

# Recycling - Impacts on State, Changing Recycling in General: Arkansas Environmental Federation Convention Presentation



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My law firm colleague Stuart Spencer undertook a presentation at the Arkansas Environmental Federation 52nd Annual Convention and Trade Show on October 17th in Hot Springs titled:

*Recycling: Impacts on State, Changing Recycling in General ("Presentation")*

The *Presentation* developed by both Stuart and myself addressed a variety of federal and Arkansas issues directly or indirectly related to recycling solid or hazardous waste.

The topics addressed included:

- Institute of Scrap Recycling Industries' Report Addressing the Economic Impact of Recycling on the Various States (including Arkansas)
- Economic Impact Study, U.S. Based Scrap Recycling Industry
- Arkansas jobs created include:
  - Direct - 1,252
  - Supplier - 1,198
  - Induced - 1,181
- Economic impact for Arkansas:
  - Direct - \$262,580,300
  - Supplier - \$247,919,300
  - Induced - \$197,532,300
- Scrap Import Ban/Chinese Government Policies
- Description of import prohibition which began on December 31, 2018
- List of various scrap materials whose import has been affected
- Note reference to solid waste
- Importance of traditional U.S. scrap exports to China noting 5.6 billion tons have been affected
- Diversion of scrap materials to countries such as Indonesia, Malaysia, Thailand, and Vietnam is becoming more important. They are looking at additional restrictions.
- Contaminant Thresholds for Certain Scrap Materials in the Chinese Import Ban is Described
- Impact of Chinese Import Ban on Plastics and Paper
- Noting 41 percent of paper recovered in North America was exported with about 25% going to Chinese mills
- European Union exports over 95% of its plastic to China

- Evolving Nature of Types of Materials Recycled, Referencing Solar Panels
- Concern has been expressed from a sustainability standpoint in regards to the end of the life cycle of photovoltaic solar panels
- Four million tons of PV have been installed in Europe and 43,500 tons of PV waste were generated by 2017
- Projected 60 million tons of PV waste will be generated by 2050
- Solid Waste Association of North America announced a Technical Policy Citing the Need for Entities to Measure Recycling Progress and Encourage the Development of a Consistent Methodology
- Document is cited as T-6.4 SWANA Technical Policy
- Contamination Limit/Recyclables
- Describing MRF Operator Lawsuit Alleging Connecticut Authority Violation of Sorting/Marketing Agreement
- Complaint filed in Superior Court in Connecticut alleging that Materials Innovation and Recycling Authority violated a Recycling Facility Operations and Maintenance Agreement
- Alleged violations included failure to prevent excessive levels of contamination in incoming recyclables
- Carroll County Solid Waste Authority Request to Become an Arkansas Regional Solid Waste District (Arkansas Pollution Control and Ecology Commission Administrative Law Judge Recommended Decision)
- Arkansas Pollution Control and Ecology Commission Regulation 16 – Arkansas Recycling Tax Credit Program
- Noting Arkansas has for a number of years provided eligible facilities establishing or expanding processes that utilize recyclables a tax credit on certain capital cost
- Eligibility is dependent upon certain criteria such as utilization of percentages of solid waste and post-consumer waste
- Arkansas Department of Environmental Quality operates this program in conjunction with the Arkansas Department of Finance and Administration
- Facilities establishing or expanding processes that utilize recyclables are potentially eligible for 30 percent tax credit on certain costs
- The tax credit has been very beneficial to manufacturing and processing facilities that have substituted scrap materials or recyclables in lieu of virgin feedstocks
- D.C. Circuit Court of Appeals Decisions Addressing EPA Rule Revising the Definition of Solid Waste (see California Communities Against Toxics, et al., v. EPA, D.C. Circuit Case No. 18-1163)
- Continuing Importance of RCRA Guidance
- July 19th memorandum addressing automotive airbag inflators
- Solvent contaminated wipes exclusion
- Beneficial Reuse/Clean Soil – February 20th Order Addressing Los Angeles County Department of Public Works Solid Waste Fee Determination
- Order considers the Los Angeles County Department of Public Works contention that a landfill facility underreported the amount of Solid Waste Management Fees that should have been collected because of classification of certain waste as beneficial reuse materials/clean soil
- Penalty amounts based on an alleged failure to report \$772,133 tons of clean soil
- Landfill facility successfully argued that the beneficially reused material (i.e., clean soil) was inappropriately classified by the County and there was no obligation to pay the fee
- Ohio Supreme Court Addressed the Application of Ohio's Use Tax to an Ohio Facility Processing Slag (See Lafarge North America, Inc., v. Testa, Tax Commissioner, 2018 WL 2440300.
- Discussion of Sentencing of Individuals for Alleged Wire Fraud Conspiracy Involving Electronics Recycling (two individuals sentenced in U.S. District Court in Seattle to 28 months in prison)
- Discussion of the Issues Relevant to the Solid/Hazardous Waste/Recycling Industry Associated with Arkansas's Enactment of the Medical Marijuana Amendment

- Employee issues associated with legal use of medical marijuana
- Medical marijuana cultivation and dispensary waste generation issues

A copy of the slides can be downloaded [here](#).