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and

the Ministry of the Environmental Protection of the People's Republic of China

Notifications: G/TBT/N/CHN/1224, G/TBT/N/CHN/1225, G/TBT/N/CHN/1226, G/TBT/N/CHN/1227, G/TBT/N/CHN/1228, G/TBT/N/CHN/1229, G/TBT/N/CHN/1230, G/TBT/N/CHN/1231, G/TBT/N/CHN/1232, G/TBT/N/CHN/1233, G/TBT/N/CHN/1234

Title: Environmental Protection Control Standard for Imported Solid Wastes as Raw Materials

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Statement of the Solid Waste Association of North America

The Solid Waste Association of North America (SWANA) appreciates the opportunity to submit these comments in response to the Ministry of Environmental Protection (MEP) of the People's Republic of China's November 15, 2017 Notifications to the World Trade Organization (WTO) concerning restrictions on the import of solid waste (Notifications). The Notifications advised the WTO of MEP's intent to make minor revisions to its July 2017 Notification to the WTO and other recent policy pronouncements, including the July 27, 2017 "Notice of the General Office of the State Council on Issuance of Reform and Implementation Plan to Enhance Solid Waste Import Management System by Prohibiting the Entry of Foreign Waste" (Guo Ban Fa (2017) No. 70).

Background on SWANA

SWANA is the largest waste association in the world, with more than 9,000 members in the United States, Canada, and in the Caribbean. SWANA is organized geographically, with 45 chapters across those areas, and by subject matter expertise, through its seven Technical Divisions. SWANA has a diverse membership that includes municipal and private sector solid waste professionals and recycling

managers, from coast-to-coast throughout North America, and is therefore uniquely qualified to discuss the impact of the Notifications on municipal recycling programs and the local governments and companies that collect and process the millions of tons of recyclables generated through such programs.

SWANA's core purpose, as expressed in its 2015 Strategic Plan, is "[t]o advance the responsible management of solid waste as a resource." This applies whether the waste used as feedstock for manufacturing or other products is generated by industrial sources, households, or commercial businesses. One of SWANA's largest Technical Divisions is its Sustainable Materials Management unit, with nearly 1,000 members. In addition, SWANA's commitment to resource management is reflected in its recent launch, along with the California Resource Recovery Association (CRRRA), of a new Zero Waste certification course,¹ the first Zero Waste course for municipal solid waste managers.

SWANA considers MEP's waste import restrictions to be of the highest importance to its members in the United States and Canada, and to municipal recycling operations and programs in both countries. The value of paper and plastic exported to China from the United States and Canada that is used as feedstock in manufacturing in China is measured in the billions of dollars annually.² For these reasons, SWANA took the unprecedented³ step of filing August 31, 2017 comments with the WTO in response to the July 2017 Notification, and has sent multiple letters to all 50 state environmental agencies in the United States concerning the proposed waste import restrictions. SWANA officials have met with U.S. government agencies and officials who share SWANA's concern about these restrictions, which are contrary to applicable international specifications governing waste materials. SWANA has also been in frequent contact with Canadian governmental officials concerning the impact of the restrictions on recycling operations and programs in Canada.

Impact of MEP's Waste Import Restrictions on Municipal Solid Waste Recycling Programs in the United States and Canada

The combination of the July 2017 Notification, restrictions in waste import licenses, and more stringent inspections of exported materials has had a severe impact on municipal solid waste recycling programs in the United States and Canada. These impacts will worsen and spread should the policies identified in the November 15 Notifications take effect. **For this reason, SWANA urges MEP to suspend the implementation of these proposals, and (1) extend the transition period for when new waste import restrictions take effect; and (2) meet with industry stakeholders from the United States, Canada, and Europe to develop a mutually satisfactory "carried-waste" (contamination) standard. This standard should be based on internationally recognized scrap and waste specifications, as well as the important principal of reducing environmental harm in China. In the development of such a standard, SWANA suggests the parties consider an initial carried-waste standard and then a more stringent carried-waste standard that takes effect no earlier than January 1, 2022, to allow American and Canadian waste processors, as well as others, adequate time to make modifications to their systems to meet these stringent specifications.**

¹ <https://swana.org/Training/CourseCatalog/PlanningManagement/ZeroWastePrinciplesandPractices.aspx>

² According to the Institute of Scrap Recycling, Inc. (ISRI), China's paper and plastic imports from the United States were valued at nearly \$2.2 billion in 2016. <http://www.isri.org/docs/default-source/default-document-library/isri-comments-to-the-wto-re-notification-gtbtnchn1211-august-18-2017.pdf?sfvrsn=2> at 3 (filed August 28, 2017).

³ SWANA had never previously filed comments with the WTO. SWANA incorporates by reference its August 31, 2017 response to MEP's July 2017 Notification.

According to multiple media reports, the impact of China's waste import restrictions has been felt most strongly in the Pacific Northwest states of Oregon and Washington. According to a recent Bloomberg article, waste haulers in Oregon are disposing plastic in local landfills.⁴ At a single recycling facility in Oregon, 600 tons of recyclables are being stored in an employee parking lot.⁵ One published report states the Oregon Department of Environmental Quality has concurred with twelve requests to send recyclable material (mixed paper and plastic) to landfills.⁶ The Washington Department of Ecology (WDOE) has advised SWANA it is allowing local recycling programs to make "adjustments" in response to China's waste import restrictions.⁷

There have been adverse impacts in other parts of the United States as well. More than one-third of the states in the United States are experiencing notable effects, according to a leading industry publication.⁸ In North Carolina, rigid plastics are being stored in tractor trailers.⁹ Madison, Wisconsin is no longer accepting rigid plastics at its drop off facilities.¹⁰ Many communities in Alaska are no longer recycling plastics.¹¹

The waste import restrictions are having an adverse impact in Canada as well. In Ontario, Canada's most populous province and largest generator of waste, stockpiling of waste paper and plastic bags (film) is occurring at multiple locations, in direct response to China's actions. One SWANA member in Ontario reports that film is being placed in a landfill. In Quebec, which exports the majority of its recyclables, film is being stockpiled at many locations, and the storage of certain types of materials was reported as early as early November.¹² In Halifax, Nova Scotia, which exports 70-80 percent of its recyclables to China, they are stockpiling plastic bags, and they are nearly at capacity at their facilities.¹³ It is currently illegal to landfill this material in Nova Scotia. Halifax exported 85 percent of its mixed paper to China,¹⁴ and there is not sufficient domestic capacity in Canada. Plastics are also being stockpiled on Prince Edward Island.

The unreasonably narrow timeline set forth in the initial Notification, the overly stringent carried-waste standard, and the reductions in waste import licenses have directly caused recyclables to be disposed in

⁴ https://www.bloomberg.com/news/articles/2017-12-06/china-s-blow-to-recycling-boosts-u-s-s-185-billion-plastic-bet?utm_source=Sailthru&utm_medium=email&utm_campaign=Issue:%202017-12-06%20Waste%20Dive%20Newsletter%20%5Bissue:13143%5D&utm_term=Waste%20Dive (*Bloomberg L.P.*, Dec 6, 2017).

⁵ <http://business.financialpost.com/commodities/recycling-heads-to-the-dump-as-china-gets-picky-about-waste-1> (*Financial Post*, Dec. 6, 2017).

⁶ <http://www.eastoregonian.com/eo/local-news/20171201/ignoring-rules-can-send-recycling-to-the-landfill> (*East Oregonian*, Dec 1, 2017).

⁷ Letter from WDOE Director Maia Bellon to SWANA Executive Director/CEO David Biderman (Nov. 20, 2017).

⁸ <https://www.wastedive.com/news/market-effects-vary-by-state-but-widespread-agreement-is-recycling-needs-t/510994/> (*Waste Dive*, Nov. 15, 2017).

⁹ <https://www.mnn.com/lifestyle/recycling/blogs/soon-cant-ship-recycling-china-thats-problem> (*Mother Nature Network*, Nov. 27, 2017).

¹⁰ http://host.madison.com/wsj/news/local/china-says-no-to-rigid-plastic-madison-follows-suit-at/article_876d6e10-da98-5f70-91a8-819adde70ede.html (*Wisconsin State Journal*, Sept. 20, 2017).

¹¹ <https://www.alaskapublic.org/2017/11/22/some-of-southeasts-recycling-is-headed-to-the-landfill> (*Alaska Public Media*, Nov. 22, 2017); <http://www.ketchikandailynews.com/article/20171109/ARTICLE/171109936> (*Ketchikan Daily News*, Nov. 9, 2017).

¹² <http://www.cbc.ca/news/canada/montreal/quebec-recycling-crisis-1.4383151> (*CBC News*, Nov. 3, 2017)

¹³ <http://www.cbc.ca/player/play/1111385667892> (*CBC/Radio-Canada*, Dec. 7, 2017).

¹⁴ <https://www.halifax.ca/sites/default/files/documents/city-hall/standing-committees/171102ESSInfo3.pdf>, Recycling Market Conditions (Oct. 12, 2017).

landfills, and this will accelerate if the January 1, 2018 import ban on mixed paper and plastics, and the proposed March 1, 2018 implementation of new import rules governing other recyclables and scrap materials, are allowed to take effect. Over the past few months, numerous cities and counties in the United States and Canada have experienced adverse impacts, as for many of these governmental units, China was the exclusive or principal market for the recyclable materials being collected. In response to the concerns raised in the initial Notification, recyclers throughout the United States and Canada have taken significant steps to reduce the amount of non-recyclable waste in the recyclable material. These actions include: (1) slowing down processing; (2) hiring more employees to hand pick non-recyclables out of the stream; (3) accelerating capital investment in new equipment and machinery to reduce contamination; (4) increasing communications with customers concerning the importance of producing high quality material for export.¹⁵ As a result of these activities, some companies and local governments in the United States and Canada continue to generate paper and plastic products at their material recycling facilities (MRFs) that pose no environmental threat, and continue to be accepted for import by China. Other companies and local governments are interested in taking similar steps and making similar investments, but the short time period and uncertainty created by the Notifications has made it difficult for them to move forward.

At least one U.S. company is contemplating drastic action in response to the imposition of the waste import restrictions:

We are already considering making significant changes to our curbside program – and are likely to remove all scrap paper and most plastics except milk jugs early in 2018. We have revamped our recycling depot, for now, and are only collecting cardboard, milk jugs, tin/aluminum and glass in separate boxes – this is the only way we are sure we can market material domestically for now.

Unless implementation of the import restrictions are delayed, we expect other companies and local governments in the United States to make similar changes if the import restrictions take effect. This will result in a substantial amount of material that is ordinarily recycled ending up in landfills.

SWANA Suggests MEP Confer With Industry Stakeholders to Develop a Feasible and Internationally Recognized Carried-Waste Standard

The November 15 Notifications include a proposed 0.5 percent carried-waste standard for numerous categories of waste and scrap imports. Although China has been asked repeatedly to provide the basis for its initial 0.3 percent carried-waste proposal, it has failed to provide any such basis. Like the 0.5 percent threshold in the November 15 Notifications, this is because neither is based on any internationally recognized standard, guideline or specification. SWANA requests that MEP provide the basis for the proposed 0.5 percent standard. SWANA is not aware that MEP or any Chinese governmental official sought any input from any U.S. or Canadian waste or scrap sector representative before proposing the 0.5 percent carried-waste standard in the November 15 Notifications. If it had, MEP would have been advised that the proposed standard is neither practical nor economically feasible, and is not consistent with either current practices or applicable, existing internationally recognized specifications. Even during the Green Fence effort in 2013, carried-waste of up to 1.5 percent was

¹⁵ <https://www.wastedive.com/news/recycling-partnerships-advice-on-national-sword-keep-calm-and-clean-up-vo/507735/> (*Waste Dive*, Oct. 20, 2017).

permitted.¹⁶ A recent article highlights the global impact of the proposal, citing an Australian waste manager who calls a 0.5 percent carried-waste standard “unachievable.”¹⁷ Several SWANA members believe it may be possible to reduce carried-waste to 2.0 percent if given an appropriate transition time that provides the opportunity to purchase more equipment and machinery for their recycling facilities.

At least one widely recognized set of international specifications governing scrap and recyclables contains carried-waste standards consistent with current practices. The ISRI Scrap Specifications Circular (Circular) includes specifications governing a wide variety of ferrous and non-ferrous scrap, glass, paper, plastics, and other materials. The Circular’s section on “paper stock export transactions” includes limits on “prohibitive materials,” which is another way of saying carried-waste or contamination. The limits differ by type of paper product, and generally range from two to five percent. See <http://www.scrap2.org/specs/files/assets/basic-html/page-65.html> at 36-39. Specific prohibitive waste specifications include:

Old Corrugated Containers (OCC)	5%
Sorted Office Paper (SOP)	5%
Mixed Paper (MP)	3%
Sorted Residential Papers & News (SRPN)	3%

Similarly, the ISRI Circular authorized certain contamination levels for plastic scrap, which vary based on the type of material and the grade produced.

SWANA is concerned that MEP may be considering an artificial distinction between “waste imports and “scrap” imports. While SWANA acknowledges that U.S. and Canadian recycling exporters need to provide higher quality material, it could be detrimental to China’s efforts to improve the environment to establish carried-waste standards applicable only to post-consumer waste. How will inspectors at the port differentiate between a bale of plastic from an industrial location and a bale of plastic produced at a material recovery facility (MRF)? A better approach would be to establish a single carried-waste standard, applicable to all imported waste and scrap that is fair, feasible, and protective of China’s environmental goals and objectives.

SWANA Supports China’s Efforts to Improve the Environment

SWANA and its members strongly support the Chinese government’s effort to improve environmental conditions in China, and specifically, reduce the unlawful disposal of waste from both domestic and foreign sources. SWANA further supports stringent regulations and enforcement against illegal commerce conducted by unlicensed brokers, traders, and others, who combine municipal solid waste with paper and/or plastic destined for China.

Thousands of old dumps were closed and illegal dumping has been largely eliminated in the United States, but this took decades. The July 2017 and November 2017 Notifications seeks to do in less than one year what took more than twenty years previously. SWANA would welcome the opportunity to meet with the Chinese government or industry representatives to discuss how to address these issues,

¹⁶ <https://theconversation.com/will-chinas-crackdown-on-foreign-garbage-force-wealthy-countries-to-recycle-more-of-their-own-waste-81440> (*The Conversation*, Dec. 13, 2017).

¹⁷ <http://www.abc.net.au/news/2017-12-10/china-ban-on-foreign-rubbish-leaves-recycling-industry-in-a-mess/9243184> (*Australian Broadcasting Corp.*, Dec 10, 2017).

and develop collaborative measures that would help achieve China's objectives. SWANA requests that MEP suspend the proposed ban on mixed paper and post-consumer plastics, and the Notifications, and instead, urges Chinese officials to meet with industry stakeholders to develop, in good faith, mutually acceptable regulations governing waste and scrap materials, including "carried-waste" standards. These regulations should be based on internationally recognized scrap and waste specifications, as well as the important principal of reducing environmental harm in China. SWANA believes that China's objectives concerning environmental protection are legitimate and important, and hope that we can work together to develop standards that are the least restrictive as possible for trade, which creates jobs in both China and North America. In the development of such regulations, SWANA suggests the parties consider an initial carried-waste standard, perhaps based on the ISRI Scrap Specifications Circular, and then a more stringent carried-waste standard that would take effect no earlier than January 1, 2022, to allow American and Canadian waste processors, as well as others, adequate time to make modifications to their systems to meet such stringent specifications.

SWANA appreciates the opportunity to comment on the Notifications and welcomes the opportunity to provide additional information, technical assistance, and support to address the concerns raised by the Notifications and our comments.

Sincerely,

A handwritten signature in black ink, appearing to read "David Biderman". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

David Biderman
Executive Director & CEO