so.

The EPA's disinterest in addressing the industry's concerns prompted IPC to take the matter to Congress. A bipartisan coalition of members, led by Congressman Bill Johnson (R-OH), urged the EPA to revisit the reporting requirements on byproducts, but when an administrative remedy proved to be unrealizable, these congressional members focused on achieving a legislative remedy as part of TSCA reform.

As a result, the Frank R. Lautenberg Chemical Safety for the 21st Century Act (Pub. L. 114-182) includes in Section 2607 a provision requiring the EPA Administrator to finalize within three and half years a negotiated rulemaking "limiting the reporting requirements, under this subsection, for manufacturers of any inorganic byproducts, when such byproducts, whether by the byproduct manufacturer or by any other person, are subsequently recycled, reused, or reprocessed."

However, under new leadership at the EPA, we see no purpose in waiting three and a half years for relief. EPA has the tools and authority to relatively quickly address this matter with or without a formal rulemaking. We encourage the new Administration to explore their options for the swiftest resolution of this issue.

I have attached supplementary information to this letter, but please do not hesitate to contact John Hasselmann, IPC vice president of government relations at 202-661-8091 or johnhasselmann@ipc.org should you have any question or need additional information.

Thank you in advance, for your consideration of this issue. I am hopeful that President-elect Trump and his Administration will see the opportunity here to eliminate duplicative and unnecessary regulatory burdens while encouraging more companies to recycle.

Sincerely,



Dr. John Mitchell
President & CEO
IPC—Association Connecting Electronics Industries

cc: Mike Pence, Vice President-elect
Myron Ebell, Environmental Protection Agency Landing Team Lead



TSCA TREATMENT OF BYPRODUCTS SENT FOR RECYCLING

While existing TSCA regulations contain specific exemptions for byproducts, the EPA's narrow interpretation and guidance over the past eleven years has effectively eliminated any meaningful distinction between new chemical (products) and byproducts. EPA has interpreted TSCA's exemption of byproducts to apply only if the "chemical component" in the byproduct is removed through a process that does not involve a chemical reaction. In effect, this interpretation excludes the recycling of metals from the exemption, and instead treats metal-containing byproducts sent for recycling as new chemicals subject to the full regimen of TSCA regulation. Most significantly, this includes a Pre-manufacture Notice (PMN), registration, and other requirements under Sections 5 and 6, as well as reporting and monitoring under Sections 8 and 12 and associated penalties or enforcement provisions.

The regulatory burden imposed by EPA's treatment of byproducts sent for recycling creates a significant disincentive for recycling without providing any additional protection of public health and the environment.

EPA has not demonstrated that TSCA registration and reporting of byproducts sent for recycling is needed to protect public health and the environment. For nearly thirty years of TSCA prior to 2003, EPA did not require reporting on inorganics because they were considered low risk. Based on industry questions about the utility of reporting inorganic byproducts sent for recycling, the 2011 final *CDR Rule* stated an intention to reexamine reporting requirements based on the data received during the 2012 reporting cycle, to identify whether some reporting could be eased or eliminated. IPC—through in-person meetings, letters and congressional testimony—has urged EPA to complete this analysis, but IPC has yet to see any such analysis demonstrating that collection of the data is needed.

TSCA reporting imposes a burden on manufacturers. In addition to reporting of byproducts required under RCRA and EPCRA, TSCA imposes an additional, cumbersome layer of reporting for manufacturers. Most printed circuit board manufacturers send byproducts for recycling *despite* the cost and *despite* the risk of regulatory fines for TSCA non-compliance. A typical printed circuit board factory has a database of well over 300 chemicals entries. Reporting under Section 8 requires generating very detailed information on chemical compounds or substances sent for recycling and how they may be processed by the recycler. One Printed circuit board manufacturer has determined that each TSCA report requires approximately 840 hours with an average of 64 hours per facility. The reporting also serves as a distraction from other important environmental and safety responsibilities.



The guesswork required to report byproducts sent for recycling under TSCA exposes manufacturers to considerable regulatory risk. TSCA reporting requires manufacturers to provide information best reported by recyclers. EPA's narrow interpretation bases the applicability of notification and reporting requirements on the recycler's actions, yet requires the byproduct generator to make this determination. When the generator sends the byproduct for recycling, the generator does not have the information needed to determine regulatory applicability, since they are simply sending the byproduct for recycling. Only the recycler knows for certain what chemical reactions (often safeguarded as a trade secret) will take place during the recycling process and how the resulting chemicals will be used in commercial and consumer markets.

Yet, a byproduct generator is required to report on this information and can be fined \$37,500 per day for each chemical it fails to report fully and accurately. The average penalty in the past few years appears to be over \$1M per company. This regulatory risk is the single biggest factor now forcing companies to reconsider their decision to recycle. Although the program office has suggested that a "best guess" is adequate, the risk of enforcement action forces companies to undergo far more burdensome and detailed data gathering and analysis.

TSCA reporting of byproducts sent for recycling is largely duplicative of reporting required from the recycler and by other environmental laws and OSHA statutes. TSCA reporting requires byproduct generators to provide information that serves the same purpose as reporting by recyclers. Much of the information about byproduct chemicals sent for recycling concerns similar chemical compounds to those reported by the recycler who uses the byproduct to manufacture a new product that is sold into the marketplace. IPC understands EPA's position that the form and content of the reporting are different under other reporting regimes (e.g. RCRA and EPCRA) and that these other reporting regimes require non-chemical manufacturers to submit data to different offices within EPA. We agree that there are differences in what, when and how the data is reported – that is why it is burdensome to submit what we refer to as a duplicative report. However, the essential information about what chemicals are present is the same. It is being collected by EPA under other statutes for the same purpose – to ensure protection of human health and the environment.

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EPA Administrator-Designee
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The Honorable E. Scott Pruitt
Presidential Transition Headquarters
1800 F Street, NW, Room G117
Washington, DC 20270-0117

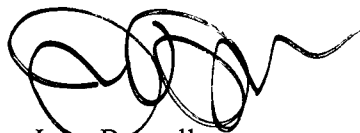
Dear General Pruitt:

On behalf of the member companies of Global Automakers, congratulations on your nomination to serve as Administrator of the Environmental Protection Agency.

As you well know from your experience as Attorney General of Oklahoma and in other positions of responsibility, upon your confirmation you will be faced with a number of decisions that will have crucial and wide-ranging implications for the future of millions of people who work in the industries that your agency regulates, and for public health and safety. A number of those decisions will bear directly upon the future of auto manufacturing in the United States.

As you go through the confirmation process, and upon your confirmation as you assume office, Global Automakers and its member companies look forward to working with you to achieve our nation's environmental goals in the most effective and cost-efficient manner possible.

Sincerely,



John Bozzella
President and CEO
Association of Global Automakers