

To: Jackson, Ryan[jackson.ryan@epa.gov]
From: Payne, Warren S.
Sent: Sun 10/1/2017 10:17:40 AM
Subject: Meeting request re hazardous materials recycling
Congressional letter 0037_001.pdf
White Paper Support US Industry by Allowing Metals Recycling (725456411....pdf

Ryan,

I am emailing to ask for your assistance on arranging a meeting with the right folks at the EPA on the issue of getting EPA to update its definition of hazard waste under the Resource Conservation and Recovery Act. As you can see from the attached letter this issues has been flagged for the Director from the Hill already. Would greatly appreciate your assistance getting in front of the right people on this issue.

Thanks

Warren

Warren S. Payne

Senior Policy Advisor

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Congress of the United States
Washington, DC 20515

August 30, 2017

The Honorable Rex Tillerson
Secretary
United States Department of State
2201 C Street, NW
Washington, DC 20520

The Honorable Scott Pruitt
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Secretary Tillerson and Administrator Pruitt:

We are writing regarding the negative impact on jobs in North Dakota and other states due to the international ban on shipments to the United States of precious metal found in petrochemical byproducts. We request the Administration work to update the domestic definition of waste to accurately reflect the highly valuable commodity of spent materials containing significant precious metals, which would allow for recycling of these metals in the United States.

The United States has the cleanest, most efficient recycling facilities for the salvage of precious metals from the refining of petrochemical byproducts in the world. However, the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (Convention) largely bans their shipment to the United States and a handful of other countries because the United States has not ratified the Convention despite Senate consent to do so in 1992. This has resulted in foreign countries gaining work orders, jobs, and exports at the expense of U.S. industry, which has the most environmentally friendly capabilities in the world for this salvage work. As a result, millions of pounds of platinum and palladium containing spent catalysts cannot be reclaimed in the United States.

Unfortunately, this situation hurts the U.S. economy and the global environment. This Administration can address this problem - and help create close to 100 jobs, some of which would be in North Dakota as well as others throughout the nation. We believe the Environmental Protection Agency (EPA) can update the domestic definition of "waste" to accurately reflect the fact that spent material that contains significant precious metals is a highly valuable commodity and not waste. This would align with the definition contained in the Basel Convention and with the definition in the vast majority of countries around the world thereby allowing the recycling of these byproducts in the United States.

Recognizing the value of these metals is a common-sense change that would permit U.S. leadership in the recovery and conservation of precious metals to be fully realized, while simultaneously guaranteeing the safe disposal of what is truly waste. A valuable spent precious metal material thus could be handled the same as by-products and sludge, which are

not classified as wastes when sent for reclamation. The EPA has stated elsewhere that when the value of a material is sufficiently high, that will result in protection of the environment due to the incentives for extreme care to be taken in its processing for recovery and refining. This is because the value of precious metal in the wastes provides a strong incentive for proper handling before recycling and during the recycling process.

The United States must be able to compete internationally and precious metal reclamation will help our high tech industries continue to lead the way in development and deployment of new and innovative products. This, combined with the job growth at home, is why it is so important for the EPA to take the steps necessary to allow our industries to compete on a level playing field and recognize the value of these precious metals.

We thank you for your attention to this matter, and urge the Administration to address the issue as soon as possible.

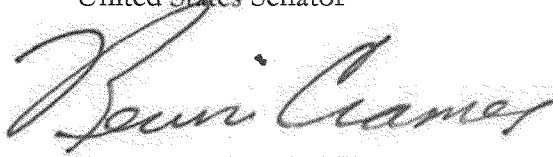
Sincerely,



John Hoeven
United States Senator



Heidi Heitkamp
United States Senator



Kevin Cramer
United States Congressman



Chris Collins
United States Congressman



Lee Zeldin
United States Congressman

Cc:
H.R. McMaster, National Security Advisor
Gary Cohn, National Economic Advisor

**Suggested Regulatory Changes to Grow the
American Precious Metals Recycling Industry**

The United States has the cleanest, most efficient recycling facilities for the salvage of precious metals from the refining of petrochemical products in the world. However, the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (“Convention”) largely bans their shipment to the U.S. because the U.S. has not ratified the Convention.

This is hurting U.S. businesses, who are losing out to foreign competitors as a result. The situation can be easily addressed by a regulatory change to allow these materials to come to the U.S. – which has the cleanest, most efficient recycling facilities in the world – for processing.

The Resource Conservation and Recovery Act (RCRA) sets forth the framework for the regulation of solid and hazardous wastes. Regulations define “solid wastes,”¹ which are subject to regulation under RCRA. A subset of “solid wastes” meet the definition of “hazardous wastes,”² which are subject to further regulation under “Subtitle C” of RCRA.

The regulations also provide exclusions to the definition of “solid waste:”

(A) MATERIALS WHICH ARE NOT SOLID WASTES. The following materials are not solid wastes for the purpose of this part:³

The regulations provide 27 exclusions from the definition of “solid waste,” and, in turn, from the definition of “hazardous waste.” The issuance of an additional exclusion would simply and efficiently allow precious metal-bearing wastes to be shipped to the U.S. for processing and recycling. Such an exclusion would also ensure that these wastes are recycled at regulated facilities. The language for such an exclusion could be straightforward and to the point:

Secondary materials containing economically significant amounts of precious metals that are destined for metal reclamation at facilities that operate according to 40 CFR § 266.70.

There are frequent amendments and additions to the regulatory exclusions to the definition of “solid waste.” For example, the most recent additions were made in 2015,⁴ a conditional exclusion was added in 2013,⁵ and another exclusion was added in 2008.⁶

This would align the U.S. with the definition contained in the Basel Convention and the definition used in the vast majority of countries around the world.

¹ 40 C.F.R. § 261.2.

² 40 C.F.R. § 261.3.

³ 40 C.F.R. § 261.4 (a).

⁴ Definition of Solid Waste, 80 Fed. Reg. 1693 (Jan. 13, 2015).

⁵ Conditional Exclusions from Solid Waste and Hazardous Waste for Solvent-Contaminated Wipes, 78 Fed. Reg. 46447 (July 31, 2013).

⁶ Revisions to the Definition of Solid Waste, 73 Fed. Reg. 64667 (Oct. 30, 2008).