

SREA

SUPERFUND RECYCLING EQUITY ACT

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Las Vegas, NV



Institute of
Scrap Recycling
Industries, Inc.

What is Superfund & Why Should I Care?



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- Formally known as the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)
- Gives EPA the power to seek/collect cleanup costs from “potentially responsible parties” (PRPs) for the release of hazardous substances into the environment, and assure their cooperation (and payment) in the cleanup process.
- Imposes strict liability threshold on those who “arrange for disposal” of waste containing hazardous substances.
- Why should I care?
- Federal courts ruled that arranging for recycling was a waste disposal transaction.
- Superfund created a market distortion preferring virgin feedstocks over recycled material, later corrected by SREA.

Financial Risks



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Love Canal - NY



Superfund Recycling Equity Act (“SREA”)



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- ISRI spent nearly a decade and many resources / volunteer hours to get SREA enacted!
- Enacted on Nov. 29, 1999 by President Bill Clinton
- Corrects an unintended consequence of Superfund that actually discourages legitimate recycling
- Clarifies that recycling is not “disposal” under Superfund, and shipping of recyclable material (RM) is not “arranging for disposal”

What Does this Mean for Recyclers?



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- SREA provides an opportunity for a protective shield/valid defense to a Superfund Claim
- Applies to federal Superfund Liability and state laws that adopt the same or similar requirements.

SREA: Eligibility



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- Recyclers Must Prepare Ahead of Time to Claim the Exemption
- SREA places the burden of proof on the recycler to establish eligibility
- - “demonstrate by a preponderance of the evidence” that all of the criteria were met at the time the transaction of recyclable materials occurred
- You may not need to use the exemption for many years from now ...
- But you cannot go back in time and create the conditions to qualify for the exemption!!

What Questions do I ask for SREA?



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- Three (3) Basic Conditions/Questions when doing a SREA Evaluation:
 - Is it “recyclable material” (RM) I am shipping?
 - Are you “arranging for recycling” as defined?
 - Have you done your due diligence on the receiving consuming facility?

Covered Materials under SREA

SREA defines recyclable material (RM) as:

- scrap paper
- scrap plastic
- scrap glass
- scrap textiles
- scrap rubber (other than whole tires)
- scrap metal
- spent lead-acid, spent nickel-cadmium, and other spent batteries
- with exceptions respecting certain containers and PCBs

Active Due Diligence is Required

- With the passage of the Superfund Recycling Equity Act, (SREA) recyclers have an increased responsibility to ascertain and consider the compliance record of the consuming facility that receives the material and the stability of the same.
- Through ISRI's SREA Program, we can help members with this important task.

SREA: Reasonable Care Due Diligence



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- Requires the recycler (or broker) to determine that the consuming facility where RM was shipped was in compliance with applicable environmental laws or regulations at such time.
- Sources of Environmental Compliance Information:
- Responses to Inquiries made to Federal, State and Local Government Agencies for environmental information under Freedom of Information Act;
- Publicly available databases; and
- Responses from a questionnaire submitted to the Consuming Facility.

****All of the above are contained in a SREA Report****

SREA Reasonable Care Compliance Program



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- SREA Reports are made available to ISRI members for an association subsidized rate of \$40.00 per site if the reports are ordered during Open Season (now to May 15).
- The SREA Report Portal provides ISRI members with intuitive, user-friendly, and secure ordering. ISRI Members will log into the report ordering portal using their existing ISRI Membership login credentials, as only ISRI members are eligible for this special pricing.
- When your SREA Reports are completed, you will be notified via email with instructions about accessing and downloading your reports.

SREA Reasonable Care Compliance Program



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- <https://www.youtube.com/embed/avxY5mCKKco>



Thank you for your attention!!!

Questions?????