

June 19, 2006

Susan Bodine
Assistant Administrator for Solid Waste and Emergency Response
USEPA Headquarters
Ariel Rios Building MS 5101T
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Ms. Bodine:

IPC –Association Connecting Electronics Industries and its members are extremely disappointed that the EPA has chosen not to go forward with a proposed rule to increase the recycling of electroplating sludge by providing an exemption from regulation as a listed hazardous waste (F006). The F006 listing for printed circuit board sludge remains a regulatory barrier to the economical recycling of this commodity for greater environmental benefits.

IPC is the national trade association for the electronic interconnection industry, and represents 2,400 member companies. In the mid-1990s, EPA's Common Sense Initiative (CSI) identified increasing the recycling of F006 through regulatory relief as a specific goal. Ever since, IPC and its members have been eagerly awaiting a rule proposal. We were subsequently encouraged when EPA identified F006 as the best candidate for regulatory relief in their June 2002, "RCRA Hazardous Waste Delisting: The First Twenty Years" Office of Solid Waste report.

As you know, F006 sludge contains valuable metals at concentrations that far exceed virgin ore. F006 sludge produced during printed circuit board manufacturing typically contains over 10% copper. The current regulatory structure has resulted in a business environment where it is cheaper to landfill wastes than it is to recycle them. Businesses, which must balance civic responsibility against responsibility to shareholders, often are driven to choose a landfill over recycling. Other businesses, choosing to place a premium value on environmental responsibility, do so at a competitive disadvantage. Ironically, due to significant changes in the circuit board manufacturing process, the hazardous constituents upon which the F006 listing was based are no longer commonly found in electroplating sludge from the printed circuit board industry. It is our belief that electroplating sludge, once free from the associated costs of hazardous waste designation, will be more commonly recycled, thus reducing both landfill usage and consumption of virgin ore.

Following the abandonment of the CSI process, some of our member facilities turned to the EPA's project XL in pursuit of common sense regulatory reform. When that effort also failed to result in practical changes, our members became somewhat cynical about EPA's ability to promulgate such a simple, common sense regulation. We were pleased in 2003 when EPA recommitted to promulgating this common sense regulation and when, in response to OMB's Draft Report to Congress on the Cost and Benefits of Federal Regulation, EPA pledged to propose by December 2005 a rule excluding F006, when recycled, from RCRA hazardous waste regulations. We were pleased to support the development of this rule by hosting EPA project staff on several circuit board facility tours, and most recently, by featuring EPA project manager Jim O'Leary as a presenter at our February 2006 industry trade show and conference, where he presented a preview of the proposed rule under review at the Office of Management and Budget.

We were, therefore, extremely disappointed to learn last month that EPA has chosen not to propose this rule. While we had some disagreement with EPA regarding the details of the draft rule, we had looked forward to the opportunity for public review and comment following formal proposal. Now our members are again asking cynically if EPA can ever be trusted to move forward with its promises.

Although we have been told F006 is likely to be addressed as part of the forthcoming Definition of Solid Waste (DSW) regulation, we note that the rule proposed by EPA in October 2003 will not address F006 because it is not, and cannot be, practically recycled onsite or within the same generating industry (printed circuit board manufacture). While we are hopeful that EPA will eventually promulgate a broader DSW rule which excludes from RCRA hazardous waste regulations all legitimate recycling, we are saddened by the ensuing further delay and uncertainty this brings to the decade long quest for sensible regulation of F006 waste. In the absence of definitive EPA action, some of our member facilities have decided to pursue individual delisting petitions. A continued perception of EPA's inability to take action could result in a flood of delisting petitions and could eventually increase the financial incentive to dispose of F006 in landfills.

We hope that EPA will reconsider its decision not to propose a rule excluding F006 from hazardous waste regulations when recycled.

Please let me know if there is anything further IPC or the printed circuit board industry can do to help advance this important rule.

Sincerely,

Fern Abrams
Director of Environmental Policy

cc: Richard Otis, Deputy Associate Administrator, OPEI
Arthur G. Fraas, Chief, Natural Resources, Energy and Agriculture Branch, OIRA, OMB
Candice Miller, Chairman, US House of Representatives, Committee on Government Reform,
Subcommittee on Regulatory Reform

Arthur G. Fraas
Chief, Natural Resources, Energy and Agriculture Branch
Office of Information and Regulatory Affairs
Office of Management and Budget
New Executive Office Building
725 17th Street, N.W.
Washington, D.C. 20503

Candice Miller
Chairman
Committee on Government Reform
Subcommittee on Regulatory Affairs U.S. House of Representatives
B-373 B Rayburn House Office Building
Washington, D.C. 20515

Richard Otis
Deputy Associate Administrator, OPEI
USEPA Headquarters
Ariel Rios Building
1200 Pennsylvania Avenue, N. W.
Mail Code: 1804A
Washington, DC 20460