

Interim Provisions on the Administration of Environmental Protection of Waste Imports

(Promulgated on March 1, 1996 by the National Environmental Protection Agency, the General Administration of Customs, the Ministry of Foreign Trade and Economic Cooperation, the State Administration for Industry and Commerce, the State Administration for Import and Export Commodity Inspection and come into effect as of April 1, 1996)

Chapter I General Provisions

Article 1 These Provisions are formulated in accordance with the Law of the People's Republic of China on Prevention and Control of Environmental Pollution by Solid Waste and other relevant laws in order to strengthen the environmental management of waste importation and to prevent environmental pollution caused by imported waste materials.

Article 2 These Provisions shall apply to any waste import activities conducted within the territory of the People's Republic of China, and the supervision and control of environmental pollution caused by such waste.

Article 3 A ban shall be imposed on dumping, storage and disposal of imported waste materials within the territory of the People's Republic of China.

A restriction is imposed on the importation of waste materials that can be used as raw materials. In case import of such materials are necessary for use as raw materials, the importation of such materials shall be conducted in accordance with the provisions of these Provisions.

Article 4 Any units and individuals have the right to file charges with the competent departments of environmental protection administration, the competent departments of foreign trade and economic cooperation, customs, departments for import and export commodity inspection, administrative departments for industry and commerce and judicial organs against any units that import waste in contravention of law.

Article 5 The National Environment Protection Agency shall exercise supervision and management over nationwide waste importation activities.

The competent departments of environmental protection administration of the local people's governments at various levels shall exercise supervision and management authority over imported waste under their jurisdiction in accordance with the provisions of these Provisions, and shall be empowered to make on-site inspections of units that are engaged in waste import activities.

Article 6 The List of Waste that Can be Used as Raw Materials and Are Restricted in Importation by the State (Annex I) shall be formulated, adjusted and promulgated by National Environmental Protection Agency in conjunction with the Ministry of Foreign Trade and Economic Cooperation and the General Administration of Customs.

The Standard for Compulsory Inspection of Imported Waste shall be formulated by the State Administration for Import and Export Commodity Inspection together with the National Environmental Protection Agency.

Article 7 The competent departments of foreign trade and economic cooperation, customs, departments for import and export commodity inspection and the departments for industry and commerce administration shall exercise supervision and management authority over imported waste within their respective spheres of competence.

Chapter II Environmental Management of Imported Waste

Article 8 The importation of any waste listed in Annex I hereof shall be subject to examination and approval by the National Environmental Protection Agency.

The importation of any waste that are not listed in Annex I hereof (For scope of waste, see Article 32) is banned by the state.

Article 9 The application and approval procedures for waste import are as follows:

(1) For those who intent to import waste Nos. 7204.1000, 7204.2100, 7204.2900, 7204.3000, 7204.4100, 7204.4900 and waste Ons. 7204.5000 (hereinafter referred to as waste No. 7204-1000 to 7204-5000) as listed in Category 6 of Annex I, an application for importing such waste shall be submitted by the waste importer or waste user directly to the National Environmental Protection Agency for approval .

(2) For those who intend to import other waste listed in Annex I, an application for importing such waste shall be submitted by the waste importer or the waste user to the competent departments of environmental protection administration under the municipal people's government at the area where the user of such waste is located (hereinafter referred to as the competent departments of environmental protection administration at municipal level), and then the said application shall be submitted to the National Environmental Protection Agency for approval upon examination and consent given by the local competent departments of environmental protection administration at municipal level and the competent departments of environmental protection administration at all level of province, autonomous region and municipality (hereinafter referred to as the competent departments of environmental protection at provincial level) .

Article 10 The application for waste importation must meet the following criteria:

(1) The unit applying for importing waste and using them as raw materials shall be an incorporated enterprise established according to law, and shall have the ability to use such imported waste and be equipped with the corresponding pollution control facilities;

(2) The waste being applied for importation shall be those contained in the List of Waste that Can Be Used as Raw Materials and are Restricted in Importation by the State.

Article 11 The unit applying for importing the waste listed in Annex I or the user of such waste shall submit the following application materials:

(1) "Application for Waste Importation" (Annex II)

(2) "Statement on Environmental Risk Involved in Using Imported Waste as Raw Materials" or "Reporting Form on Environment Risk Involved in Using Imported Waste as Raw Materials";

The above-mentioned application materials shall be made in triplicate form.

Article 12 The competent departments of environmental protection which are responsible for accepting waste import applications shall process the applications separately within 5 days from the date of receipt of the applications per the following provisions:

(1) Waste importation applications which are in conformity with Articles 9 and 10 of these Provisions shall be accepted;

(2) Waste importation applications which are not in conformity with any one of the items of Article 10 hereof shall be refused and the applicant shall be informed of the reason for refusal.

(3) Applicants who fail to submit any of the application materials as provided in Article 11 hereof shall be notified to make supplements and corrections within a specified time. Where no required supplements and corrections are made within the specified time, the application shall be treated as it has ever been made.

Article 13 The unit applying for importation waste Nos. 7204.1000 to 7204.5000 as listed in Category 6 of Annex I or the user of such waste shall make evaluations as to the environmental risks involved in the waste which are to be imported and used as raw materials and the risks involved in the process of their storage, transportation and utilization, and shall fill in the "Reporting Form on Environmental Risk Involved in Waste Importation" and then submit the Form to the National Environmental Protection Agency directly for approval.

Article 14 The unit applying for importing waste listed in Categories II , VII , VIII and 9 of Annex I or the user of such waste shall make evaluations as to the environmental risks involved in the waste to be imported and used as raw materials and in the process of their storage, transportation and utilization, and shall prepare the "Statement on Environmental Risk Involved in Waste Importation" and

submit the statement to the competent departments of environment protection administration for examination in accordance with the relevant stipulations of the National Environmental Protection Agency.

Article 15 The unit applying for importing waste Nos. 7204.1000 to Nos. 7204.5000 as listed in Categories I, III, IV, V and VI of Annex I or the user of such waste, or the unit reapplying for importing the waste which have ever been approved referred to in Article 14, shall make evaluations as to the environmental risks involved in the waste to be imported and used as raw materials and in the process of their storage, transportation and utilization, and shall fill out the "Form on Environmental Risks Involved in Waste Importation" and then submit the Form together with the "Application for Waste Importation" to the competent departments of environment protection administration for examination in accordance with the procedures as provided in Clause (2) Article 9 of these Provisions.

Article 16 The technical requirements and the examination procedure for evaluating the environmental risks involved in waste importation shall be formulated separately by the National environmental Protection Agency.

The unit undertaking the evaluation of environmental risks involved in waste importation shall have acquired the "Qualification Certificate for Evaluating Environmental Risks Involved in Waste Importation" approved and issued by the National Environmental Protection Agency.

Article 17 The competent departments of environmental protection administration at municipal level and those at provincial level who accept the waste importation applications shall write and submit their examination comments and notify the applicant within 10 working days from the date of receipt of the application materials for waste importation.

Article 18 The decision on whether to approve the applications for waste importation shall be made by the National Environmental Protection Agency and shall be notified to the applicant within 10 working days from the date on which the application materials for waste importation are accepted directly by the National Environmental Protection Agency or submitted to the Agency by the competent departments of environmental protection administration at provincial level.

As for the approved applications for waste importation, the "Approval Certificate for Waste Importation" (Annex III) shall be issued by the National Environmental Protection Agency.

Article 19 In examining the application materials for waste importation, the National Environmental Protection Agency may organize experts to make verifications on the application materials or seek advice from relevant departments when it is deemed necessary.

Article 20 The term of validity of the "Approval Certificate for Waste Importation" issued by the National Environment Protection Agency is one year.

Article 21 As for the waste listed in Annex I hereof, the customs shall make inspection and clear customs for such waste against the "Approval Certificate for Waste Importation" issued by the National Environmental Protection Agency and the Certificate of Inspection issued by import and export commodity inspection agency at the area where the port is located.

Article 22 Waste importers and users must fill out the "Reporting Form of Waste Importation" (Annex IV) with regard to the waste imported each quarter of the year, and shall submit the Form to the competent departments of environmental protection administration at municipal level in the area where the user of the waste is located.

Waste users shall take measures to prevent and control the environmental pollution caused by imported waste in accordance with the requirements as set in "Statement on Environmental Risks Involved in Waste Importation" or "Form of Environmental Risks Involved in Waste Importation".

Article 23 Where the department for import and export commodity inspection discover any issue which is likely to cause environmental pollution in the course of its inspection of imported waste, it shall inform and hand over the issue to the local competent departments of environmental protection administration and customs for settlement according to law.

Article 24 With regard to the processing and production projects which use imported waste as construction raw materials, the construction units shall make evaluation of environmental risks involved and prepare the "Statement on Environmental Risks Involved in Waste Importation", and submit the statement to the National Environment Protection Agency for examination, after the compe-

tent departments of environmental protection administration at municipal and provincial levels in the area where the construction project is carried out have written and signed their comment on the statement.

Article 25 Units which are engaged in the processing and utilization of waste listed in Category VII of Annex I shall be the waste processing and utilization units designated and approved by the National Environmental Protection Agency.

Article 26 Any enterprise applying for approval to import, operate or process the waste listed in Annex I shall submit an approval application document to the National Environmental Protection Agency. Those who fail to submit said document will not receive or registration approval from the departments of industry and commerce administration.

Enterprises which have already engaged in waste importation and processing activities prior to the entry into force of these Provisions shall file a supplementary application with the National Environmental Protection Agency for examination and approval in accordance with the provisions of the Urgent Circular on the Strict Control of the transfer of the Transfer of Foreign Waste to China issued by the General Office of the State Council in 1995.

Chapter III Provisions for Penalty

Article 27 Where waste from foreign countries are imported for dumping, storage and discharging within the territory of the People's Republic of China in violation of the provisions of these Provisions, or where waste are imported and used as raw materials without approval and authorization of the National Environmental Protection Agency, the violator shall be punished in accordance with Article 66 of the "Law of the People's Republic of China on Prevention and Control of Environmental Pollution by Solid Waste".

Those who import waste which can not be used as raw materials in the name of raw material utilization, shall be punished according to the foregoing paragraph.

Article 28 With regard to the solid waste which have already been imported into the territory of the People's Republic of China, Article 68 of the "Law of the People's Republic of China on Prevention and Control of Environmental Pollution by Solid Waste" shall apply.

Article 29 Those who forge or alter the "Approval Certificate for Waste Importation" issued by the National Environmental Protection Agency shall be imposed a fine ranging from RMB 50,000 to 500,000 yuan by the Agency, and the case shall also be referred judicial organs for investigating criminal liabilities.

Article 30 For those who failed to go through supplementary procedures with the National Environmental Protection Agency for approving their business in waste importation within specified period of time by violating the provisions of Clause 2, Article 26 of these Provisions and continue to conduct waste importation business, the customs shall give no customs clearance to the waste imported and shall order the importer to ship the waste back. The competent departments of foreign trade and economic cooperation shall deprive them of their rights for import operations according to law, and the departments of industry and commerce administration shall suspend their business licences.

Article 31 Any person conducting waste import superintendency and administration abuses his power, neglects his duties and engages in malpractice for private gains, shall be given a disciplinary sanction in case where his act does not constitute a crime; and criminal sanctions shall be imposed according to law in case where his act constitutes a crime.

Chapter IV Supplementary Provisions

Article 32 The terms as used in these Provisions are defined as follows:

(1) Scope of waste:

"Solid waste" refers to the solid and semi-solid discarded materials which cause pollution to environment and are generated from production and construction, daily life and other activities.

"Industrial solid waste" refers to the solid waste generated from production activities in sectors

such as industry and transportation.

"Urban domestic garbage" refers to the solid waste generated from urban daily life or from activities providing services to the daily life of urban zones, as well as the solid waste being deemed as urban domestic garbage by laws and administrative rules and Provisions.

"Hazardous waste" refers to those waste listed in the National Directory of Hazardous Waste or the waste which have been identified with hazardous characteristics by applying the national standards and methods for hazardous waste identification.

(2) "Waste import units" refers to the foreign trading units engaged in waste importation.

(3) "Waste users" refers to the units actually engaged in the processing and utilization of imported waste.

Article 33 Any regulations on the administration of waste importation promulgated by the National Environmental Protection Agency independently or in conjunction with relevant departments before the date of promulgation of these Provisions shall be ceased implementation in case where they contain provisions differing from these Provisions.

Article 34 These Provisions shall be interpreted by the National Environmental Protection Agency in conjunction with other relevant departments.

Article 35 These Provisions shall come into force on April 1, 1996.

Attachment:

Relevant provisions of the Law of the People's Republic of China on Prevention and Control of Environmental Protection by Solid Waste.

Article 66 In case where the solid waste are imported in the territory of the People's Republic of China for dumping, storage and disposal in violation of the provisions of this Law, or solid waste are imported into the territory of the People's Republic of China without permission and authorization of the competent departments under the State Council, the customs shall order the importer to ship the solid waste back and a fine ranging from RMB 100,000 to 1,000,000 yuan shall be imposed. Those who commit an offence of smuggling by evading the customs superintendency shall be prosecuted for criminal liabilities.

Those who import waste which cannot be used as raw materials, but are imported in the name of raw material utilization shall be punished according to the foregoing provisions.

Article 68 with regard to the solid waste which have already been imported into the territory of the People's Republic of China, the competent departments of environmental protection administration under the people's governments above provincial level shall put forth its opinion on the settlement of the issue, and the customs shall make a decision punishment according to Article 66 of this Law; In case where environmental pollution has already been caused, the competent departments of environmental protection under the people's government above provincial level shall order the importer to eliminate the pollution caused.

Annex:

List of Wastes Used as Raw Materials and Restricted in Importation

(Promulgated on March 1, 1996, as amended on October 15, 1996)

Category	Commodity code	Description
1		Animal wastes
	0506.9010	Wastes of bones
2		Smelt slag
	2619.0000	Slag, dross (other than granulated slag). Scaling and other wastes from the manufacture of iron or steel. This entry covers the use of such slag as a source of titanium dioxide and vanadium
3		Wood and wood articles wastes
	4401.3000	Sawdust and wood waste and scrap, whether or no-agglomerated in logs, briquettes pellets or similar forms

Interim Provisions on the Import of Waste Materials

Category	Commodity code	Description
4	4501.9000	Waste cork, crushed, granulated or ground cork tableware and kitchenware, of wood
	4707.1000	Waste and scrap of paper or paperboard Of unbleached kraft paper or paperboard or of corrugated paper or paperboard
	4707.2000	Of other paper or paperboard made mainly of bleached chemical pulp, not colored in the mass
	4707.3000	Of paper or paperboard made mainly of mechanical pulp (for example, newspapers, journals and similar printed matters)
5	4707.9000	Waste and scrap of other paper or paperboard
		Textile wastes
	5202.1000	Yarn waste (including thread waste)
	5202.9000	Other yarn waste
	5505.1000	Synthetic fabric scrap
6	5505.2000	Man-made fabric scrap
		Base metals and articles of base metal waste
	7204.1000	Waste and scrap of cast iron
	7204.2100	Waste and scrap of stainless steel
	7204.2900	Waste and scrap of other alloy steel
	7204.300	Waste and scrap of tinned iron steel
	7204.4100	Turnings, shavings, chips, milling waste, sawdust, filings, trimmings, an- stampings, whether or not in bundles
	7204.4900	Other waste and scrap of iron and steel
	7204.5000	Remelting scrap ingots
	7401.1000	Copper mattes
	7401.2000	Cement copper (precipitated copper)
	7404.0000	Copper waste and scrap
	7503.0000	Nickel waste and scrap
	7602.0000	Aluminum waste and scrap
	7902.0000	Zinc waste and scrap
	8002.0000	Tin waste and scrap
8103.1000	Tantalum waste and scrap	
7		Waste electric motors, electrical scraps and waste wires and cables
		Waste electric motors
		Waste wires and cables
		Waste electric scraps
8		Waste transportation equipment
	8908.0000	Vessels and other floating structures for breaking up
9		Wastes that special needed for importation
10		Scrap and leftover pit and piece of plastics
	3915.1000	Scrap and leftover pit and piece of polyethylene
	3915.2000	Scrap and leftover pit and piece of polyphenylethylene
	3915.3000	Scrap and leftover pit and piece of polychloroethylene
	3915.9000	Scrap and leftover pit and piece of other plastics