

Monday, February 20, 2023

Representative Sean Tarwater, Chair
House Committee on Commerce, Labor and Economic Development
Kansas State Capitol
200 SW 10th Street
Topeka, KS 66612

Re: Statement on SB 114 by the Institute of Scrap Recycling Industries (ISRI)

Chair Tarwater,

On behalf of Kansas members of the Institute of Scrap Recycling Industries (ISRI), I respectfully submit this written statement on SB 114, a bill covering chemical (“advanced”) recycling. ISRI commends efforts from within the chemical industry seeking solutions to plastics pollution; however, SB 114 raises significant questions with little explanation provided on the need for this legislation in Kansas. The recycling industry is the foremost expert in transforming old to new in an economically sustainable, business-friendly environment, and we ask the committee to hold this bill for further consideration and amendment before moving forward.

ISRI fully supports any recycling process that transforms material into a new physical product to be utilized as a raw item in the manufacture of new goods. This includes both mechanical and chemical processes, both of which have existed for decades. Mechanical recycling techniques have proven economically self-sustainable for generations and are utilized for all commodities. In contrast, chemical recycling technologies that seek to break down plastics to their molecular-level, such as a few of those being added to definitions in SB 114, have been utilized in laboratories and subsidized factories for years, though challenges remain for many of the emerging chemical processes used for some hard-to-recycle plastics.

SB 114 creates statutory definitions that will impact the Kansas recycling industry along with our members’ raw materials supply and flow of recyclable materials. We look forward to continuing discussions and working with the proponents of this legislation to resolve the following concerns:

- Does SB 114 intend to give preference to chemical recycling and its material feedstock over that of mechanical recycling?
- Does SB 114 intend to give statutory recognition as recycling to facilities that produce and use fuel as raw material?
- Is SB 114 solely for purposes of creating exclusive regulatory and publicly funded financial incentives for chemical companies to invest in Kansas over other recycling alternatives?

The following comments expand upon the recycled materials industry’s concerns listed above. In these comments, we emphasize that ISRI is utilizing language the scientific community acknowledges as descriptive of chemical conversion - or chemical recycling - to describe the processes within SB 114 that the legislation seeks to define as “advanced recycling”¹.

¹ See e.g., Cheryl Hogue, *What is Plastics Recycling*, AM. CHEM. SOC’Y MAG., May 15, 2022, at 25.

1) Does SB 114 intend to give preference to chemical recycling and its material feedstock over that of mechanical recycling?

- ISRI opposes the term “Advanced Recycling” being utilized to define a process that is not new or advanced for purposes of technology or economics. This is being utilized as a “term of art” in the context of SB 114 to describe complex factors that do not properly fit within one single term.
- The appropriate terms for SB 114 to utilize as definitions for the processes and facilities being described are: **Chemical recycling**; and **Chemical recycling facility**.
 - **Words matter.** Calling out chemical recycling as “advanced” in statute signifies Kansas lawmakers intentionally classify one process of recycling as superior by virtue of the plain meaning of the word “advanced.”
 - ISRI fails to believe Kansas lawmakers want to diminish the valuable economic and environmental contributions that Kansas-owned and operated mechanical recycling businesses have brought to the state for decades.
- ISRI asks this committee to pass an amendment that replaces the word “Advanced” with its proper and scientifically accurate word “chemical” if this term is to be placed in Kansas statute.
 - Statements of what other states have or have not called these processes are irrelevant to what lawmakers in Kansas determine is proper and right for Kansas.

2) Does SB 114 intend to give statutory recognition as recycling to facilities that produce and use fuel as raw material?

- ISRI would like to see specific clarification that chemical recycling (“advanced recycling”) does not include products sold or used as fuel or as intermediate fuel product. To the same extent, ISRI would like to see a similar clarification in the definition of a chemical recycling facility.
- Recycling (of any kind) is a series of activities that shall result in subsequent consumption of a raw product by a materials manufacturer into a new product. Production of fuel or the subsequent use of that product as fuel is not recycling.
 - Some chemical recycling processes result in fuel products, ingredients, and fuel substitutes. ISRI does note that SB 114 rightly excludes from the definition of chemical “advanced” recycling any incineration or waste-to-energy processes.
 - Further amendment is needed in SB 114 for clarification because the legislation **does not** prohibit these facilities from **producing and using as fuel** the products from a process they are asking Kansas to define as “recycling.”
 - A core principle of recycling is to take something old and create something new that can substitute for the manufacturing of something new. It keeps the circular economy moving.
 - SB 114 allows for using the fuel generated from old plastic – which is not recycling. This fuel, fuel ingredients, and fuel substitutes generated from chemical processes certainly may be better than landfill, but **it is not recycling and should not be in statute as recycling**.

3) Is SB 114 solely for the purposes of creating exclusive regulatory and publicly funded financial incentives to invest in Kansas over other recycling alternatives?

- ISRI questions the need for SB 114 in Kansas when current statute allows for these facilities to break ground and start operating under the exact same rules as all other Kansas manufacturing.

- Kansas law already exempts from solid waste that which the chemical industry is seeking for its processing facilities so why do lawmakers need to cloud Kansas statute’s definition of recycling?
 - Recyclables are exempt from the definition of solid waste under § 65-3402.(a), and scrap material recycling and processing facilities from the definition of a solid waste processing facility under § 65-3402.(c).
 - SB 114 creates new definitions for “post-use polymers” and “recovered feedstock” that describe plastic materials already covered under the existing Kansas law.
 - The plastics in SB 114 are covered under current definition for recyclables as "materials that will be used or reused, or prepared for use or reuse, as an ingredient in an industrial process to make a product, or as an effective substitute for a commercial product."
- ISRI is concerned that SB 114 is blurring the lines of the definition of recycling and creating preferential regulatory treatment based on promises of future investments.
 - Commercially sustainable recycling businesses do not need states breaking norms and customizing statutory definitions simply to attract investment.
 - The Kansas recycled materials industry has a \$713.88 Million impact and is not asking for special definition changes to entice more investments.
- ISRI questions why these new chemical facilities need special statutory reference when the recycling industry and mechanical recyclers operating in Kansas have long been held to high standards for environmental compliance.
 - ISRI is concerned that SB 114 is incentivizing chemical processing through special call-out definitions that create unique oversight, including preferred oversight of material feedstock held for or sent to chemical recycling facilities.

In conclusion, ISRI is concerned that SB 114 as written confuses the core principle of recycling that has guided statute and regulatory oversight in Kansas for generations. By failing to exclude the production and use of fuel, fuel ingredients, and fuel substitutes, SB 114 is expanding the term “recycling” into a realm beyond production of new material as raw product substitution for manufacturing; a definition and process that goes to the fundamental soul of recycling.

Furthermore, as SB 114 pushes the boundaries of what Kansas considers recycling, SB 114 ignores the valuable economic and environmental contributions of recycling businesses operating in Kansas for decades. Words matter. The legislation relegates hard-working Kansas recyclers to a lower status in statute simply by fact that, passed, lawmakers of Kansas have chosen to define one group as “advanced” over another group. Kansas recyclers are innovating everyday with the latest technology available.

ISRI looks forward to working with proponents of this legislation to resolve our concerns in a way that does not inadvertently create winners and losers, but rather advances all recycling, improving raw material supply chains, and strengthening our essential national infrastructure. Thank you.

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