

Guiding Rules for Identifying Solid Wastes (for Trial Implementation)

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MINISTRY OF COMMERCE
CUSTOMS GENERAL ADMINISTRATION
STATE ENVIRONMENTAL PROTECTION ADMINISTRATION
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Announcement of the State Environmental Protection Administration, the State Development and Reform Commission, the Ministry of Commerce, the General Administration of Customs, and the State Administration of Quality Supervision, Inspection and Quarantine (No. 11 [2006])

In order to implement the “Law of the People’s Republic of China on the Prevention and Control of Environmental Pollution by Solid Wastes” and strengthen the environmental administration of solid wastes, we hereby promulgate the “Guiding Rules for Identifying Solid Wastes” (for Trial Implementation), which shall come into force on April 1, 2006.

Appendix: Guiding Rules for Identifying Solid Wastes (for Trial Implementation)

State Environmental Protection Administration
State Development and Reform Commission
Ministry of Commerce
General Administration of Customs
State Administration of Quality Supervision, Inspection and Quarantine
March 9, 2006

Appendix: Guiding Rules for Identifying Solid Wastes (for Trial Implementation)

The present Guiding Rules shall be applicable for identifying the solid wastes and non-solid wastes as defined in the “Law of the People’s Republic of China on the Prevention and Control of Environmental Pollution by Solid Wastes”, but shall not be applicable for determining their HS codes. For the sake of identifying solid wastes from non-solid wastes, one shall first judge according to the definition in the “Law of the People’s Republic of China on the Prevention and Control of Environmental Pollution by Solid Wastes”; and may then judge according to the scope of solid wastes listed in the present Guiding Rules. If the solid wastes are difficult to identify according to the foregoing definition and the scope of solid wastes, one may judge according to Part III of the present Guiding Rules.

In case of any dispute over the identification result on whether a certain substance, article or material belongs to solid wastes or non-solid wastes, the national environmental protection administrative department shall, jointly with the relevant departments, organize and convene an experts conference to identify it and make a ruling. If, at the import stage, the importer is dissatisfied with the customs’ decision on including the imported goods into the management scope of solid wastes, it may, in accordance with Article 26 of the “Law of the People’s Republic of China on the Prevention and Control of Environmental Pollution by Solid Wastes”, apply for administrative

reconsideration in accordance with the law, or may bring an administrative lawsuit to the people's court.

I. Definition of Solid Wastes

The term "solid wastes" shall refer to the articles and substances in solid, semi-solid state or gaseity in containers that are produced in the production, living and other activities and have lost their original use values, or are discarded or abandoned though haven't yet lost their use values, and articles and substances that are included into the management scope of solid wastes as required by any law or administrative regulation.

II. Scope of Solid Wastes

The substances or articles listed in II (I) but not included in II (II) are solid wastes. Any substance or article included in II (II) is not a solid waste.

(I) Solid wastes shall include (but not be limited to) the following substances, articles or materials:

- (1) garbage collected from homes
- (2) abandoned substances and discarded products arising out of production
- (3) abandoned substances arising out of laboratories
- (4) abandoned substances arising out of office work
- (5) sludge arising out of urban sewage treatment plants, residues arising out of domestic garbage plants
- (6) other garbage, residues and sludge arising out of pollution control facilities
- (7) sludge arising out of dredging of urban riverways
- (8) products failing to conform to the standards or norms, excluding those used continuously for the original purpose
- (9) shoddy and inferior products
- (10) substances or articles declared by the owner or its representative as wastes
- (11) polluted materials (such as oil polluted by polychlorinated biphenyls [PCBs])
- (12) any material, substance or article prohibited by law from use
- (13) substances or articles declared by the environmental protection administrative department of the State Council as solid wastes

(II) Solid wastes shall not include the following substances or articles:

- (1) radioactive wastes
- (2) substances or articles directly returning to the original production process or the occurrence process on site without being stored
- (3) any substance or article used for its original purpose
- (4) samples for laboratory use
- (5) other substances or articles which need not be managed as solid wastes upon approval of the environmental protection administrative department of the State Council.

III. Identification of Solid Wastes and Non-solid Wastes

(I) Judging them according to the working methods and the reasons of the wastes

Judging them according to the working methods listed in Table 1 and the reasons listed in Table 2. If a substance, article or material has to be treated in a working method listed in Table 1, and satisfies one or more reasons listed in Table 2, it may be judged as a solid waste. Table 1 and Table 2 must be combined for use, and neither may be used separately to identify solid wastes.

Table 1 Working Methods (Omitted)

Table 2 Reasons for why the wastes must be comprehensively utilized or be stored or disposed of /
Categories of wastes (omitted)

(II) Judging them according to the features and impacts

To assess whether a substance, article or material (hereinafter referred to as substance) belongs to solid wastes, one needs to consider the following factors:

(1) Ordinary consideration, including: whether the substance is produced intentionally, whether it is manufactured to meet the market demands, whether its economic value is negative, and whether it is a part of the chain of normal commercial circulation or use.

(2) Features, including: whether the production of the substance is under quality control, and whether it meets nationally or internationally acknowledged norms/ standards.

(3) Environment impact, including: whether the use of the substance is harmless to the environment when compared with primary products; whether the use of the substance will increase risks to human health or the environment in the process of production when compared with corresponding raw materials; whether it will cause greater risks to human health or to the environment; whether the substance contains any ingredients harmful to the environment, and such ingredients are not found to be utilizable or re-utilizable in an effective way in the process of recirculation in the substituted raw materials or products.

(4) Use and destination, including: whether the substance needs to be further processed before it is put into use; whether it may be directly applied in production /commerce; whether it may be put into use after a simple repair; whether it is still suitable for its original purpose; whether it may be used as a substitute for other purposes; whether it is actually applied in production; whether it has a fixed use; whether it may be utilized in the existing form or without being treated through any working method listed in Table 1; whether it may not be utilized until treated through a working method listed in Table 1.

To assess whether a substance is a solid waste, one needs to comprehensively consider all the abovementioned factors.

Due to different objects to be evaluated, the factors to be focused on are also different. The following flow charts may be used as reference for identifying solid wastes from non-solid wastes, but at the time of specific application, the identification shall be made according to the features and impacts of the substance.

Flow Chart on Identifying Solid Wastes from Non-solid Wastes (Omitted)