

## ISRI's 2018 Advocacy Agenda

*ISRI's Advocacy Agenda for 2018 emphasizes six broad issue areas affecting the industry: Taxes & the Economy, International Trade, Energy and the Environment, Transportation & Infrastructure Development, Workplace Safety Initiatives, and Regulatory Policy.*

### TAXES & THE ECONOMY

The U.S. scrap recycling industry is an economic leader and job creator, generating more than \$117 billion annually in economic activity and directly supporting nearly 155,000 “green jobs” through its operations (an additional 378,000 jobs are indirectly supported by the industry through suppliers, including producers of recycling equipment and the induced impact of the industry’s expenditures). And to top it all off, all this activity generates more than \$13 billion in federal, state and local tax revenues each year. ISRI works to identify and support initiatives that help strengthen these numbers on behalf of all our members, including:

- Protection of the Depreciation Allowance for Recycling Equipment At this writing, both the U.S. House of Representatives and the U.S. Senate have unveiled their tax reform proposals. ISRI has successfully protected our industry-specific permanent federal tax provision that assists ISRI members with depreciation allowances for purchases, sales, and maintenance of the industry’s capital-intensive recycling equipment. Both the House and Senate bills contain a provision, ending five years after enactment, which allows 100% expensing of equipment in the first year of purchase. Since the ISRI provision providing a 50% expensing provision is permanent, after five years, the industry default will return to the ISRI provision that provides for 50% accelerated depreciation allowance in the first year of purchase under Section 179 for qualified recycling equipment. ISRI will continue to work on this issue on Capitol Hill to protect the 100% depreciation in the House and Senate tax reform bills and to insure that no harm comes to the permanent Section 179 recycling industry 50% accelerated depreciation allowance.
- Manufacturing Sales Tax Exemptions. ISRI has long held, and continues to advocate, that recyclers are manufacturers that should be accorded the same benefits of a manufacturers’ sales tax exemption in those states in which such an exemption exists. In times of budget shortfalls, states are increasingly looking to restrict eligibility for the exemption, often leaving recyclers in the cross hairs. Building upon recent successes in the Southeast, ISRI continues to advise members on the nuances of this area of state tax law and direct chapter lobbyists on the winning arguments for legislative clarification and tax rulings that ensure the exemption applies to ISRI members.
- Retaining the Interest Charge Domestic Sales Corporation (IC-DISC) Provision. Many recyclers use the IC-DISC export tax incentive - currently provided for in the U.S. tax code - to help improve cash flow and reduce their tax liability. IC-DISCs are available to U.S. companies that export goods, including scrap commodities, to foreign countries. Unfortunately, in the U.S. Senate’s comprehensive tax reform package, the Senate removes this 1972 tax provision that many small to medium sized pass-through companies routinely use to help them with exports. And, since exports are a major portion of the scrap recycling industry’s total economic value, this is important to many ISRI members. ISRI will be fighting to retain this important provision in the final tax legislation.

## INTERNATIONAL TRADE

The health of the U.S.-based scrap recycling industry is dependent upon a healthy manufacturing base in the United States, as well as access to global markets. Exports of scrap commodities account for well over 25 percent of the industry's economic activity and supports more than 134,000 Americans in good-paying jobs. With \$16.5 billion in export sales annually, providing \$1.41 billion in tax revenues for the federal government and \$1.66 billion in state and local taxes, the need for the market-based movement of scrap across borders means trade is a critical pillar to the recycling industry's success, as well as to the success of the U.S. economy. And as the largest supplier of scrap in the world, the U.S.-based recycling industry is truly the first link in the global manufacturing supply chain. ISRI works closely with the U.S. Trade Representative's Office (USTR), the Department of Commerce, the U.S. Congress, other organizations and coalitions, and our friends around the world to aggressively advocate for:

- Regulatory Coherence in China: Accounting for 40% of U.S. scrap exports, worth \$5.2 billion, China is the U.S. recycling industry's largest customer, but the Chinese government is pursuing changes to its import policy that is significantly disrupting this trade. While motivated in part by an effort to protect its environment by preventing the illegal importation of trash – an effort fully supported by ISRI and to which ISRI has offered assistance – the Chinese government's agenda also targets the importation of specification-grade recyclable commodities in an effort by the Chinese Government to protect its own nascent recycling industry.
- Enforcement of Existing Trade Laws. ISRI supports the strongest practicable measures to protect its domestic consumers from illegal dumping and unfair subsidies that have direct and indirect negative economic impacts throughout the manufacturing supply chain.
- Promotion of Trade Agreements that Open Markets and Harmonize Standards/Regulations. U.S. recyclers win when they have access to existing and emerging international markets and where there is regulatory transparency and harmonization. It is for this reason that ISRI supports efforts around the world to negotiate free trade agreements that contain market-opening and barrier-reducing opportunities.
- Elimination of Tariff Barriers on U.S. Recycling Industry Exports. Exports of U.S. scrap commodities and recycling equipment currently face a range of import tariffs around the world. At the same time, there are no general duties imposed by the United States on imports of recycled goods. For these reasons, ISRI aggressively supports efforts such as the Environmental Goods Agreement (EGA) at the WTO and other initiatives that have the potential to eliminate tariff barriers on U.S. recycling industry exports, thus promoting U.S. economic growth, creating jobs, raising income, and generating additional federal and state tax revenue.
- Continued Support of Trade within North America through NAFTA. With positive trade balances of more than \$180 million with Mexico and \$30 million with Canada, the U.S. recycling industry is dependent upon this continued trade with our neighbors to the north and the south. ISRI is working closely with our counterparts in Canada and Mexico on a path forward for NAFTA that does not disrupt the market-based flow of scrap commodities within North America.

- Prevention of Export Restrictions on Scrap. The health of the recycling industry, and our industrial consumers in the United States and around the world, are dependent upon access to the global market. Artificial barriers to the free and fair trade of commodity materials have a disruptive and detrimental effect on the U.S. economy. Worse yet, studies have long shown that efforts to control prices through export controls actually result in further price increases and disruptions in sourcing. History has shown that any attempt to artificially alter the market will create unanticipated harm in the form of higher prices for consumers.
- Promotion of Global Specifications. Supporting opportunities to provide consistency in scrap specifications worldwide through ISRI's *Scrap Specifications Circular* remains one of ISRI's top priorities as we seek to insure minimal disruptions and increase consistencies in the trade of scrap commodities across borders.

## ENERGY AND THE ENVIRONMENT

The U.S. scrap recycling industry's significant contributions to environmental protection, resource conservation, and sustainability are dependent upon government policies that understand and recognize these benefits and that promote their growth. With the industry recycling more than 130 million metric tons of commodity grade materials each year, transforming outdated or obsolete products and materials into useful raw materials needed to produce new products, recyclers offer real sustainable solutions for balancing economic growth and environmental stewardship. ISRI uses its voice to help policymakers throughout the U.S. and state governments understand and develop legislation, regulation, and policies that:

- Recognize Scrap is Not Waste/Recyclables are Not Waste. Persistent misidentification of recyclable materials as solid waste, and even hazardous waste, impedes recycling at the federal, state, and local levels and hinders international trade. ISRI will continue to pursue insertion of the following language in federal and state laws: ***“used or recyclable metals, paper, plastic, glass, rubber, and textiles that are destined for reuse or recycling as valuable commercial commodities are not, and shall not be, deemed to be solid waste under any provision of law.”*** We will also build upon the effort started in 2017 through regulatory reform seeking clear, written guidance from the EPA Administrator to the Regions and state authorities stating that scrap commodities – including scrap metal, paper, plastics, glass, textiles and rubber - destined for recycling are outside of and excluded from, the RCRA Subtitle D definitions of solid waste. Without such guidance, states are free to include scrap commodities as solid waste and do so, thus often subjecting recyclers to flow control, solid waste management plan requirements, and other regulatory requirements that have no applicability and add additional layers of cost and compliance burdens on individual recyclers. Furthermore, clear distinctions between waste and scrap, and the use of ISRI specifications to confirm quality and content, import/export regulations will better facilitate across border trades.
- End Uncertainty over the Use of Recycled Crumb Rubber in Artificial Turf. Timely completion of an EPA-led research project studying crumb rubber on synthetic turf fields and playing surfaces is needed to provide certainty to the market for scrap tires as infill material on fields and surfaces. Such use of recycled crumb rubber is being questioned by the public ***despite*** nearly 100 scientific studies concluding that recycled crumb rubber does not pose elevated health risks to athletes using such fields. In 2016 EPA began a multi-

agency study of this issue with the CPSC and the Centers for Disease Control and Prevention (CDC). It is important that EPA release an authoritative final report as soon as practicable, consistent with good scientific practices, so as to provide student athletes and their families with the answers they seek while providing the industry with needed market certainty. Related to this effort, ISRI continues to monitor the occurrence of legislation at the state and local level, coordinating member testimony and resources presented to policymakers supporting the use of synthetic turf made with crumb rubber.

- Stop Materials Theft through Effective Legislation and Outreach Initiatives. ISRI continues its successful efforts at blocking congressional attempts to create a federal “solution” to a problem that all 50 states have already developed a comprehensive web of regulations to solve. The recycling industry, and communities across the country, need robust enforcement of existing laws, not new laws. ISRI is aggressively pursuing stakeholder outreach, particularly with law enforcement and prosecutors, seeking an increased focus on enforcement and providing valuable tools to assist in our fight against metals theft.
- Oppose Extended Producer Responsibility (EPR) Systems that Interfere With and Disrupt Existing Viable Markets. As EPR proposals continue to pop up throughout the states, ISRI will advocate that such proposals recognize the existing recycling infrastructure and are limited to products for which markets have not yet matured. In fact, ISRI supports ending producer responsibility and government-imposed fees as soon as practicable once such markets mature and are economically sustainable.
- Provide Support for Advanced Manufacturing. Opportunities exist to increase recycling through U.S. government-led public-private partnerships focused on research and development of innovative technologies and implementation of ISRI’s Design for Recycling® principles. ISRI believes that continued federal funding in these areas is wholly appropriate and necessary, and ensuring their continued funding remains an absolute ISRI priority.
  - ARPA-E: The Department of Energy’s Advanced Research Projects Agency-Energy (ARPA-E) supports a number of cutting-edge projects, including some involving ISRI member companies, on advanced material-separation technologies that otherwise might not be developed (or might be developed in other countries). Development and commercialization of these and other recycling technologies will enable more and newer types of materials to be recycled in the United States and unlock value that would otherwise be unrealized.
  - REMADE: ISRI is excited to be an Affiliate Member of the Institute for Reducing Embodied-energy And Decreasing Emissions (REMADE) in Materials Manufacturing. REMADE is a public-private partnership supported by federal matching funds from the Department of Energy’s Advanced Manufacturing Office via the Manufacturing USA Program. REMADE exists to drive down the cost of technologies needed to reuse, recycle, and remanufacture materials such as metals, fibers, polymers, and used electronics. The REMADE Institute will help increase recycling activity for many materials at lower cost and create value throughout the economy.
- Exempt Recyclers from Liability under State Superfund Laws. Building upon recent successes in the southeast, where five of the seven states that compose ISRI’s Southeast Chapter, ISRI continues to

identify opportunities for creating state SREAs (Superfund Recycling Equity Act) in as many states as possible to remove the threat of third-party liability for recyclers.

- Ensure the Quality of the Recycling Stream through Proper Collection Systems. ISRI strongly opposes any attempt through legislation to offer tax incentives for, or otherwise require consolidated “mixed-waste” collection, *i.e.*, “One Bin.” Specifically, ISRI actively pursues strategies to assist the industry in its efforts to increase attention to the importance of product quality in the recycling stream and to the detrimental impacts on manufacturing when quality is not taken into consideration. ISRI continues to raise awareness of this issue with policymakers at all levels of government, highlighting the hazards of collecting trash and recyclables together in one bin, and the fallacies of viewing the matter through the narrow lens of economic savings to municipal solid waste programs (thus ignoring the loss of quality raw material feedstock to paper mills and other industrial consumers of secondary commodities and the economic harm that causes).
- Reform Citizen Suits Provisions in the Clean Water Act to Prevent Abuse. ISRI seeks modifications to the citizen suit provisions of the Clean Water Act to prevent frivolous and unfounded lawsuits. Over the years, we have witnessed increased abuse of Clean Water Act citizen lawsuits filed for enrichment rather than as the Act original intended. Many organizations have used publicly available databases to obtain information about regulated facilities and threaten to sue them under the Clean Water Act simply to extract sizable financial “donations” and “voluntary” actions from facilities not otherwise required by law to do so. These facilities settle simply to avoid the costs of litigation, while the organizations then use settlement donations to repeat the process on other facilities in a vicious cycle that was not intended by Congress. Only modification of the Clean Water Act can curb such abuse of citizen suits.
- Support Extended National Mercury Switch Program. ISRI supported the extension of the National Vehicle Mercury Switch Recovery Program (NVMSRP) through 2021. Although not part of the extended NVMSRP, ISRI supports switch payments in states that choose to encourage superior switch collection rates. ISRI will continue monitoring the Program to ensure that it is achieving significant switch collection.
- Protect Recyclers’ Right to Reuse and Repair. ISRI continues to quickly respond to all efforts to block recyclers’ ability to return products and goods back into the marketplace for legitimate reuse, including the right to market used products without warranty, provided all applicable legal requirements are followed by the recycler. This applies to many recycling sectors, including rubber, automotive, and electronics.

## **TRANSPORTATION & INFRASTRUCTURE DEVELOPMENT**

The recycling industry is highly dependent upon a modern and efficient transportation infrastructure to move scrap to market, whether it be by truck, rail, ship, or barge. Thus, ISRI looks forward to supporting transportation efforts and infrastructure development proposals that may be introduced in 2018 that advance the recycling industry’s needs, including:

- Investment Needed in Infrastructure. ISRI strongly supports efforts to invest and improve our country’s aging infrastructure and is advising congressional leaders on the industry’s needs for a 21st-century

transportation system to efficiently transport raw materials and feedstocks to manufacturers throughout the nation and the globe, including increased capacity and investment in all modes of transportation, covering rail, surface, and waterways. Further, ISRI is advocating that investments in infrastructure development projects employ products that utilize recycled and recyclable materials wherever economically and technologically possible (e.g., use of rubberized asphalt in road construction and use of rebar from ferrous scrap).

- Restoration of STB Oversight of Rail Transportation of Scrap. ISRI is pushing for final promulgation of the Surface Transportation Board's (STB) 2016 proposed rule revoking the rail exemption for ferrous steel scrap. The rule is needed to protect recyclers—most of which are captive rail shippers for at least a portion of their traffic—from the railroad's current exercise of market power by giving them access to effective remedies for insufficient and unsatisfactory service through the STB. ISRI further encourages the STB to conduct a waybill analysis for paper and plastics so that the rail exemption for the movement by rail for these scrap commodities can also be revoked.
- Access to Reliable and Affordable Ocean Shipping. With more than \$17 billion of scrap being exported annually, the recycling industry is vulnerable to disruptions that affect access to ports and shipping. The recycling industry was significantly affected by the West Coast port dispute several years ago, the poor implementation of SOLAS weight measurement requirements, and most recently the Hanjin bankruptcy. ISRI will call upon members of Congress and federal authorities to intervene if necessary to prevent future disruptions, and ISRI will provide stakeholders with critical economic data on port use and implications of port disruptions on the recycling industry.

## WORKFORCE SAFETY INITIATIVES

ISRI is dedicated to the idea that our workers are our most precious commodities. It is for this reason that ISRI continually looks for opportunities to strengthen its workplace safety initiatives using all possible avenues, including partnerships and resources available through the U.S. government. We believe that continuation of these types of cooperative programs between OSHA and industry help to drive safe operating practices and enhance safety awareness and culture throughout the regulated community. To that end, ISRI supports continuation of:

- The OSHA Alliance Cooperative Program. ISRI became a partner in the Occupational Safety and Health Administration (OSHA) Alliance cooperative program in the fall of 2015 and continues to be an active participant. The goals of the program are to (1) provide ISRI's members and others with information, guidance, training, and other resources to protect the health and safety of workers within the scrap recycling industry and (2) promote understanding of the rights of workers and the responsibilities of employers under OSHA guidelines.
- The Susan Harwood Training Grant Program. OSHA awards grants to nonprofit organizations on a competitive basis through its Susan Harwood Training Grant Program. Through the grant issued to ISRI in 2016 and 2017, ISRI has been able to develop a hazard recognition training program being delivered to hundreds of recyclers around the country. Initiatives such as these, which provide the resources for the development of practical guidance and industry training, are invaluable.

## REGULATORY POLICY

The recycling industry is significantly impacted by regulatory policy made in agencies and departments across the U.S. government. Thus, ISRI is continually monitoring and commenting on any and all regulations that have the potential to hinder recycling operations. Of particular note, ISRI is aggressively advocating for:

- Resumption of the Mutilated Coin Redemption Program. ISRI has been successful in getting the U.S. Mint to restart the Mutilated Coin Program. A new Director of the Mint has been nominated and has had Senate hearings regarding his nomination. It is expected that the new Mint Director will be confirmed by the Senate. In the meantime, U.S. Mint staff are drafting a rulemaking which will allow the Mutilated Coin Program to resume. On behalf of its membership, ISRI will continue to engage with the Mint and our advocates on the Hill as needed to ensure the program's resumption as quickly as possible.
- Revision of CAA Regulations Applicable to Appliance Recycling to Reflect Congressional Intent. ISRI will continue to work with the EPA and others to seek modifications to the current regulations applicable to refrigerant-containing appliances under Title VI of the Clean Air Act (CAA). As noted in last year's regulatory reform comments to the EPA Administrator, these regulations do not follow the intent of Congress that they "shall include . . . [r]equirements that [refrigerant] contained in bulk in appliances, machines or other goods **shall be removed** from each such appliance, machine or other good **prior to the disposal of such items or *their delivery for recycling.***" This has caused confusion over what constitutes acceptable compliance and to questionable enforcement actions, especially those "beyond the regulations", for situations that the industry understands to be a violation of the rules.
- Maintaining Flexibility in Stormwater Permits. ISRI is tracking, and recently offered oral public comment on the National Academy of Science's (NAS's) stormwater research project, "Improving the Next-Generation EPA Multi-Sector General Permit for Industrial Stormwater Discharges". This NAS project which resulted from the 2016 legal settlement approved to prevent protracted litigation of the 2015 Federal Multi-Sector General Permit (MSGP) could have far-reaching consequences for the recycling industry. Since the early 1990s, the recycling industry has been subject to permitting under the Clean Water Act (CWA) for discharges of industrial stormwater, including under the Federal MSGP in some cases. Recommendations from the NAS project will be reflected in the proposed 2020 MSGP, potentially incorporated into the 2020 MSGP, and potentially eventually part of most states' industrial stormwater general permits.
- Consideration of Impacts on Recycling in TSCA/LCSA Rulemaking. As EPA initiates rulemakings to implement the Lautenberg Chemical Safety for the 21st Century Act (LCSA) as well as existing provisions of the Toxic Substances Control Act (TSCA), it is critical that the agency consider direct and indirect impacts on recycling, as well as on refurbishment activities. ISRI will continue to monitor such activity and raise objections as necessary to proposals that dis-incentivize or impede recycling. There are currently several proposed rulemakings at EPA that ISRI has provided significant comments on, and we look forward to working with the agency to ensure our comments are taken into consideration in any final rulemaking.

- Streamlining Reporting Requirements by Recyclers into NMVTIS. ISRI will continue working with the Department of Justice (DOJ) and law enforcement on the integration of all 50 states into the National Motor Vehicle Title Information System (NMVTIS) as part of the effort to streamline and eliminate wherever possible duplicative steps for recyclers when transmitting data. And as states develop and update their own vehicle title registration systems, ISRI will look for opportunities to advocate for elimination of double reporting requirements by having the state DMVs transmit recyclers' vehicle data over to NMVTIS.