



Voice of the Recycling Industry™

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美国废料回收行业协会（以下简称 ISRI）感谢有机会就《中华人民共和国固体废物污染环境防治法》的拟议修订草案向中华人民共和国生态环境部提出意见和建议。

The Institute of Scrap Recycling Industries, Inc. (ISRI) appreciates the opportunity to submit these comments to the Ministry of Ecology and Environment regarding the proposed changes to ***Law of the People's Republic of China on the Prevention and Control of Environmental Pollution Caused by Solid Waste***.

ISRI 完全支持中国政府改善中国环境保护和环境标准的努力。我们了解拟议中的法律修订草案在中国多元化发展战略中的重要作用，该战略旨在建设“美丽中国”并通过建立健全保护人类健康、污染防控、生产者责任、处罚和进口管制的强大体系在中国发展资源循环型经济。事实上，拟议法律修订草案中的许多条款与美国在过去 30 年中为保护人类健康和改善环境而实施的防控措施是相同的。

ISRI fully supports the efforts of the Chinese Government to improve environmental protection and standards within China. We understand the important role the proposed Law plays in China's multi-prong strategy to create a "Beautiful China" and develop a Circular Economy for China through a strong system of human health safeguards, pollution prevention and controls, producer responsibility, penalties and import restrictions. In fact, many of the provisions within the proposed Law parallel the controls put in place by the United States over the last 30 years to improve our own human health and environment.

我们赞赏中国政府认识到生产商设计易回收利用的商品包装物和薄膜覆盖物的必要性，正如拟议法律修订草案第 22 条所述。ISRI 长期以来倡导生产商进行可回收利用设计（注册商标）的研发，即，我们通过与生产商的合作鼓励他们在产品开发的设计阶段研究其产品的最终归宿。

We applaud the Chinese Government's identification of the need for manufacturers to design packaging materials and film coverings that are easy to recycle, as articulated in Article 22 of the Proposed Law. ISRI has long advocated manufacturers to Design for Recycling™, working

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with manufacturers to encourage them to consider the ultimate destiny of their products during the design-stage of a product's development.

我们余下的意见聚焦在拟议法律修订草案中对固体废物的定义，以及有必要明确某些材料如何被认定为原材料而非固体废物的问题，因为此类材料可能受到第 29 条规定的禁止进口的管制。

Our remaining comments are centered on the definition of solid waste contained within the proposed law, as well as the need for clarity as to when a material is considered a raw material as opposed to solid waste, which would subject such materials to the import restriction contained within Article 29.

- **固体废物的定义（第 99 条 1 款）**。拟议法律修订草案将固体废物定义为“……丧失原有利用价值或者……被抛弃或者放弃的……物品、物质”。根据该定义，无法清楚的区分“废料”（也称为“可回收资源”或“二次资源”）是否涵盖在该定义中。这是因为该等材料并没有被抛弃或放弃，而且该等材料尽管可能处于原有用途的终点，但由于可以回收再利用，并非处于使用寿命的终点。

The Definition of Solid Waste (Article 99(1)). Solid waste is defined within the proposed law as “... articles and substances ... that ... have lost their original use values or are discarded or abandoned ...” From this definition it is not clear whether “scrap” (also called “recyclable” or “secondary resource”) is covered within the definition as such materials are not discarded or abandoned, and since they are recovered for recycling they are not at the end of their useful life, although they may be at the end of their original use.

就拟议法律修订草案而言，我们恳请中国政府利用本次修订机会，以书面形式明确区分什么是垃圾（即，固体废弃物）以及什么是废料（即，原材料）。例如，美国国内固体废物管理法在固体废物的定义中明确排除废料，因此既建立了单独的管理构架许可生产者获取用于制造的废料的利用价值，同时又对废物的处理进行单独和适当的规范。如果废料被处置而不是被回收利用，那么该废料将重新适用美国资源保护与回收法中有关废物管理的规定（参见美国法典第 42 编第 6901 条）。

For purposes of the proposed law, we respectfully request that the Government take advantage of this opportunity to clarify, in writing, the distinction between what is trash (*i.e.*, solid waste) and what is scrap (*i.e.*, raw material). For example, United States domestic solid waste management law specifically exempts scrap from the definition of solid waste, thus allowing for a separate regulatory structure that allows for the capture of the value of scrap for manufacturing while regulating waste disposal separately and appropriately. And in the event that the scrap is disposed of instead of recycled, it is brought back into the waste management regulations under the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. §6901 et seq.).

中国监管体制可以很和谐地实施该管理构架，为此我们强烈建议中国政府考虑建立这样的法律构架。废料是世界各地生产商所依赖的有价值商品，它是一种具有竞争力、环保而且节能的给料材料。当处于未加工的形态时，它来自生活、工业、制造

和或商业等领域，包括黑色金属、有色金属、塑料、纸、玻璃、纺织品和或橡胶等。而处于加工后形态时，它是由加工者按照一定的规格等级制造出来的，并可以用来满足工业客户的生产需求。

Such a structure can be harmoniously implemented in China, and we strongly encourage the Chinese Government to consider developing such a legal structure. Scrap is a valuable commodity relied upon by manufacturers around the world as a competitive, environmentally preferable and energy efficient feedstock material. In its unprocessed form, it is derived from residential, industrial, manufacturing, and/or commercial sources and is composed of ferrous, nonferrous, plastic, paper, glass, textiles, and/or rubber. In its processed form, it is manufactured by processors to a specification grade to meet the needs of the industrial consumer.

和任何其他原材料一样，处于可靠管理下的废料对环境是非常有益的。废料通常被用作碳排放量高的纯净原材料的替代品，原因在于回收再利用的废料可节省制造基础材料所需能源的 60-95%，并可以防止数百万吨温室气体排放进中国的大气层。纯净原材料是指完全由地球上初始获取的自然资源制成的，从未使用过，或消费过，或者除原有的生产加工外未经再加工的原材料。当国内没有足够的废料供应来获取节能优势时，包括美国在内的世界各地的生产商均需要进口废料。

Scrap is extremely beneficial to the environment when managed responsibly, as with any other raw material. Scrap is used as a substitute to carbon-intensive virgin raw materials because recyclables save 60-95% of the energy that is required to make primary materials, and they prevent millions of tons of greenhouse gas emissions from entering China's atmosphere. Virgin raw material is made entirely of natural resources recently extracted from the earth and has not previously been used or consumed or subjected to processing other than for its original production. Manufacturers all over the world – including in the United States – import scrap when there is not enough domestic supply in order to capture these benefits.

- **禁止进口固体废物（第 29 条）。** ISRI 完全理解、尊重和支持中国防控真正固体废物进口的必要性。真正固体废物即被我们称之为垃圾的材料，包括在其使用寿命结束后更适合进入废弃物管理系统，但是却被非法地运到中国的材料。禁止进口这类材料是适当的。我们谴责以装运大宗商品等级的废料为幌子进口严重污染废料的行为，就如我们谴责进口受污染的原材料的行为一样。所有这些不负责任的行为应当被勒令禁止。然而，法律不应该禁止进口中国生产商为满足其原材料需求而购买的、并以负责任的方式和符合国际认可的规格标准而生产的废料。此外，中国政府对废料实施的进口禁止已经很不幸地导致了中国境内碳排放量高的纯净原材料产量的显著增加，并可能会对中国的环境造成极大的伤害。

Import Restriction on Solid Wastes (Article 29). ISRI fully understands, respects and supports China's need to reign in the importation of true solid waste *i.e.*, material we would call trash that includes materials at the end of their useful life that more properly belong in waste management systems but have been instead wrongfully shipped to China. A ban on such shipments is appropriate. And we condemn the shipment of highly contaminated scrap materials shipped under the guise of commodity grade scrap, just as

we condemn the shipment of contaminated virgin supplies of raw materials. All such irresponsible activities should be banned. However, what should not be banned are the shipments of responsibly prepared scrap meeting globally-recognized specifications purchased by Chinese manufacturers to supply their raw material needs. In addition, import restrictions imposed by the Chinese Government on scrap has, unfortunately, resulted in a significant increase in the production of carbon-intensive virgin materials within China, doing much harm to your environment.

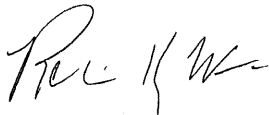
鉴于以上所述的原因，我们诚挚地建议在拟议法律修改草案的定稿中，明确规定作为生产原料的废料商品与固体废物的区别，并相应地对第 25、29、50、52 和 99 条作出如附件所述的适当修改。

For the all the reasons stated within this letter, we respectfully recommend that scrap commodities be specifically identified within the proposed law, when it is finalized, as raw materials and separate from solid waste, and that appropriate modifications are made to Articles 25, 29, 50, 52 and 99 as described in the attachment.

我们再次感谢有机会就拟议法律修订草案发表建议，并且希望能有机会提供必要的信息和支持，以帮助解决这些建议中涉及的有关问题，以及在全球范围内进一步加强安全的和对环境负责的资源回收利用。

We again thank you for the opportunity to comment on the proposed changes to the law and welcome the opportunity to provide information and support as needed to help address the concerns outlined in these comments, as well as to further strengthen safe and environmentally responsible recycling globally.

您诚挚的，
Sincerely,



Robin K. Wiener
主席
President

附件
Attachment

附件 3

反馈意见建议表

Suggested Format for Feedback

序号 Number	条款 Article	修改建议 Proposed Amendments	主要理由 Main Justifications	备注 Note
<p>第三章, 第一节 Chapter 3, Section 1</p>	<p>第二十五条 Article 25</p>	<p>利用从固体废物中收集的可回收材料必须遵守生态环境法律法规、符合固体废物污染环境防治技术标准规范。利用固体废物生产的综合利用产物，必须符合国家规定的产品或原料标准。相关产品或原料标准由工业信息化主管部门组织制定。</p> <p>The use of recyclable materials collected from solid waste collection must comply with the laws and regulations on ecological environment and comply with the technical standards for the prevention and control of environmental pollution by solid waste. General use products made by utilizing solid waste, must meet the national standards for products or raw materials. Relevant products or raw material standards are formulated by the</p>	<p>明确区分从固体废物中获取的原料是可利用并且有价值的，而垃圾是不可利用的。</p> <p>To clearly distinguish between materials generated from solid waste streams that are usable and have value from valueless trash that is otherwise unusable.</p>	<p>“固体废物”一词的使用将继续造成巨大的混淆，即法律指的是那些应被填埋的无价值的垃圾，还是可以用于制造新产品的二次原料。整部法律有一项隐含要求，即采取一切措施减少废弃物的环境危害，但是本条中所写的“固体废物”可以被利用的表述与上述要求是相互矛盾的。</p> <p>The utilization of the word “solid waste” continues to create great confusion on whether the law is referring to valueless trash meant to be kept out of landfills or secondary raw materials that can be used to make new products. Throughout this entire law, there is an implied command that all measures are to be taken to reduce environmental hazards from discarded things, but this article, as written, contradicts that command by saying that “solid waste” can be used.</p>

		responsible department of industrial information.		
第三章, 第一节 Chapter 3, Section 1	第二十九条 Article 29	<p>禁止进口固体废物。 The State forbids the import of solid wastes.</p> <p>恢复本条款的其他表述: Restore this article with additional language:</p> <p>禁止进口不能用作原料或者不能以完全符合环境、健康、安全和商业惯例的回收利用等无害化方式利用的固体废物;对可以用作原料的固体废物实行限制进口和非限制进口分类管理。</p> <p>The State forbids the import of solid wastes that cannot be used as raw material and those that can't be utilized through harmless treatment – <i>such as recycling operations that operate in full compliance with environmental, health, safety and business laws</i> – and implement classified management of restricted and non- restricted imports of solid wastes that can be used as raw materials.</p>	<p>以下所有三项规定均认可,在加工、运输和处理完全符合其他规定和法规的情况下,固体废物中产生的二次原料具有使用价值且其对中国经济是很具有价值的。</p> <p>All three of the following provisions acknowledge that secondary materials generated from solid waste streams have use and are valuable to the Chinese economy if they are processed, transported and handled in full compliance with other rules and regulations.</p> <p>引用: Citation:</p> <p>第九十九条 本法下列用语的含义: (一) 固体废物,是指在生产、生活和其他活动中产生的丧失原有利用价值或者虽未丧失利用价值但被抛弃或者放弃的固态、半固态和置于容器中的气态的物品、物质以及法律、行政法规规定纳入固体废物管理的物品、物质。</p> <p>Article 99 For the purposes of this Law, the following terms mean: (1) "Solid waste" means articles and substances in solid, semi-solid state or gasified in the containers that are generated from 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 any other articles and substances that</p>	<p>第99条认可,某些废物没有价值并应被抛弃,而其他一些“固体废物”并未丧失其使用价值。这些固体废物是可以回收利用并成为生产商所需要的原料。虽然生态环境部一直在扩大禁止进口可用作原料的固体废物的目录,但如果通过固体废物无害化处理取得的原料是有价值的(按照现行法律第25条),则他们应当被认为是具有价值和有用的,而不应当完全被禁止进口。此外,第86条之规定表明可用作原料的固体废物仍可获得许可(如符合相关规定)。</p> <p>Article 99 acknowledges that there are certain wastes that have no value and are discarded and other “solid waste” that have not lost their use values. These are recyclable and in demand by manufacturers. Although the Ministry of Ecology and Environment has been expanding the catalogues of prohibited imports of solid wastes used as raw materials, if the materials have value but come from solid waste processing through harmless treatment (as per the current law's Article 25), they need to be acknowledged as valuable and useful and not outright banned. Furthermore, Article 86 implies that solid waste used as raw materials are still allowed with permission (and in compliance with relevant regulations).</p> <p>此外,作为该法律在垃圾和二次原料的进口方面工作的基础,《禁止洋垃</p>

			<p>are included into the administration of the solid wastes according to the provisions of the laws and administrative regulations.</p> <p>第八十六条 违反本法规定，将中华人民共和国境外的固体废物进境倾倒、堆放、利用、处置的，由海关责令退运该固体废物，可以并处十万元以上一百万元以下的罚款；构成犯罪的，依法追究刑事责任。进口者不明的，由承运人承担退运该固体废物的责任，或者承担该固体废物的处置费用。</p> <p>逃避海关监管将中华人民共和国境外的固体废物运输进境，构成犯罪的，依法追究刑事责任。</p> <p>Article 86 Whoever, in violation of this Law, has solid waste from abroad dumped, piled up, used or treated within the territory of China, shall be ordered by the Customs to transport such solid waste back to where it is dispatched and may also be imposed with a penalty of more than 100,000 yuan but not more than 1,000,000 yuan; if the case constitutes a crime, he/she shall be investigated for criminal responsibility according to law. If the importer is unknown, the carrier shall bear the responsibility of transporting such solid waste back to where it is dispatched, or shall bear the cost of treating such solid waste.</p> <p>Whoever evades Customs' supervision and transports solid waste outside the territory of the People's Republic of</p>	<p>圾入境推进固体废物进口管理制度改革实施方案》明确规定“2019年年底前，逐步停止进口国内资源可以替代的固体废物”。这并不是绝对禁止进口，因为其认识到中国存在某些二次原料的短缺现象。</p> <p>Also, the “Implementation Plan for Prohibiting the Entry of Foreign Waste and Promoting the Reform of the Management System of the Import of Solid Waste” – on which the work of this Law is based in terms of imports of trash and secondary materials – specifically says that “by the end of 2019, gradually halt the importation of solid waste that can be replaced with domestic resources.” This is not a full ban because of the recognition that there is a shortage of certain secondary materials within China.</p>
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<p>第三章， 第三节 Chapter 3, Section 3</p>	<p>第五十条 Article 50</p>	<p>地方各级人民政府应当有计划地改进燃料结构，发展城市煤气、天然气、液化气和其他清洁能源。地方各级政府有关部门应当组织净菜进城，减少城市生活垃圾。</p> <p>地方各级政府有关部门应当统筹规划，合理安排收购网点，促进从生活废物收集的可回收材料的回收利用工作。</p> <p>Local people's governments at all levels shall in a planned way improve the fuel structure, develop urban gas fuel, natural gas, liquefied gas and other clean energy sources.</p> <p>Relevant departments of local governments at all levels shall organize clean vegetables into the city and</p>	<p>为了与本法律修订之目的以及规范回收利用的法规保持一致，以及不与第44条相抵触（该条款将家庭垃圾定义为无价值和无法使用），我们建议的修改是对中国政府希望促进可利用材料回收的准确理解。</p> <p>In line with the vision of this law and regulations governing recycling, and so as not to contradict Article 44 (that defines household waste as having no value and those unusable), the proposed modification would ensure an understanding that the government wishes to promote recycling of usable materials.</p>	<p>该表述的修改将有助于明确地定义有价值、不应被填埋而应继续用于生产的二次原料与没有价值并应被妥善处理的垃圾之间的差异。</p> <p>These language changes will help specifically define the difference between valuable secondary materials that should be kept out of landfills and put to use in manufacturing and valueless trash that needs to be disposed of properly.</p>

		<p>reduce urban household waste.</p> <p>Relevant departments of local governments at all levels shall make overall plans, rationally arrange acquisition sites, and promote the recycling of recyclable materials collected from household waste.</p>		
<p>第三章, 第三节 Chapter 3, Section 3</p>	<p>第五十二条 Article 52</p>	<p>从生活废物收集的可回收材料必须按照国家规定的用途或者标准使用,不得用于生产可能危害人体健康的产品。 从生活垃圾中分类出的有害垃圾,必须以环境无害化方式进行管理,防止污染环境。 The recyclable materials collected from household waste must be used in accordance with the purposes or standards prescribed by the State, and should not be used to produce products that may endanger human health.</p> <p>Hazardous waste sorted from household waste must be administered in an environmentally harmless manner to prevent environmental pollution.</p>	<p>为了与本法律修订之目的以及规范回收利用的法规保持一致,以及不与第44条相抵触(该条款将家庭垃圾定义为无价值和无法使用),我们建议的修改是对中国政府希望促进可利用材料回收的切实理解。 In line with the vision of this law and regulations governing recycling, and so as not to contradict Article 44 (that defines household waste as having no value and those unusable), the proposed modification would ensure an understanding that the government wishes to promote recycling of usable materials.</p>	<p>该表述的修改将有助于明确地定义有价值、不应被填埋而应继续用于生产的二次原料与没有价值并应被妥善处理的垃圾之间的差异。 These language changes will help specifically define the difference between valuable secondary materials that should be kept out of landfills and put to use in manufacturing and valueless trash that needs to be disposed of properly.</p>

<p>第六章 Chapter 6</p>	<p>第九十九条 Article 99</p>	<p>本法下列用语的含义： （一）固体废物，是指在生产、生活和其他活动中产生的丧失原有利用价值或者虽未丧失利用价值但被抛弃或者放弃的固态、半固态和置于容器中的气态的物品、物质以及法律、行政法规规定纳入固体废物管理的物品、物质。固体废物不包括下述可回收利用材料：确有价值，已经分离出来用于回收或者再利用，并作为有价值的商品进行管理，并符合废物运输的国际标准和其他有关污染物规范的规定。</p> <p>For the purposes of this Law, the following terms mean:</p> <p>(1) Solid waste refers to articles and substances in solid, semi-solid state or gaseous substance in containers that are produced in production, living and other activities and have lost their original use values or are discarded or abandoned though have not yet lost use values, and any other articles and substances that are included into the administration of the solid wastes according to the</p>		
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		provisions of the laws and administrative regulations. Solid waste does not include recovered materials which: have meaningful value, have been separated for recycling or reuse and managed as a valuable commodity, and meet international standards for carried wastes and other prescribed contamination specifications.		
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