



Institute of
Scrap Recycling
Industries, Inc.

June 24, 2005

Michele Peterson
U.S. Department of Defense
Defense Acquisition Regulation Council
IMD 3C132
3062 Defense Pentagon
Washington, D.C. 20301-3062

Re: DFARS Case 2004-D011

Dear Ms. Peterson:

Attached please find the comments of the Institute of Scrap Recycling Industries, Inc. ("ISRI") in response to the request by the U.S. Department of Defense ("DoD") published in the Federal Register notices dated April 21, 2005 and April 27, 2005.

ISRI appreciates the opportunity to provide these comments because the DoD's actions have the potential for far reaching impact on the scrap recycling industry, including many small businesses.

We appreciate the opportunity to submit these comments. Please feel free to contact me directly at 202/662-8513 or ScottHorne@ISRI.org if I may be of assistance.

Sincerely yours,

Scott J. Horne
Vice President:for Government Affairs & General Counsel

Comments of
The Institute of Scrap Recycling Industries, Inc. (“ISRI”)
On
Proposed Amendments to the
Defense Federal Acquisition Regulations Supplement
to Add Policy Pertaining to Package Marking with Passive Radio Frequency
Identification Tags
DFARS Case 2004-D011
Submitted to
U.S. Department of Defense
Defense Acquisition Regulation Council

Submitted by:

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INTRODUCTION

ISRI is the “Voice of the Recycling Industry.” With 21 chapters nationwide and headquarters in Washington, D.C., ISRI represents more than 1,200 companies that process, broker, and industrially consume scrap commodities, including metals, paper, plastics, glass, rubber, electronics, and textiles. The Institute provides education, advocacy, and compliance training, and promotes public awareness of the value and importance of recycling to the production of the world’s goods and services.

STATEMENT OF CONCERN

These comments are submitted in response to the Federal Register Notices published on Thursday April 21, 2005 and April 27, 2005 by the Department of Defense (“DoD”) seeking comments on the “Defense Federal Acquisition Regulation Supplement; Radio Frequency Identification.” ISRI welcomes this opportunity to comment on DOD’s plans to have Radio Frequency Identification (“RFID”) tags affixed to certain shipments at the case and pallet levels. ISRI’s members are quite concerned that the proposed amendment may adversely affect the recycling industry by requiring the widespread use of RFID tags that were designed without regard to the impact those tags may have at the end of their useful lives. At this point in time, ISRI is not aware of any manufacturer of RFID tags that has undertaken any determination of the impacts that RFID tags may have on the scrap recycling chain and published such results. Many mills, smelters, and extruders of various materials (paper, glass, plastic, aluminum, and steel just to name a few) are

concerned about the potential adverse impacts that these tags may have on their manufacturing processes when scrap materials that have been manufactured into raw material feedstocks are utilized to make new basic materials.

Perhaps the best example of these concerns is paper mills that utilize recycled corrugated cardboard as a significant portion of their raw materials feedstock. At this juncture, no one knows for certain what impact large numbers of these RFID tags will have when the corrugated goes through the hydropulping process and the tags are captured in the filter screens. In fact, there is great concern that portions of the tags may not be captured by the filter screens thereby leading to contamination of the new, finished products. The contamination of the finished products manufactured using recyclable materials can result in appearance deficiencies, at best, and structural deficiencies, at worst. These concerns stem from a variety of aspects including the copper content of the tags (copper is used in the antennae of many tags), the types of adhesives used to secure the tags to the cases, and the body materials of the tags themselves. In part, the current situation is a result of the failure of the RFID tag manufacturers to interact with the recycling industry during the development of their product and their subsequent marketing activities. While ISRI recognizes that DoD was not directly responsible for development of the RFID tags and the failure to consider Design for Recycling®, ISRI is concerned that the DoD has moved too quickly in its zeal to embrace this new technology and has failed to consider the impact the tags may have upon the recyclability of the scrap materials it generates. ISRI urges the DoD to reconsider the timing of its mandate to suppliers requiring case level use of RFID tags until adequate data has been derived relative to the impact of RFID tags

on the recycling supply chain. The federal government has embraced recycling as an integral part of resource conservation and the DoD, as one of the largest generators of scrap materials in the U.S. government, has an obligation not to act in a manner that is contrary to the government's commitment to increasing recycling.

The U.S. EPA is currently seeking new ways to increase the recovery of paperstock generated in the United States. DoD's actions have the potential to negatively affect those efforts. Furthermore, DoD, along with a couple major retailers who are embracing this technology without carefully considering the ramifications of their actions, are large enough players in the supply chain that the actions of just these few could create a critical mass that will flood the marketplace with contaminated material.

Only as a result of the imminent deadline for comments in response to the Federal Register notice has ISRI recently heard from representatives of the manufacturers of these tags seeking to allay our concerns. However, not one of those calls has been supported by data or other tangible evidence showing that RFID tags will not adversely impact the Recyclability of materials.

RECOMMENDATIONS

ISRI recognizes that these comments speculate as to the potential for contamination of the recycling stream and that in the end there may not be a problem. However, for far too long, manufacturers in this country have been failing to Design for Recycling® and have

thus been creating huge roadblocks to environmentally safe, cost effective recycling in this country. The time has come for the U.S. government to support Design for Recycling® with more than just lip service—DoD needs to ask the manufacturers and suppliers of RFID tags what data they have to show that their products can be safely and effectively recycled using technology that exists today. It is not enough for the manufacturers to simply state that by the time these RFID tags get to the marketplace there will be technology in place. The recycling industry has learned from experience that such empty promises lead to one thing—greater challenges for recyclers and less material being recovered and recycled.

Although ISRI is unaware of any companies that have conducted research relative to the impacts of RFID tags on the scrap recycling chain at the end of the tags' useful lives, ISRI is aware of the efforts of at least one company to create a reusable RFID tag that would be removed from packaging before being sent for recycling. ISRI is also aware of at least one manufacturer that is working with a paper mill to develop technology that will recover their RFID tags from the hydorpulping process to be resold and reused several times over. These kinds of novel approaches are absolutely necessary to the success of recycling and need to be perfected before the large scale use of RFID tags is implemented by the government. However, neither one of these technologies are commercially available today. Hence, it is incumbent upon the DoD to not consider these as viable alternatives when making the decision to implement the proposed amendments

One additional consideration is that which the amendment would have on small businesses. Because the vast majority of scrap processors are small businesses, and because many of the industrial consumers of scrap materials are also small businesses (particularly those involved in plastics recycling and to some extent small paper converting companies), the impact of the proposed amendment on small business could be quite significant. Because there is currently no proven technological means of removing RFID tags from the scrap material, it is conceivable that the only alternative would be hand sorting. This would create a tremendous economic burden that could result in significant amounts of scrap material going to landfills instead of into the recycling stream. ISRI urges the DoD not to create such an untenable situation for small businesses.

CONCLUSION

ISRI thanks the DoD for this opportunity to submit comments on the proposed amendments. ISRI members are willing to cooperate with the RFID manufacturing industry as well as DoD and others who would like to require the use of these tags to improve their logistics. Cooperative efforts between the government, manufactueres and the recycling industry will lead to a product that is useful and environmentally favorable. We urge the DoD to reconsider its decision to require RFID tags on shipments until such time as these tags are shown to be “safe” for the recycling process.