

**STATEMENT OF  
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**BEFORE THE  
VERMONT HOUSE COMMITTEE ON NATURAL RESOURCES AND ENERGY  
APRIL 29, 2015  
MONTPELIER, VERMONT**

Members of the Committee, I respectfully submit this testimony on behalf of the Institute of Scrap Recycling Industries (ISRI) Tire Division. ISRI is the trade association based in Washington, D.C. that represents more than 1,600 private, for-profit companies that process, broker and industrially consume scrap commodities including metals, paper, plastics, glass, textiles, rubber and electronics.

**Statement Summary**

Thank you for the opportunity to submit testimony in opposition of House Bill 36, an act relating to the collection and recycling of waste motor vehicle tires. The tire recycling industry contends that this legislation will permanently harm and disrupt tire recycling in Vermont by upending the current market-driven system and replacing it with an unnecessary, artificial financial “stewardship program” that gives complete control of one industry [tire recyclers] to another industry [tire manufacturers].

Product stewardship legislation may be necessary for difficult products and goods that lack end markets. But it makes little sense for used and end-of-life tires that are resold and processed into commodity grade feedstock that supplies a strong reuse and recycling market across the country. In Vermont alone, tire recyclers are reusing and recycling 90-95% of the tires collected from customers purchasing replacements, approximately 540,000-570,000 tires.<sup>1</sup> This accounts for the vast majority of the 600,000 scrap tires generated annually, which gives Vermont a tire recycling rate of about 93%.<sup>2</sup> A vibrant, competitive and fair market exists across the state.

We contend that H.36 is not the best way to improve tire recycling in Vermont. For example, under current law, there is no uniform licensing or permitting requirement for all participants in the recycling stream. More specifically, there is no manifest or other tracking system to ensure

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<sup>1</sup> See Report to the Vermont Legislature on Problem Scrap Tire Piles, 2013 (tire dealers reported 90-95% of customers purchasing replacements choose to leave tires and pay “the nominal fee”).

<sup>2</sup> Much of the remaining 7% is likely “legacy” tires from the past 10 or more years that still need to be recycled.

that tires collected by Vermont commercial haulers actually reach responsible recyclers. It is illegal to dump tires in Vermont. The state needs stricter dumping penalties and consistent enforcement to deter illegal dumping. Collectively, these policies are greatly preferred to the proposal in H.36.

### **The Tire Recycling Industry**

Each year, approximately 100 million tires are processed by the recycling industry. In the past, scrap tires — generated when an old, worn tire is replaced with a new tire — were often dumped illegally in lakes, abandoned lots, along the side of the road and in sensitive habitats.

Today, scrap tires are playing a much different role as an important part of the manufacturing process. Scrap tire rubber is used in the manufacture of new tires, playground surfaces, equestrian mats and rubberized asphalt among other products. Other cutting-edge manufacturers are combining scrap tires with materials such as scrap plastic to produce flower pots, roofing tiles and auto parts.

A tire is a highly engineered and extensively designed product that is meant to be virtually indestructible under a variety of conditions. Because of this, tires were difficult to recycle, but that has changed. Tire recyclers have invested millions of dollars in technologies and equipment to recycle tires, allowing scrap tires to play an important role in strengthening our economy and protecting our environment.

At tire recycling facilities, the main piece of equipment is the tire shredder, which uses powerful, interlocking knives to chop tires into smaller pieces. Shredding a tire at room temperature using such knives is called ambient shredding. Tires can also be shredded through a cryogenic process that uses liquid nitrogen to freeze them at a sub-zero temperature. Such temperatures cause the physical properties of the tires to change dramatically and become very brittle. The tire is placed in an enclosure in which powerful hammers smash the tire apart.

Cryogenic grinding is used to make fine crumb rubber powders that are then used in products such as synthetic turf. The non-rubber portions of the tire also are recycled. For example, the steel beads that give the tire its shape and structure are recovered by recyclers and processed into specification grade product used by steel mills for the production of new steel.

Tire recycling is an economically sound, environmentally friendly activity that can contribute to the reduction of a product's overall carbon footprint. In fact, the use of recycled rubber in molded products provides a substantial carbon footprint advantage over the use of virgin plastic resins, having between four and 20 times lower carbon footprint.

## **Tire Recycling in Vermont**

In Vermont, scrap tires predominately enter the recycling stream when consumers buy new tires. Tire dealers report that consumers willingly pay a “nominal [collection and recycling] fee” around \$2-4 dollars a tire for 90-95% of all tires collected from consumers in Vermont.<sup>3</sup> Commercial haulers are required to have permits. Facility regulations are covered by the state’s solid waste management plan that requires a specific location, operation in accordance with engineering plans submitted, specify projected amounts and types of waste, provisions for air, groundwater, and surface water monitoring among other requirements. While ISRI strongly advocates that scrap tires are not waste since sending tires for recycling fails the definition of “discard”, these requirements do persist in Vermont. Removing the regulatory label of “waste” from used and end-of-life tires that are used, reused, or recycled after use will unlock both tangible value and intangible value for businesses in Vermont and encourage them to put their operations and their products on a more-sustainable economic, ecological, and social path. Despite accounts to the contrary, Vermont has managed a very high recycling tire rate. The “Vermont system” has worked to eliminate the large tire piles of past decades while keeping costs both low and transparent for consumers.

### **H.36 Will Not Address Tire Piles**

***Product Stewardship is not needed to address tire piles dumped in Vermont. The solution is stricter penalties for any illegal dumping, ongoing, consistent enforcement and the proper recycling of piles at facilities intending to recycle tires.***

Proponents of H.36 suggest that this legislation will address illegal tire dumping and remaining tire piles in the state.<sup>4</sup> However, a closer look indicates that the number tire piles in Vermont is relatively small and manageable compared to the number of tires currently being generated and responsibly recycled. Of the estimated 600,000 tires generated in the state each year, the recent Report to the Vermont Legislature on Problem Scrap Tire Piles states that only 458,000 tires remained in varying tire piles. As stated above, tire dealers in Vermont report that 90-95% of their customers pay a “nominal [collection and recycling] fee” to manage such tires. Across the state, this would account for 540,000-570,000 tires being collected and recycled per year. However, there remains a 5-10% gap. This is consistent with the existing tire piles found in the state, as reported approximately 458,000 tires. At first glance, this seems to be a lot of tires. However, if viewed over a ten year time frame, these 458,000 tires would only be about 7% of the total tires generated annually. This supports a tire recycling rate at around 93% for Vermont. Moreover, many of these are likely legacy piles that existed prior to enactment of the solid waste

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<sup>3</sup> *Id.* (1)

<sup>4</sup> See H.36 §7612 (c) p.19 (penalties collected by ANR go to proper disposal of waste tires, including the elimination of legacy waste tire piles.

management plans.<sup>5</sup> It is hard to imagine that Vermont needs to disrupt the entire tire recycling infrastructure by imposing H.36 to address such a manageable number of remaining tire piles.

It is illegal to dump tires in Vermont.<sup>6</sup> Enforcement is a vital cornerstone to any functioning liberal democracy. Without enforcement, we are left with unfunded mandates and citizens empowered to disregard the laws without criminal recourse. Enforcement of existing litter laws coupled with targeted penalties for illegally dumped tires is a much simpler solution to curtail tire piles.

Proponents of H.36 suggest that if there is no cost to recycle, i.e., the “stewardship program”, then consumers will recycle the tires. However, in Vermont, even during “amnesty days” in which no fee is charged to recycle tires and other state programs that offer free drop off services for consumers, tire piles still exist. What that tells us is that a nominal fee averaging \$3 dollars per tire is not the reason consumers fail to recycle their tires. Therefore, H.36 is based on a false premise that actually just hides the costs of collection and recycling.

The tire recycling industry suggests there is a much simpler approach to address the remaining 7% of tire piles in Vermont, which includes legacy tire piles. The state needs targeted penalties for any person or consumer that illegally dumps tires and consistent enforcement of such laws. The lack of penalties in H.36 should cause this distinguished body to question how proponents expect this legislation to curb illegal dumping at all when there are no consequences for those doing the dumping. Although commercial haulers are required to be permitted, a tracking and manifest system to ensure that all tires collected in Vermont are actually recycled presents a low cost option to address this issue, rather than a burdensome product stewardship program that will completely disrupt the existing market.

### **H.36: A Negative Impact on Small and Medium Sized Vermont Companies**

*Giving tire manufacturers’ full control over which recycling company to contract with, or not, is a kin to having the “fox watch over the henhouse”. Tire recyclers would prefer the Vermont government to provide fair oversight, equal access to the market and consistent enforcement for all companies, not just the largest.*

H.36 will distort the Vermont tire market by requiring tire manufacturers to dictate the flow of used tires to a few, select municipal and certified solid waste management “collection facilities”. The tire recycling industry adamantly opposes this approach because it undermines the vibrancy of the existing recycling infrastructure throughout the state and New England region. Forcing the flow of used tires into certain collection facilities poses a serious threat to the viability of the

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<sup>5</sup> See 10 V.S.A. § 6604.

<sup>6</sup> Vermont’s litter laws (24 V.S.A § 2201) prohibits the dumping of tires,

smaller family-owned and medium size commercial haulers and recycling companies in Vermont. H.36 would essentially require tire manufacturers to create recycling collection monopolies. ISRI's tire recyclers fear that this could deter local, in-state collection and recycling and direct all of Vermont's tires to large tire haulers and recyclers operating outside of the state.

While this is not the stated intent of H.36, tire recyclers fear that a lack of consultation with the industry has left drafters and supporters of this bill with an inaccurate picture of the current marketplace. Not only does the bill fail to recognize the vibrancy and successful business practices already taking place in Vermont, but H.36 fails to even mention tire recyclers and only mentions commercial haulers once. Tire haulers and recyclers are left to discover a "stewardship" program that would completely disrupt, and potentially shut-down, our current business models. This is not the solution.

### **H.36: An Odd Path to Stockpiling**

*Once tire manufacturers meet their "performance goals" municipalities, haulers and recyclers are left without payment for collected tires. In other states, this has led to stockpiling of used products.*

The "stewardship" plans outlined in H.36 § 7607 (b)(4) requires manufacturers to set a "Collection Rate Performance Goal of 50% that could create market confusion and, oddly enough, the stockpiling of tires. As has been demonstrated in other stewardship plans, such as *New York's Electronics Reuse and Recycling Act*, which is based on performance goals, payments for collection and processing cease when the goals are met regardless of how much material has been collected. Without payment, the New York program has led to stockpiling of already collected cathode ray tube monitors and televisions. Under this model, there is little to no incentive for commercial haulers and collection facilities to collect beyond the manufacturers recycling rate goal of 50%. This would create a disincentive to collect the remaining 300,000 tires generated throughout the state each year. Under the existing proposal, H.36 could actually exacerbate the current tire pile situation in Vermont.

If this body determines a stewardship program is unavoidable in Vermont, you may consider a payment structure that requires manufacturers to pay for every used tire collected in Vermont above and beyond the 50% recycling goal. We certainly do not want to create a market dynamic similar to the problems in New York. This distinguished body should carefully consider whether it wants to risk these unintended consequences when the tire recycling industry already has a regulated, sustainable market in place.

### **H.36: Disrupts the Market by Forcing Higher Use Recycling**

***Artificially incentivizing the supply of recycled tires without accompanying incentives to increase demand for such recycled tires will disrupt fundamental economic principals in the Vermont and New England tire recycling market.***

H.36 requires tire manufacturers to meet recycling rate goals that would exclude any tires sent for tire-derived fuel (TDF). This is a problem as it would artificially incentives tire manufacturers to send more tires to recycling in order to meet their “stewardship” goals. While this may seem like an odd problem for the tire recycling industry to point out, it is not. Because tire recycling is a classic example of supply and demand economics, any artificially generated volume without similar demand for such volume can distort value for such material.

Make no mistake, ISRI does not consider incineration or energy recovery to be recycling, however, under certain market conditions, these non-recycling choices are necessary if not vital to the overall health of the marketplace. Under today’s market conditions, there is simply not enough market demand to support the volumes of tires being recycled in the United States. While TDF is not a preferred use for tires, it has historically been a vital tool in eliminating legacy stockpiles, and is vital to preventing landfilling, stockpiling, or market distortions.

ISRI’s tire recyclers fully support the growth of end-use markets for used tires and commodity grades, such as crumb rubber over tire-derived fuel (TDF), but imposing artificial barriers for alternative uses such as fuel will, under current market conditions, hurt the tire recycling industry. ISRI’s tire recyclers encourage this body to consult with experts in the recycling industry on the market dynamics for scrap tires prior to establishing any recycling goals such as those set forth in H.36 in order to avoid these unnecessary consequences.

### **H.36: Does NOT Alleviate Government Oversight**

***Proponents of H.36 falsely claim that product stewardship for tires will require less public enforcement. Product stewardship laws require the same, if not more, enforcement. Placing new policies on top of old policies to address lack of funding and enforcement is not the solution.***

H.36 does not establish a private sector solution as some proclaim, but creates a new program requiring the same level of government oversight as that currently in place. ISRI does not believe that a tire stewardship program could be run successfully with less involvement from the government.

During the January 2015 Tire Stewardship Dialogue Meeting in Connecticut, representatives from Ontario stated that their tire stewardship program only operates through vigorous



governmental monitoring and regulation with robust enforcement. They stated that their system is subject to abuse by parties bringing tires from other areas to take advantage of the subsidies in order to make up for the excess supply caused by their TDF ban. Ontario also pointed out that its program is the most expensive in the world for consumers.

### **H.36: Recommendations and Alternatives**

ISRI respectfully requests this body turn its attention to more effective and less intrusive ways to address the concerns outlined by proponents of H.36. It is unnecessary and ultimately more expensive to undermine and harm the existing tire recycling infrastructure in Vermont.

Instead, ISRI suggests that this distinguished body consider the development of a system to:

- (1) Establish a uniform licensing or permitting requirement for participants in the recycling chain - outside of the solid waste management requirements - that includes commercial haulers and tire recycling facilities;
- (2) Develop a manifest or other tracking system to ensure that tires collected by tire dealers in Vermont and from commercial haulers actually reach responsible tire recyclers that are recycling tires in an environmentally sound fashion in accordance with all applicable laws and business standards;
- (3) Develop strict penalties and consistent enforcement to deter illegal dumping and curtail additional tire piles; and
- (4) Link applicable permits for tire recyclers and other collection facilities with the commercial haulers' tracking and manifest requirements.

ISRI's tire recyclers would be pleased to provide this body with examples of oversight models currently being utilized in other states with success. Our vast information network includes resources on alternative market uses for scrap tires such as the increased safety and reduced road noise associated with rubberized asphalt. ISRI also publishes suggested tire storage recommendations to address fire safety concerns and potential health risks. All of these resources as well as economic reports and the market dynamics of our industry are available to you to assist with the development of reasonable oversight structures.

Thank you again for this opportunity to present testimony before this distinguished committee. ISRI looks forward to working with you on this issue.