

Attachment—Additional Questions for the Record

**Subcommittee on Environment and Climate Change
Hearing on
“No Time to Waste: Solutions for America’s Broken Recycling System”
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The Honorable Cathy McMorris Rodgers (R-WA)

1. H.R. 8059 places aggressive compliance deadlines on EPA to issue several types of information. As I understand it, there are states that already collect this data.
 - a. How much can EPA just take the information from the States and upload it – i.e., are state information collection practices and areas covered the same?

RESPONSE: Most states collect varying amounts of information concerning their solid waste collection and recycling programs. However, each state collects their data differently. For instance, states often collect a different portfolio of recyclables and thus record their data differently. These differences make it difficult to categorize and compare data from different states.

Also, some states may undercount or conversely, double-count data from private recyclers or MRFs. Furthermore, certain consumer products or their packaging materials may not be sold in some states skewing the volumes from state to state.

- b. If not, will it be a big effort for EPA to reconcile and translate this information into a form that is consistent and usable?

RESPONSE: It will be a complicated exercise for EPA to reconcile the various data from each state as mentioned above. The mere fact that each state categorizes and collects data differently will require explanations to explain the differences in the data collected including the variations between each state’s data sets and categorizations, the availability of residential recycling collection versus recycling centers, and other factors such as state deposit laws.

- c. Does EPA need to do this work or could another organization, like the Government Accountability Office do it for the Comprehensive Data Baseline?

RESPONSE: Other federal agencies and departments already collect certain recycling, manufacturing, and trade data, including industrial and commercial recycling. Additionally, these agencies and departments (correctly) recognize these recyclable materials as ‘secondary materials’, ‘commodities’ or

‘manufacturing feedstocks’ rather than solid waste intended for disposal. This is an important distinction. Continuing to mischaracterize ‘recyclables’ as ‘solid waste’ and the activities of recycling as solid waste management unfortunately confuses the public making it more difficult to increase recycling rates.

2. The Resource Conservation and Recovery Act covers many areas that impact recycling, but it does not define “recycling,” “recyclability” or “materials recovery facility”. H.R. 8059, though, does define them.

- a. How important are these definitions to you and why?

RESPONSE: It is terribly important to define these terms. Without a clear definition, different parties from regulators to the regulated may not be speaking with the same understandings of these terms. This is especially true when evaluating compliance with a regulation.

The terms used in this bill are slightly different than the ones ISRI created with the help of several other recycling associations including the American Forest & Paper Association (AF&PA), the Paper Recycling Coalition (PRC), the National Waste and Recycling Association (NWRA) and the Solid Waste Association of North America (SWANA). ISRI developed these definitions by first bringing all the different commodity divisions within ISRI together including ferrous and non-ferrous metals, paper, plastic, used electronics, rubber plus others in the glass and textiles recycling industries. This process ensured that each commodity in the recycling streams had a voice. The definitions were not completed until each commodity group fully agreed. Afterwards, the definitions were circulated among our recycling partners listed above.

- b. Do you have any concerns about these definitions as currently drafted in H.R. 8059 and the role these definitions should play with RCRA?

RESPONSE: The definitions in H.R. 8059 were slightly modified by the Senate Legislative Counsel. I have attached our original definitions below:

RECYCLING: Recycling is the series of activities during which obsolete, previously used, off-specification, surplus or incidentally produced materials are processed into specification-grade commodities and consumed as raw material feedstock, in lieu of virgin materials, in the manufacture of new products. The series of activities that make up recycling may include collection, processing and/or brokering and shall result in subsequent consumption by a materials manufacturer.

RECYCLABLE: A recyclable material is an obsolete, previously used, off-specification, surplus or incidentally produced material for processing into a specification-grade commodity for which a market exists.

MATERIAL RECOVERY FACILITY: A Material Recovery Facility is a recycling facility where primarily municipal recyclables, diverted from disposal by the generator and which are collected separately from municipal solid waste as opposed to a mixed waste stream are mechanically and/or manually sorted into commodities. The series of activities that make up recycling may include collection, processing, and/or brokering and shall result in subsequent consumption by a materials manufacturer.

RECYCLABLE: A Recyclable material is an obsolete, previously used, off-specification, surplus or incidentally produced material for processing into a specification-grade commodity for which a market exists.

- c. Are there any concerns about the terms “post-industrial” or “post-consumer” in the definition of “circular market” since those appear to be new?

RESPONSE: Distinguishing between pre- and post-recycled content is ambiguous and misleading. It is truly a distinction without a difference and should be eliminated. Congress' decision to impose the 'post-consumer' and post-industrial preferences under RCRA was driven, in large part, over concerns that absent such a requirement, manufacturers would favor pre-consumer content to produce "recycled" products. However, the last twenty-plus years of experience provide evidence that these concerns were unfounded and justify eliminating the pre- and post-consumer distinction altogether. This is not a result of post-consumer mandates but rather a result of advances in manufacturing. Furthermore, as a policy matter, such a distinction will not lead to more recycling of post-consumer or post-industrial than would otherwise occur.

3. The Break Free from Plastics Act requires the creation of Extended Producer Responsibility and Title IX of the CLEAN Future Act requires the creation of a Task Force to make detailed recommendations for the design of a national producer responsibility program.

- a. As a general matter, does ISRI support the creation of a national extended producer responsibility program?

RESPONSE: No. Several concepts of EPR establish product responsibility organizations (PRO) that determine the prices paid to recyclers with out much if any input from recyclers. These PROs have an incentive to find the lowest price which often results in poor management of the materials. The worst case is the EPR scheme for cathode ray tubes (CRTs) that resulted in many of these CRTs being abandoned in warehouses. Over ten years later, these warehouses still house these abandoned CRTs with no indication they will be recycled.

- b. Are EPR fees absorbed by manufacturers or passed along to customers?

RESPONSE: Yes. Companies do not absorb the costs or fees of an EPR program. Rather, they pass these costs and fees along to consumers through price increases. Moreover, extended producer responsibility is considered a regressive tax on consumers meaning lower income consumers are the most impacted by the additional costs.

4. The Break Free from Plastics Act contains mandatory recycled content provisions in it. As a general matter, does ISRI support the imposition of Federal content requirements and why?

RESPONSE: ISRI believes that manufacturers have both a financial and a social responsibility incentive to use more recycled materials in their products and packaging since using recycled materials is often less expensive than virgin materials and is more environmentally sustainable. Also, manufacturers understand and respond quickly to their customer demands and consumers are demanding that the products they purchase are more environmentally sustainable and responsible.

Federal recycled content mandates, however, may not always be technically practicable or realistic. For example, approximately 70 percent of all U.S. produced steel is manufactured using 100 percent recycled steel sourced from used cars, refrigerators, washers and dryers and other industrial and commercial scrap. The U.S. steel industry found that the energy saved versus coking iron ore made them very competitive while not impacting quality. Additionally, steel scrap is usually less expensive than iron ore. The same is true for other recycled materials such as paper, plastic, glass, and other metals where manufacturers identified using recycled content as a competitive advantage.

5. The Infrastructure Investment and Jobs Act contains \$375 million for various recycling and pollution prevention and response initiative.

- a. What are you most hoping to see result from these funds?

RESPONSE: This is an unprecedented amount of funds for recycling to improve recycling and the recycling infrastructure throughout the nation. Some of the results from these funds should be better improved collection, higher recycling rates, better quality through public education and awareness, and the deployment of new sorting and separation technologies to local governments. All of these programs should result in a greater awareness of the importance of recycling towards an improved environment and encourage manufacturers to better design their products and packaging to be easier to recycle and voluntarily use more recycled content.

- b. What are you most hoping to learn from these programs?

RESPONSE: Residential recycling rates have largely not improved over the past 10-20 years. Some of this lack of improvement is from inaccurate news stories about the demise of recycling. However, other factors such as consumer apathy, consumer products using materials that are more difficult to recycle, and the need for improved sorting and separation equipment at the local level. Following the implementation of these programs, we hope to learn what worked – and conversely – what did not work towards increasing the residential recycling rates and the quality of the materials collected, processed and consumed by manufacturers. We also hope to learn whether or not the consumer will demand that consumer products are better designed for recycling.

6. What policy driver do you believe has the greatest impact on improving recycling at the lowest cost to the consumer?

RESPONSE: The quality of recyclables will help drive the markets for recycled materials. Therefore, manufacturers should design their products and packaging for recycling thereby improving the recyclability of their products and packaging. Through improved design, manufacturers can reduce or even eliminate the difficulties and inefficiencies of recycling difficult to recycle products. For instance, reducing the

different types of plastics or resins in a product will improve the quality of the recycled plastics and increase the demand for that improved material. These improved designs often do not add any costs to manufacturing. In fact, in some cases, these improved designs can reduce manufacturing costs. ISRI's Design for Recycling Program presents an annual award to a manufacturer that demonstrates an extraordinary design effort that improves recycling. In many cases, the manufacturers have indicated that by reevaluating the product designs for recycling at the end of the useful life of their product, they were able to reduce the usage of certain materials and adhesives resulting in reduced costs that would be passed onto consumers.