

QUESTIONS AND ANSWERS

China RoHS Webinar:

Overview & Best Practices

January 11, 2007

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Please refer to the end of Jon Boyens' power point presentation, as well as the end of this document, for links to China RoHS documents and sources of information.

EU vs. China RoHS

1. Question: What is the difference between the European and Chinese regulations? What are the major issues in complying with EU RoHS? What are the implications for how products must comply with China RoHS?

Answer: Both EU RoHS and China RoHS regulate the same six restricted substances. Since the restricted substances are the same, and China's "Administrative Measures for Controlling Pollution by Electronic Information Products" was written in reaction to the EU's RoHS Directive, the Chinese "Measures" is often referred to as "China RoHS." However, the two regulations are very different.

Some, but not all, of the differences include: product scope, regulatory approach, and China's more burdensome conformity assessment and labeling requirements. There is a lot of information out there. To start, the Commercial Service in Brussels has an excellent website on both the EU RoHS (Restriction on the Use of Hazardous Substances) Directive and the related WEEE (Waste Electrical and Electronic Equipment) Directive, which covers recycling of electrical and electronic products.

<http://www.buyusa.gov/europeanunion/weee.htm>

Additionally, China's Ministry of Information Industry (MII) has spelled out the major differences in its General Q&A (question and answer 1). Please note that the Q&As furnished by MII, particularly when they are translated, do not hold any legal weight.

Scope

2. Question: If a product is not explicitly stated on the Classification list, can it be included in the list by having a similar name? Can you clarify which products fall under the marking requirement? Our products are not explicitly listed in the EIP Classification list, is there a category that can be considered as "other"?

Answer: All products within the scope of the regulation are required to meet the regulation's marking and labeling requirements. The scope of the regulation is defined by the "Note for Classification of Electronic

Information Products” (“EIP list”), which basically consists of the products that fall under MII’s administrative responsibility, minus software.

MII has thus far given no guidance for companies to determine whether or not their products fall within the scope of the regulation and stated that companies must determine themselves whether or not their products fall within the scope. MII has recommended that companies err on the side of caution. MII addressed this issue in question and answer 2 of its General Q&A.

3. Question: Are small and large appliances not included in the China RoHS? What is the difference between “black” and “white” household products?

Answer: Some confusion results from the Chinese references to both consumer electronics (translation literally “black” appliances) and what we refer to as household appliances (translation literally “white” appliances”) as “appliances”. Most “white” appliances, such as dishwashers, ovens, and dryers, are not included on the EIP list. Most “black” appliances such as stereo equipment, CD players etc., are included. Note that there are a few “white” appliances on the list, such as microwave ovens (according to discussions with MII this is because it runs on a microwave tube), and electro-magnetic stoves. Some parts for appliances are also included on the list, such as washing machine motors, fan motors, and compressor motors. Please refer to the detailed EIP list to check individual products. MII addressed the difference between “white” and “black” appliances in question and answer 13 of its General Q&A.

4. Question: Can you provide further clarification on the 60% value threshold for labeling? It is my understanding that electronic information technology that may be outside the scope but contains listed components that comprise 60% or greater of the value of the equipment requires labeling.

Answer: We are not aware of any 60% rule that ended up in the final guidelines, regulations or standards.

5. Question: Are medical devices and products within the scope of the regulation and, if so, will they be included in the Priority Products Catalogue? Are Respiratory Medical products included in the scope? Medical devices are currently exempted from EU RoHS, why are there no exemptions for medical devices in the China RoHS?

Answer: Since China RoHS covers all of the products administered by MII (except for software), most medical devices and instrumentation are included. MII has stated that it is not planning to include medical devices in the Catalogue, at least initially. Please check the EIP list for specific medical equipment types.

MII has spelled out the major differences between EU RoHS and China RoHS in its General Q&A (question 1). Medical equipment coverage is confirmed in question 19 and instrumentation coverage in question 23.

Exemptions, per se, are part of the EU’s RoHS and do not apply to China RoHS. MII makes it clear that its approach to regulating hazardous substances is very different from the EU’s approach. China uses a two-part approach. The first part consists of companies self-declaring what hazardous substances are in their products, if any, and marking and labeling the products according to the appropriately related standards (SJ/T 11364/2006, GB 18455/2001, and SJ/T 11363/2006) to make consumers and recyclers aware of toxic and hazardous contents in products and packaging. The marking and labeling requirements apply to all the products in the scope and contained in the “Note for Classification of Electronic Information Products” (“EIP list”). The second part of the approach will use the “Catalogue” method or “positive list” approach. This consists of restricting specific toxic and hazardous substances in certain products, parts, or components that will be listed in the Catalogue. The specific substances and products, parts, or components will be a subset of products within the scope of the regulation. Products listed in the Catalogue must comply with the marking and labeling requirements under the Measure as well as further restrictions on the use of toxic or hazardous substances. As MII has stated, all products are exempt from these restrictions until they are put in the Catalogue. Although MII has stated that they believe this approach to be more “industry friendly” than the EU’s approach, it has created a great amount of uncertainty in companies.

6. Question: When will Harmonized System Codes be mapped to the EIP list?

Answer: MII only recently mentioned that they were planning on doing this and have not indicated a timeframe.

7. Question: Do machine tools sold in China for use in factories require labeling?

Answer: If the product is in the scope of the regulation, then it will most likely have to meet all of the requirements of the regulation. However, MII recently stated in its General Q&A (question 34) that test machines, demo machines or models used for research and development, experiments and testing do not need to adhere to the labeling requirements since they are not “put on the market.” Therefore, MII is open to making certain exceptions (not exemptions!) to what is or is not in the scope. Machine tools, however, have not been mentioned.

8. Question: In the most recent General Q&A, question 27, product types that are not explicitly listed, but that would fall under one of the numerous 'other' subcategories in the EIP list, do not need to follow the initial marking/labeling requirements. Is this interpretation correct?

Answer: This interpretation is consistent with MII’s response in General Q&A, question 27. However, a note of caution is advisable regarding this information as it comes from a non-legally binding document that has been translated into English.

9. Question: A lot of references are made to exporting into China. Is this law set up for manufacturers outside China so that local, Chinese companies will not have the same set of rules to follow?

Answer: China RoHS applies to electronic information products as listed in the EIP list that are “put on the market” in China, whether the products are manufactured in China or abroad. However, there are a few examples of when certain products exported to or produced in China may not be considered to be “put on the market”, and thus are not included in the scope of the regulation (such as the case of test machines and models in question and answer 7, above). The main examples of products not within the scope of the regulation are those parts or components imported into China for assembly, or other reasons, that will be subsequently exported to another country without ever being “put on the market” in China. Additionally, manufacturers of parts or components that are exported to China (or even produced in China) to be used for manufacturing a finished product (for sale in China) must supply the manufacturer of the finished product with the required information so that the finished product can be marked and labeled appropriately.

10. Question: Do used products imported into China fall within the scope of the regulation? Are EIP products for which the manufacturer retains ownership (e.g., only loaned for no fee) subject to the China RoHS requirements? What are the definitions of used and refurbished equipment? What about refurbished equipment that is resold as a 'new' product?

Answer: In the General Q&A, MII responded to question 26 that “second hand” or “used” products were NOT in the scope of China RoHS. It is particularly difficult to be certain as to the application of the regulation to these products because of varying definitions and legal differences between “used” and “refurbished” goods and variations in how the Chinese concepts and terms are translated into English.

11. Question: Do replacement parts and equipment fall outside of the scope of the EIP list, as spare equipment? Spare parts are mentioned in General Q&A question 13 to be outside of the scope of the regulation. Are any conditions placed on this status? Is it affected by circumstances such as if spare parts are sold under warranty?

Answer: If a replacement part is supplied under warranty and the customer does not have to pay for it, it is outside of the regulation’s scope. If the replacement part is sold to a customer, it is within the scope. MII addressed the status of parts used for service or upgrade during after sales service in Question 16 of its General Q&A.

12. Question: Does the regulation cover equipment shipped prior to March 01, 2007?

Answer: No. Products that are manufactured on or after March 1, 2007 must comply with China RoHS.

13. Question: Does China recognize the material exemptions for PBDE's such that decabromodiphenyl oxide is not covered? What about impurities in the same material? Europe RoHS says impurities are covered.

Answer: China RoHS does not make a distinction between PBDE and decabromodiphenyl oxide. Both are subject to the labeling and catalogue regulations.

Marking and Labeling Requirements

14. Question: Regarding the definition of maximum concentration value - is this a percentage of the total product weight or a percentage of the sub-component weight? Please explain how the hazardous materials are calculated: by component weight or by product weight? Are the restricted elements by percentage (weight / volume) of total end product or by discrete elements within the product?

Answer: Please refer to SJ/T 11364 – 2006, Marking for Control of Pollution Caused by Electronic Information Products, and SJ/T 11363-2006, Requirements for Concentration Limits for Certain Hazardous Substances in Electronic Information Products.

15. Question: Do labels have to be on the products prior to going through Chinese customs? Or can Chinese distributors put on the labels later?

Answer: MII has indicated that there will be “spot checks” at customs, so there is a good chance your products will get held up in customs if labels are not placed on products as required by the regulation, whether or not they accept the explanation that labels will be put on later (though it is very likely they will not accept this). If the product is not a part or material to be assembled in China (see question and answer number 9 above) and it will be sold in China, it would be advisable to put the label on the product before it reaches customs to avoid products being temporarily or even permanently held.

16. Question: Is there any guidance on the method for putting the label on or disclosing the required info? That is, can labeling and marking be done on a compact disk or website if the equipment or a component is very small?

Answer: Please refer to the marking requirements and size specifications in SJ/T 11364 – 2006, “Marking for Control of Pollution Caused by Electronic Information Products,” as well as questions and answers 13 and 14 in the Standards Q&A.

17. Question: What type of documentation is required to back up the initial March 1st marking requirements? Is it required to have material declaration documents for all components in your product at that time?

Answer: Material declaration documents or testing data are not required in the regulation. However, it is recommended that you gather such information to ensure that you use the appropriate label and are able to fill out the disclosure table. MII has advocated getting testing completed on the finished products to place the onus on the testing company.

18. Question: If a product qualifies for Symbol 1 (i.e., the E-Mark, indicating a product is free of toxic or hazardous substances), is marking on the product mandatory or can the E-Mark be placed only in product literature? Please give an example of where the E-Mark is required.

Answer: Please refer to the marking requirements and size specifications in SJ/T 11364 – 2006, “Marking for Control of Pollution Caused by Electronic Information Products.”

19. Question: We are a manufacturer of coaxial cable and coaxial cable assemblies (cable, connectors, etc.). The cable is sold in bulk on reels or incorporated into the assemblies. We manufacture these products in both the USA and China. They are exported worldwide. This includes USA made product exported into China and vice versa. Do these products have to be labeled?

Answer: If the products in which these cables will be integrated are sold in China, the information for the label will need to be conveyed to the assembler for it to use for the final product. If the reel is sold as a final product and “put on the market” (not for assembly) it must have the label. Please refer to question and answer 4 in the Standards Q&A.

20. Question: If we make a component that is not sold directly in China (but assembled into a finished product that is sold in China) does it need to be labeled? If our product is not listed in the EIP Product Classification list, but a part, such as printed circuit board, is listed, then should the board be marked only? Please confirm whether it is correct that if my company produces a part that is used in the manufacture of a computer product or other final electronic information product sold in China, that we would not have to individually mark our product, but we would have to disclose compliance level for the six RoHS substances (via the table specified by China RoHS) to the purchaser of our product.

Answer: If a part, material or component on the EIP list is sold separately or “put on the market” in China, it should be marked. If the part, material or component will be used for manufacturing a finished product or is already inside of a piece of equipment that is not listed, then the part, material or component does not need to be marked. However, the manufacturer or assembler of a finished product that is listed in the EIP list will require the supplier to provide information on toxic and hazardous substances in the part or component, so that the final manufacturer or assembler can mark and label the finished product appropriately. Additionally, if the part, material, or component is shipped to China to be used in the manufacture or assembly of a finished product that is listed in the EIP list, it would be advisable to provide that information in the export documentation. Please refer to question and answer 4 in the Standards Q&A and question and answer 33 in the General Q&A.

21. Question: Does the substance disclosure label have to be in Chinese?

Answer: Yes, the substance disclosure label must be in Chinese.

22. Question: What was meant by not every component needing to be listed on the Toxic Substance Table? Does this mean the next assembly level up?

Answer: According to MII, it is not feasible to list all of the parts and components in many products, but the classification of parts is left to the manufacturer to determine and should be in line with industry norms. Please refer to question and answer 17 in the Standards Q&A.

23. Question: Is the environmental use period determined by when the product will degrade under normal use and hazardous material will go into the environment, or is it when its useful life is done and it will enter the waste stream?

Answer: According to MII, the Environmental Friendly Use Period (EFUP) is the period, under the normal use and environment of the product, within which toxic and hazardous substances or elements in electronic information products do not leak to pollute the environment or harm human beings or property.

24. Question: Has the calculation of the EFUP been set yet? Is there a recommended number for EFUP for specific products yet?

Answer: No EFUP guidance documents have officially been released at the time of this writing. However, there is a draft Chinese standard, “General Rule of Environment-Friendly Use Period of

Electronic Information Products.” Please note that this document is not current. The final guidance document is due out by the March 1, 2007 implementation date.

25. Question: What is the alternate term you mentioned for the environment friendly use period?

Answer: The two alternative terms sometimes used are the Environment “Safe” Use Period and the Environment “Protection” Use Period (EPEP). The former was used in the draft regulation, but was subsequently changed in the final regulation. The latter term is used in one of the popular translations of the draft and final Marking and Labeling standard. The difference between the terms is primarily an issue of translation.

26. Question: If the EFUP is from the manufacturing date, is it required to mark the manufacturing date on the product? Many of our accessories do not have manufacturing dates. Since these may need to have the EFUP label and the date is tied to the manufacturing date, will we be required to add a manufacturing date to these accessories?

Answer: Yes. According to question and answer 22 in the Standards Q&A, a manufacturing date should be on the EIP in the format of “Year/Month/Day.” However, we have heard that this specific date format is not required as long as the manufacturing date is on the EIP in some visible form, such as a product code or even a sticker. Nonetheless, a manufacturing date is required on the product.

27. Question: What are the packaging requirements related to China RoHS? Is a packaging label required only on the outermost package, or also on inner packing materials (e.g., dividers, plastic bags, foam, etc.)? What are the requirements for the packaging materials of electronic equipment?

Answer: The Chinese national standard GB 18455-2001, “Packaging Recycling Mark,” is required for all EIP products entering China. For additional assistance in determining where to put the packaging label, please refer to question and answer 27 of the Standards Q&A.

28. Question: What is the Green Dot mark and when and how should it be used? The Green Dot mark is only meaningful in countries with third party waste recovery programs (such as Europe), so why is this mark listed in standard GB 18455-2001?



Answer: The Grüne Punkt (or “Green Dot”) on an item of packaging means that it complies with the German Packaging Ordinance for the return of consumer packaging. It is administered by Duales System Deutschland GmbH, a private enterprise that was established to facilitate compliance by manufacturers and distributors with the German Packaging Ordinance. The marking indicates that a fee has been paid for the recovery of the packaging in twenty-seven European countries. (See <http://www.gruener-punkt.de>) China is accepting the Grüne Punkt as an equivalent to their packaging markings due to an agreement with Germany. If your packaging qualifies for Grüne Punkt, you can use that label rather than the Chinese packaging labels.

Penalties and Enforcement

29. Question: What are the consequences if the Chinese authorities do not agree with our EFUP timeframe of 50 years. For example, would our products be prevented from entering China until we revised the EFUP number? What are the legal implications of the environment friendly use period? If the product or packaging is non-compliant, what are the actual penalties?

Answer: There is currently not very much information on penalties. In the regulation, Chapter 3 indicates the Chinese government bodies responsible for each provision and indicates that there will be penalties if a product does NOT have the EFUP marked on it. However, question and answer 29 in the General Q&A appears to indicate that enterprises bear responsibility for the product for the length of the environmental use period. Additionally, questions and answers 38 and 39 address penalties in general.

Priority Products Catalogue

30. Questions: Has the Priority Products Catalogue (“Catalogue”) been released or have the products and corresponding substances that will be put in it initially been decided? How will MII determine what products will go in the Catalogue? Will there be a transition period for compliance when the Priority Catalog is published?

Answer: No, the Priority Products Catalogue has not been released, although it is rumored that it will be released sometime in the 3rd or 4th quarter in 2007. MII, as well as the Chinese standards working group working on labeling and certification, have been focused on the marking and labeling requirements for the March 1, 2007 deadline. It is our understanding that MII is in the process of considering how the Catalogue will be implemented and has issued a draft document entitled “Formulation Process for the Key Administrative Catalogue of Electronic Information Products”. At the recent U.S. Department of Commerce (DOC)-MII ICT Standards and Conformity Assessment (S&CA) Symposium, MII indicated that an Advisory Committee would be established to determine which products would be included in the Catalogue. For additional information, please refer to questions and answers 4, 5 and 8 of the General Q&A.

The specific time period manufacturers will be given before products must be compliant with the Maximum Concentration Value limits has not been established and the timeframe given by MII has varied over the last year. At the S&CA Symposium, MII indicated that it could be as long as a year to a year and a half. Additionally, the decision to put specific components, parts, or products in the Catalogue will go through a 30-day public comment period. MII also indicated that it would notify the WTO’s Technical Barriers to Trade (TBT) Committee of the Catalogue entries and allow a comment period of at least 60 days. It has also been stated that the Catalogue will be reviewed on an annual basis.

31. Question: What is the difference between Priority Catalogue and Key Catalogue?

Answer: They refer to the same catalogue and differ in name only due to translation.

32. Question: Can the Priority Products Catalogue contain a product that is not in the first EIP Classification list?

Answer: The Priority Products Catalogue is a subset of the products listed in the EIP list. MII has indicated that not all of the products contained in the EIP list will be placed in the Catalogue.

33. Question: Once the Priority Catalogue is published, and if my product is not in the Catalogue, then do I stop disclosing and marking packaging of spare parts for such products?

Answer: No. Even if your product is not added to the Catalogue, if it is on the EIP list the labeling and disclosure provisions still apply. The labeling provision is separate from the Catalogue provisions.

Links:

Unofficial English translations of the Chinese RoHS regulation, standards, and Q&As may be found at the following links. Please note that the Q&As are not legally binding and only provide to the public an understanding of how the Chinese government may currently interpret its regulations.

Clicking these links will take you to non-federal government web sites. The U.S. Department of Commerce, International Trade Administration (ITA) provides these non-government web sites as a public service only, and neither endorses nor guarantees in any way the external organizations, services, advice, or products included in these web site links. Furthermore, ITA neither controls nor guarantees the accuracy, timeliness or completeness of the information contained in the non-governmental web sites.

The “**Administrative Measures for Controlling Pollution by Electronic Information Products**” may be found at:

GraSp web site (Grace Compliance Specialists): <http://www.graspllc.com/China%20RoHS.php>
and on AeA’s RoHS web page at: http://www.aeanet.org/governmentaffairs/gabl_ChinaRoHSpag0905.asp

The **Electronic Information Products (EIP) list** may be found at:

GraSp web site (Grace Compliance Specialists): http://www.graspllc.com/EIP_EN.php
and on AeA’s RoHS web page at: http://www.aeanet.org/governmentaffairs/gabl_ChinaRoHSpag0905.asp

The **General Q&A** may be found at:

GraSp (Grace Compliance Specialists) web site: <http://www.graspllc.com/China%20RoHS%20Q&A%20-%20Measure.php>

The **Standards Q&A** may be found at:

GraSp (Grace Compliance Specialists) web site: <http://www.graspllc.com/China%20RoHS%20Q&A%20-%20Standards.php>

The following Chinese **standards** may be found at the AeA RoHS web page:

http://www.aeanet.org/governmentaffairs/gabl_ChinaRoHSpag0905.asp

- [SJ/T 11363-2006, “Requirements for Concentration Limits for Certain Hazardous Substances in Electronic Information Products”](#)
- [SJ/T 11364-2006, “Marking for Control of Pollution Caused by Electronic Information Products”](#)
- [GB 18455-2001, “Packaging Recycling Mark”](#)

The **draft standard** “General Rule of Environment-Friendly Use Period of Electronic Information Products” may be found at the RoHS-International Ltd. Web site: http://www.rohs-international.com/files//General_rule_of_Environment_Friendly_use_Period_of_Electronic_Information_Products.pdf