

ISRI's POSITION ON FLOW CONTROL

The practice by which governments require that solid waste generated within a specific area be collected only by designated entities and/or disposed of at designated facilities is known as flow control. When a government does not itself provide all collection and disposal services, it frequently awards a franchise or license-often exclusive-for all or part of these solid waste collection or disposal services.

The Institute of Scrap Recycling Industries, Inc. (ISRI), strongly supports and encourages the voluntary diversion or removal from the solid waste stream of materials for recycling. ISRI strongly opposes attempts to expand flow control to include government control of materials that have been diverted or removed from the solid waste stream for the purpose of recycling.

Materials that have been diverted or removed from the solid waste stream for recycling are the property of their generator. Efforts by government to take possession of, or obtain title to, those materials by imposing restrictions on the generator's ability to sell or donate them are prohibited by the Constitution as a taking of property without just compensation unless and until the owner relinquishes title to the government. The owner may do this by, for example, abandoning or discarding them into the solid waste system or by placing them in government-sponsored curbside or collection center recycling programs. Owners of such materials must be free to decide who will receive them. Private recycling enterprises must be free to accept, purchase, transport, and process these materials in a free and competitive marketplace.

Governing agencies that contract for the collection, processing, or marketing of materials diverted or removed from the solid waste stream that have properly come under their control should do so in a competitive bidding process that is not tied to the mandatory provision of other functions, such as the ability to provide solid waste collection or disposal services. This will ensure economic efficiency, secure the best qualified contractors at the lowest cost to the taxpayer or ratepayer, and take advantage of the expertise of private sector processing and recycling businesses that have experience in these areas.