



EU RoHS Recast Frequently Asked Questions (FAQ)

December 7, 2011 Revision

On July 1, 2011, the European Union published a Recast (revision) of the Restriction of Hazardous Substances in Electrical and Electronic Equipment Directive (Directive 2002/95/EC - RoHS), which affects US exports to the EU, the EFTA countries (Iceland, Liechtenstein, Norway), Switzerland, and Turkey. The current scope of products will expand until the use of the RoHS 6 hazardous substances: lead, mercury, cadmium, hexavalent chromium, and the flame retardants PBB and PBDE, will be essentially banned in all electrical and electronic equipment up to 1000 Volts AC, 1500 volts DC sold in the EU (with some exclusions including defense, solar panels, large scale fixed installations and industrial tools, and most transportation). In addition, the Recast codifies documentation, marking, and manufacturer, importer and distributor responsibilities under the Directive, including product CE marking and manufacturer Declaration of Conformity. Enforcement begins January 2, 2013.¹



RoHS Recast
Directive 2011/65/EU

RoHS Recast Scope:

1. Large Household Appliances
2. Small Household Appliances
3. IT and Telecom Equipment
4. Consumer equipment
5. Lighting equipment
6. Electrical and electronic tools
7. Toys, leisure and sports equipment
8. Medical Devices
9. Monitoring and control instruments
10. Automatic Dispensers
11. Other EEE

Determining in Scope and Product Category (compliance date):

Final rulings on scope and product category are made by the EU Member States and EU authorities; use the following steps as a guide:

Step 1: Determine if your product is in scope

For parts, materials, subassemblies and components for EEE see below.

Is your product within the scope of the original RoHS Directive (Directive 2002/95/EC)? If yes, your product is in scope for the RoHS recast, unless it is excluded under Article 2.4 (see below).

Is it electrical or electronic equipment (EEE) as defined under the RoHS Recast - Is it equipment? Does it utilize electric currents or electronic fields to fulfill at least one intended function and designed for use with a voltage rating not exceeding 1000 Volts AC or 1500 Volts DC? If not, the product is not in scope.

Is your product EEE but granted an exclusion from scope in Article 2.4? If yes, your product is out of scope. If no, your product is in scope; proceed to Step 2.

- Definitions for exclusions Large Scale Fixed Installations and Large Scale Industrial Tools: Articles 3 (3) and 3 (4). Definition of exclusion for active implantable medical devices: Council Directive 90/385/EEC² Article 1(2)(c).

¹ RoHS Recast Directive 2011/65/EU:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:174:0088:0110:EN:PDF>

² <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31990L0385:en:HTML>

Step 2: Determine when an EEE product and manufacturer must comply with the RoHS Revision (Determine Annex I category): Articles 4.3, 2.2

Original RoHS Scope (Annex 1: Categories 1-7 and 10, original RoHS EEE definition): Comply with the RoHS Revision by January 2, 2013 (implementation date)

Medical devices (Category 8): As defined in Council Directive 93/42/EEC³ Article 1 (2) (a) and is EEE. In scope July 22, 2014, *unless*

- **In vitro diagnostic:** As defined in Directive 98/79/EC⁴ Article 1(2)(b) and is EEE. In scope July 22, 2016.

Monitoring and Controlling Instruments (Category 9): *The EU has not provided guidance on the coverage of category 9.* ERA Technology, which was commissioned by the EU's DG Environment to publish a study on including categories 8 and 9 for inclusion in the (original) RoHS directive, has published a list of illustrative products for categories 8 and 9.⁵

- **Industrial Monitoring and Controlling Instruments:** [Definition Article 3(24)]: In scope July 22, 2017 [Article 4.3]
- **Other Monitoring and Control Instruments:** In scope July 22, 2014. [Article 4.3]

All Other EEE (Category 11, Categories 1-7 and 10 not in original RoHS scope): In scope July 22, 2019. [Article 2.2]

- If a product is in scope in the original RoHS categories, and uses electrical currents for at least one function but not the primary function, by process of elimination it is in scope July 22, 2019.
- **Scope Review [Article 24]:** The European Commission has contracted Bio Intelligence Service to carry out an impact assessment - including an affected product list - on scope changes caused by the change in the definition of EEE and the addition of Category 11. Further information, including opportunities for stakeholder comment, meetings, and documents at the link below.⁶

Parts, Subassemblies, Electronic Components, Materials, Cables:

Subassemblies, parts, electronic components, materials, cables, and other inputs for EEE in scope are subject to the hazardous substance restrictions under RoHS. [Article 4.1, definitions Article 3 (5), 3 (27)]

- *EEE manufacturers will only be able to use compliant parts, and will want data from their suppliers to ensure and prove conformity.* See "Manufacturer - Compliance Guidance" below.
- Parts and components for excluded or out of scope equipment are not subject to the RoHS revision. [Article 2.4 (c)]

³ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:1993L0042:20071011:en:PDF>

⁴ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:1998:331:0001:0037:EN:PDF>

⁵ <http://www.electronicweekly.com/blogs/electronics-legislation/2011/07/rohs-category-8-and-9-will-nee.html>

⁶ <http://rohs.biois.com/>

- There is a narrow exclusion for certain reused spare parts from EEE put on the market before 2006 and used in equipment placed on the market before July 1, 2016. [Article 4.5]
- Certain uses of hazardous substances in EEE and parts of EEE are *exempted*. See Exemptions under Restricted Hazardous Substances below.

Restricted Hazardous Substances

The restricted substances and maximum concentration values have not changed from the original (2002) Directive: lead (0.1%), mercury (0.1%), hexavalent chromium (0.1%), cadmium (0.01%), and the two flame retardants PBB (0.1%) and PBDE (0.1%).

Homogeneous Materials

If you are new to RoHS, the maximum concentration value of the restricted substances is measured in percentage by weight in "homogeneous materials" instead of the usual parts per million by weight of the entire product. Under RoHS, the maximum allowable restricted substance content is calculated for each homogenous material in the product. [Annex II, Definition of homogenous material Article 3(20)]

For example: A screw is a homogeneous material (possible hexavalent chromium coating). The red plastic cap on a push-button is another (possible lead or cadmium in red dye or plastic contains a restricted fire retardant). The termination leads of a capacitor (possible tin-lead coating) is yet another.

- *Parts and materials testing and tracking are vital to ensure compliance with this Directive.*

Exemptions - Exempted Uses of the Restricted Hazardous Substances (Annex III, IV)

Exemption Phase-out times (Article 5.2)

- **Original RoHS Scope - Annex III**
 - ✓ *Until January 2, 2013, the original RoHS exemption process is in effect!*
 - ✓ Exemptions in Annex III: 5 years from July 23, 2011, unless a shorter period is specified
 - ✓ New exemptions: 5 years unless a shorter period is specified.
- **Categories 8 and 9 - Annex IV, possible Annex III**
 - ✓ Exemptions in Annex III and IV: 7 years from the date in scope in article 4.3, unless a shorter period is specified.
 - ✓ Some exemptions in Annex III will terminate before the category 8 or 9 exemption periods go into effect. If your product relies on an Annex III exemption, you may want to apply for an exemption renewal before your product is subject to the RoHS revision.
 - ✓ New exemptions: 7 years unless a shorter period is specified.

- **All Other EEE:** Exemptions 5 years from July 22, 2019 unless a shorter period is specified.
 - ✓ Exemptions have not been developed for this category.
 - ✓ Exemptions in Annex III or IV may terminate before category 11 products are in scope. If your product relies on an Annex III or IV exemption, you may want to apply for an exemption renewal before your product is subject to the RoHS revision.

Applying for grant, renewal, or deletion of exemptions [Article 5, Annex V]

- Apply for renewal no later than 18 months before expiration [Article 5.5]
- New exemptions: see Recital (18) - especially for exemptions for medical devices

Review of Hazardous Substance List - Possible candidates for list expansion

A review of the list of restricted substances will take place before July 22, 2014, with periodic reviews afterward. Substances in REACH Directive (1907/2006) Annexes XIV and XVII] are to be taken into account, with a focus on REACH substances of concern HBCCD, DEHP, BBP and DBP; and nanomaterials. [Article 6, Recitals 10, 16]

Obligations of Economic Operators: EEE Manufacturers, Importers, Distributors

[Articles 7, 9 and 10, Definitions Article 3(6), (7), (8), (9) and (10); Also Review Articles 8, 11, and 12] *Manufacturer responsibilities under Article 7, of the RoHS recast, including CE marking and Declaration of Conformity, apply to electrical and electronic equipment (EEE) manufacturers, not to parts, subassembly, materials, or electronic component producers, or other suppliers to EEE manufacturers.*

Manufacturers: Ensure that products placed on the market has been designed and manufactured in accordance with the hazardous substance restrictions in Article 4, and procedures are in place to ensure products remain in conformity. [Articles 7(a), 7(e)]

Manufacturers: Draw up the required technical (compliance) documentation and procedures in line with Decision No. 768/2008/EC Annex A Module A, or have it carried out. [Article 7(b)]

Manufacturers: CE Marking and Declaration of Conformity [Article 7(c), Articles 13, 14, 15 and Annex VI]

- *Applying the CE mark and drawing up an EU declaration of conformity signifies taking responsibility for compliance.*

Manufacturers and Importers: Retain compliance documentation and declaration of conformity for 10 years after the EEE is put on the market. [Articles 7(d), 9(g)]

Manufacturers: Batch or serial number on product. [Article 7(g)]

Manufacturers and Importers: Mark product (or packaging) with company name, trademarks, trade name and address at which they can be contacted on the EEE. [Articles 7(h), 9(d)]

Manufacturers and Importers: To a reasoned request from a competent national authority, *provide it with all the information and documentation necessary to demonstrate the conformity of the EEE with the Directive in a language that can be easily understood by that authority.* [Articles 7(j), 9(h)]

Importers, Distributors: Only place EEE on the market that complies with the recast Directive (i.e. CE mark, Manufacturer information, importer information). [Articles 9(a), (b), 10(a)]

- *The act of reselling used or refurbished EEE puts it back on the market; only RoHS Recast compliant used EEE should be sold.*

Importers, Distributors: If have reason to believe EEE is not in compliance with the hazardous substances restrictions, do not put the product on the market and inform the manufacture and market surveillance authorities. [Articles 9(c), 10(b)]

Manufacturers, Importers, Distributors: Immediately take action if have reason to believe that an article placed on the market is not compliant and inform other economic operators and applicable national authorities. [Articles 7(i), 9(f), 10(c)]

Manufacturers, Importers: Keep a register of non-conforming EEE and recalls. Keep distributors informed. [Articles 7(f), 9(e)]

[Manufacturer - Compliance Guidance](#) [Articles 14 - 17]

Technical documentation for proof of conformity in line with Decision 768/2008/EC⁷ Annex II Module A. [Article 7 (b)]

Materials and components and EEE on which tests and measurements determining compliance with Article 4 (restricted substance) have been performed or have been assessed in accordance with harmonized standards published in the Official Journal shall be presumed to comply with the requirements of this Directive. [Article 16.2]

- EU and UK guidance for compliance with the RoHS Revision is not yet available. Guidance for the original (2002) RoHS is the best information available at this time (see sidebar). The RoHS Revision is stricter than the original RoHS Directive. Use with caution.

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⁷ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:218:0082:0128:en:PDF>

EU: RoHS Enforcement Guidance
<http://www.bis.gov.uk/assets/bispartners/nmo/docs/rohs/legislation-and-guidance/faq-and-guidance/nmo-enforcement-guidance-2006.pdf>

UK: RoHS Producer Support Literature Guidance
<http://www.bis.gov.uk/assets/bispartners/nmo/docs/rohs/support-literature/producer-support-booklet.pdf>

UK: RoHS Guidance Notes Feb 2011 Compliance Flow Chart , Annex D (pages 35-37)
<http://www.bis.gov.uk/assets/biscore/business-sectors/docs/r/11-526-rohs-regulations-government-guidance-notes>

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