

Position Paper

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European Electrical and Electronics Industry's Position Paper on the "Measures for Administration of Pollution Control of Electronic & Electrical Products (Exposure Draft) "

The Ministry of Information and Industry Technology of the PRC:

On July 20, 2010 the Ministry of Information and Industry Technology of the PRC (hereinafter referred to as MIIT) published a full text of "*Measures for Administration of Pollution Control of Electronic & Electrical Products*> (Exposure Draft) " (hereafter referred to as the "*Revision of 'China RoHS' (Exposure Draft)*") which is the revision of "China RoHS" – "*Measures for Administration of the Pollution Control of Electronic Information Products*" and solicited public comments.

As the European Electrical and Electronics Industry, we are paying special attention to the revision of "China RoHS". In 2006 the former MII, which was the predecessor of the MIIT, published the "China RoHS" – "*Measures for Administration of the Pollution Control of Electronic Information Products*". This regulation is implemented in 2 phases. Manufacturers are required to make self declarations of product environmental information during the first phase and to pass the CCC – China Compulsory Certification in the second phase.

EuropElectro¹ solicited comments from our members and, for the "*Revision of 'China RoHS' (Exposure Draft)*", we hereby propose the following detailed and concrete comments and proposals.

1.

EuropElectro helps to bring Europe and China closer together in technical legislation, standardization and certification for electrical and electronic products in order to facilitate the trade with these products in both directions.

Through the cooperation with ORGALIME we are the voice of our member companies from all over Europe in China.



Orgalime - The European Engineering Industries Association, Brussels
Orgalime - 欧洲工程行业协会, 布鲁塞尔

ZVEI - German Electrical and Electronic Manufacturers' Association, Frankfurt
ZVEI - 德国电气电子行业协会, 法兰克福

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I. General Evaluation

“The Revision of ‘China RoHS’ (Exposure Draft)” covers all electronic & electrical products and refers to equipments and auxiliary products with a working voltage below DC 1500V or AC 1000V. The product scope is very wide. European electrical and electronic Industry pays high attention to required actions for the regulations and follow-up. Our industry is also struggling because of the world financial crisis and is contributing to China’s economic “recovery”. We hope the MIIT regulators will consider the industry administrative burden in light of the overall financial crisis situation and take it fully into account.

II. Comments and Proposals

For the “Revision of ‘China RoHS’ (Exposure Draft)” we hereby propose the following comments and proposals on 6 topics referring to 18 articles/clauses.

Our proposal structure is as follows:

1. **Product Scope**
2. **Provisions on “Environmental protection use period of electronic & electrical products”**
3. **Provisions on Package Specification**
4. **Product Label Specification**
5. **Standardization Regulation**
6. **Conformity Judgments for Restriction of Hazardous Substances**

Attachment : EuropElectro’s Comments Conclusion on the “Revision of ‘China RoHS’ (Exposure Draft)” issued by MIIT on July 20

1. Product Scope

Article 3 [Definition Clause] In the present Measures, the following terms shall have their respective meanings as follows:

(1) Electronic & electrical products: refers to equipment and auxiliary products with working voltage below DC 1500V or AC1000V.

Proposals:

Proposal 1: This product scope is the same as the scope for the EU RoHS directive. We suggest that MIIT issue an implementation product catalogue the same as the EU RoHS directive did. This catalogue will be very helpful to interested partners in identifying the necessary measures for their products.

Proposal 2: For Low Voltage products used for Low Voltage circuits, we would like to propose that it only covers those for household and similar purposes. This scope has been defined in national standard GB16915 (mirrored in IEC60669) Plugs and Socket-outlets for household and similar purposes series and GB2099 (mirrored in IEC60884) series for Switches for household and similar fixed-electrical installations.

Proposal for next step: When MIIT issue the implementation product catalogue, they shall consider the technology development. We suggest the exemption articles/clauses in EU-RoHS be referred as a reference, because these exemption regulations have taken the technology development into account.

Comments:

The scope of electronic & electrical products referring to equipment and auxiliary products with a working voltage below DC 1500V or AC 1000V is very wide. We believe that the low voltage products used for low voltage circuits which are used for industry purposes especially should not be included in the regulation. It is not difficult to control the recycling and disposal of products for industry purposes.

Items to be clarified:

What is the scope of auxiliary products?

Are auxiliary products limited to electronic & electrical products?

2. Provisions on “Environmental protection use period of electronic & electrical products”

Article 3 [Definition Clause] In the present Measures, the following terms shall have respective meanings as follows:

...

(5) Environmental protection use period of electronic & electrical products refers to the time period within which the hazardous substances contained in electronic & electrical products will not leak or suddenly change, and the users will not cause serious pollution to the environment or serious personal or property damage during normal usage of the electronic and electrical products.

Relevant Articles/Clauses:

Article 3 [Definition Clause] In the present Measures, the following terms shall have respective meanings as follows:

...

(3) Pollution control of electronic & electrical products refers to the following measures adopted to reduce or eliminate the hazardous substances contained in electronic and electrical products:

...

2. the measures of indicating the names and contents of hazardous substances, indicating the environmental protection use period of the electronic & electrical products, etc. in the process of design, production, sale or import;

Article 13 [Label Specification 2] The producer or importer of electronic & electrical products shall mark the environmental protection use period on the electronic & electrical products it produces or imports, or shall, if the said use period cannot be marked on the products due to the limited product size or function, specify it in the product instructions. The pattern and means of marking the environmental protection use period shall meet the national or industrial standards for pollution control of electronic & electrical products.

Article 15 [Label Specification 4] The environmental protection use period of electronic & electrical products shall be determined by the producer or importer of electronic & electrical products itself. The relevant industrial organizations may, according to the technical development level, formulate guidelines on the environmental protection use period of relevant electronic & electrical products.

MIIT encourages the relevant industrial organizations to formulate their own guidelines for the environmental protection use period of their electronic & electrical products, and then submit them to MIIT.

Article 26 [Liability for Violation of Information Disclosure Duty] Whoever violates the present Measures and is under any of the following circumstances shall be penalized in accordance with the law by the administrative departments for environmental protection, customs, industry and commerce, and quality inspection, etc. within the scope of their respective duties:

(2) A producer or importer of electronic & electrical products which violates Article 13 of the present Measures by failing to explicitly mark the environmental protection use period of its electronic & electrical products.

Proposal:

We propose that the provisions on “Environmental protection use period of electronic & electrical products” in this regulation be withdrawn.

Comments:

If there is no special chemical and physical process dealing with electronic & electrical products, the substance used in electronic & electrical products will not leak or suddenly change in a normal environment.

There is not a common agreed scientific method of the evaluation and calculation on “Environmental protection use period of electronic & electrical products”.

3. Provisions on Package Specification

Article 11 [Package Specification] A producer and importer of electronic & electrical products shall, when manufacturing or using packages of electronic & electrical products, meet the national or industrial standards for pollution control of electronic and electrical products and shall adopt non-toxic and non-noxious materials that are easy to degrade or convenient to recycle.

Relevant articles:

Article 14 [Label Specification 3] A producer or importer of electronic & electrical products shall mark the name of the package material on the package of the electronic & electrical products it produces or imports; or shall, if it cannot be marked due to the limited product size or exterior surface, specify it in the product instructions.

Article 25 [Liability for Violation of Relevant Standards](2) A producer or importer of electronic & electrical products violates Article 11 of the present Measures because the electronic & electrical product packages it makes or uses do not meet the national or industrial standards for the pollution control of electronic & electrical products;

Article 26 [Liability for Violation of Information Disclosure Duty] (3) A producer or importer of electronic & electrical products violates Article 14 of the present Measures by failing to explicitly mark the components of the package material of its electronic & electrical products.

Proposal:

We propose that the provisions on 'Package Specification' in this regulation be withdrawn.

Comments:

Provisions on limits of use of hazardous material in package specifications are essentially overall requirements for the package. They should not be regulated in this regulation which is only about electronic & electrical products.

4. Product Label Specification

Article 12 [Label Specification 1] A producer and importer of electronic & electrical products shall mark the hazardous substances in electronic & electrical products which they put on the market, providing information on names and contents of the hazardous substances, components contained, as well as whether they can be recycled or not, and whether they do harm to the environment and human health with improper utilization or disposal, etc.; or shall, if such information cannot be marked on the products due to the limited product size or function, indicate it in the product instructions. The marking pattern and means shall meet the national or industrial standards for pollution control of electronic & electrical products.

Proposal:

Proposal 1: We propose that the provisions on “whether they do harm to environment and human health upon improper utilization or disposal, etc” in this regulation be withdrawn.

Comments:

Manufacturers and Importers have NO concrete way of estimating whether the substances do harm to the environment and human health upon improper utilization or disposal, etc.

Proposal 2: Change the sentence “if such information cannot be marked on the products due to the limited product size or function, specify it in the product instructions’ to ‘if such information cannot be marked on the products due to their limited product size or function, specify it in the product instructions or other method.”

Comments:

Considering the trend of this regulation, we can foresee that more complex EE products will be added to its scope, more hazardous substances will be added to the restriction list and more information will be required to be declared on labels. In some cases, hardcopy labelling might bring producers and label readers extra cost/effort and compromise the efficiency of the core value of labelling which is to transfer information. Also hardcopy labelling is obviously not the most low-carbon and environmentally friendly solution.

Along with the improvements to network technology, a database with a standardized information format and powerful search engine could be a choice providing a solution equal to or more efficient than labeling and, in some cases, the detailed requirements can be specified in related labeling standards which are easier to update.

5. Standardization Regulation

Article 16 [Standardization Regulation 1] The marking patterns and methods, which are prescribed in Article 12, Article 13 and Article 14, shall be uniformly prescribed in the relevant national or industrial standards which are drafted and formulated by MIIT in consultation with the relevant administrative departments of the State Council.

Proposal:

We propose that Article 16 be removed from this regulation.

Proposal for next step:

Four IEC standards regarding the hazardous substances are being prepared by IEC/TC111 now, IEC 62476, IEC 62596, IEC 62321 and IEC 62474. At present IEC 62474 “Basic requirements for hazardous substances composition and concentration representations” is being transferred into national standard by SAC/TC297 SC1. Other 3 IEC standards are being done by SAC/TC297 SC3.

Comments:

The China law has regulated the obligations of standard formulations and standard bodies. Being in a lower position in the China legislation system, the Measure of Administration should not regulate the standardisation which has been included in the “*China standardization law*” and allow potential deviation from the current law.

In “*China standardization law*” are regulated,

Article 2 Standards should be formulated for the following technical requirements that need to be unified:

- (1) the varieties, specifications, quality and grades of industrial products as well as the safety and sanitary requirements for them;
- (2) the design, production, inspection, packing, storage, transportation and methods of operation of industrial products as well as the safety and sanitary requirements for them in the process of production, storage and transportation;
- (3) the technical requirements and testing methods related to environmental protection;

...

Major agricultural products and other items that need to be standardized should be designated by the State Council.

Article 5 The department of standardization administration under the State Council should be in charge of the unified administration of standardization throughout the country. Competent administrative authorities under the State Council should, in line with their respective functions, be in charge of standardization in their respective departments and trades.

Article 17 [Standardization Regulation 2] Imported electronic & electrical products shall meet the national or industrial standards for the control of hazardous substances in electronic & electrical products.

Article 25 [Liability for Violation of Relevant Standards] ... (3) A seller of electronic & electrical products violates Article 17 of the present Measures by selling electronic & electrical products

that fail to meet the national or industrial standards for the pollution control of electronic & electrical products;

Proposal:

We propose that Article 17 be removed.

Proposal for next step:

Four IEC standards regarding the hazardous substances are being prepared by IEC/TC111 now, IEC 62476, IEC 62596, IEC 62321 and IEC 62474. At present IEC 62474 “Basic requirements for hazardous substances composition and concentration representations” is being transferred into national standard by SAC/TC297 SC1. Other 3 IEC standards are being done by SAC/TC297 SC3.

Comments:

Imported products should comply with China laws and regulations when it put on the China Market. In this regulation, if the regulation emphasizes that imported products must conform to China regulations, and then domestic products should also be included in this regulation. It is not necessary to emphasize imported products only. Otherwise, this could mislead or cause misunderstandings and discrimination against imported products.

Article 18 [Standardization Regulation 3] MIIT shall, in consultation with MEP, formulate the industrial standards for pollution control of electronic & electrical products.

MIIT shall, in consultation with the Standardization Administration of China (SAC), draft the national standards for pollution control of electronic & electrical products.

Proposal:

We propose that Article 18 be removed from this regulation.

Proposal for next step:

Four IEC standards regarding the hazardous substances are being prepared by IEC/TC111 now, IEC 62476, IEC 62596, IEC 62321 and IEC 62474. At present IEC 62474 “Basic requirements for hazardous substances composition and concentration representations” is being transferred into national standard by SAC/TC297 SC1. Other 3 IEC standards are being done by SAC/TC297 SC3.

Comments:

The China law has regulated the obligations of standard formulation and standard bodies. Being in a lower position in China legislation, the Measure of Administration should not duplicate the provisions and cause potential deviations from the current law.

In “*China standardization law*” the provisions are as follows:

Article 2 Standards should be formulated for the following technical requirements that need to be unified:

(2) the design, production, inspection, packing, storage, transportation and methods of operation of industrial products as well as the safety and sanitary requirements for them in the process of production, storage and transportation;

(3) the technical requirements and testing methods related to environmental protection

Article 5 The department of standardization administration under the State Council should be in charge of the unified administration of standardization throughout the country. Competent administrative authorities under the State Council should, in line with their respective functions, be in charge of standardization in their respective departments and trades.

6. Conformity Judgments for Restriction of Hazardous Substances

Article 21 [Catalogue Management 2: Conformity Judgment for Restriction of Hazardous Substances] The electronic & electrical products listed in The Catalogue of Electronic & Electrical Products with Pollution Control meeting the criteria shall be certified according to the state promoted certification system for pollution control of electronic & electrical products.

Products in The Catalogue of Electronic & Electrical Products with Pollution Control meeting the criteria will be listed in the Catalogue of Entry-Exit Commodities to be Inspected by Entry-Exit Inspection and Quarantine Institutions. The Entry-Exit Inspection and Quarantine authorities shall conduct inspections on imported electronic & electrical products in accordance with the law. Customs shall handle the relevant procedures on the "List of Customs Clearance of Inward Goods" issued by the Entry-Exit Inspection and Quarantine Institution.

Proposal 1:

We propose that the provisions on “The Entry-Exit Inspection and Quarantine authorities shall conduct inspections on the imported electronic & electrical products in accordance with the law. Customs shall handle the relevant procedures on the ‘List of Customs Clearance of Inward Goods’ issued by the Entry-Exit Inspection and Quarantine Institution.” be withdrawn.

Comments:

Imported products should comply with China laws and regulations when it put on the China Market. In this regulation, if the regulation emphasizes that imported products must conform to China regulations, and then domestic products should also be included in this regulation. It is not necessary to emphasize imported products only. Otherwise, this could mislead or cause misunderstandings and discrimination against imported products.

In this Measure are regulated,

“Article 4 [Supervision & Administration 1] The Ministry of Industry and Information Technology of the People’s Republic of China (hereinafter referred to as “MIIT”), the National Development and Reform Commission of the People’s Republic of China (hereinafter referred to as “NDRC”), the Ministry of Science and Technology of the People’s Republic of China (hereinafter referred to as “MOST”), the Ministry of Finance of the People’s Republic of China (hereinafter referred to as “MOF”), the Ministry of Environmental Protection of the People’s Republic of China (hereinafter referred to as “MEP”), the Ministry of Commerce of the People’s Republic of China (hereinafter referred to as “MOFCOM”), the General Administration of Customs of the People’s Republic of China (hereinafter referred to as “the GAC”), the State Administration for Industry and Commerce (hereinafter referred to as “SAIC”), and

the General Administration of Quality Supervision, Inspection and Quarantine of the People's Republic of China (hereinafter as "AQSIQ") shall, within the scope of their respective duties, administer and supervise the pollution control of electronic & electrical products. They shall coordinate to resolve the major matters and problems in the pollution control of electronic & electrical products through a work coordination mechanism among ministerial standards for pollution control of electronic & electrical products."

It is the obligation of the Entry-Exit Inspection and Quarantine authorities to conduct inspections on imported electronic & electrical products in accordance with the law. It is not necessary to emphasize it again in this measure.

Proposal 2: We suggest the proposal be changed as follows: "The State Administration for certification and accreditation together with MIIT shall, according to the uniform certification system of the State, carry out the conformity assessment administration for the electronic & electrical products in the 'The Catalogue of Electronic & Electrical Products with Pollution Control meeting the Criteria'".

Proposal for next step: When MIIT issue the implementation product catalogue, they shall consider the technology development. We suggest the exemption articles/clauses in EU-RoHS be referred as a reference, because these exemption regulations have taken the technology development into account.

Comments

On May 28th, 2010 CNCA published "*Opinion on State Promoted Volunteer Certification of Pollution Control of Electronic and Information Products*" by notice No.28 [2010]. There has been no notice from CNCA to inform us about "the state promoted certification system for pollution control of electronic & electrical products". We need to know what "the state promoted certification system for pollution control of electronic & electrical products" is and is it voluntary or compulsory.

If it is a voluntary certification system, the electronic & electrical products listed in The Catalogue of Electronic & Electrical Products with Pollution Control meeting the Criteria should be "recommended" to be certified, not "shall" be certified.

In the China "*Regulations of the People's Republic of China on Certification and Accreditation*", the provisions for Certification are as follows:

Article 3 Any person who engages in certification and accreditation activities within the territory of the People's Republic of China shall comply with these Regulations;

Article 4 The State practices a unitary regulatory system for certification and accreditation activities
The State uses a work mechanism for certification and accreditation in which joint implementation is conducted by relevant sides under unitary supervision, administration and overall coordination of the certification and accreditation regulatory department of the State Council.

Article 19 Any legal person, organization or individual may voluntarily apply to a certification body established according to law for certification of products, services and management systems.

In the China "*Regulations of the People's Republic of China on Certification and Accreditation*", the provision for Compulsory Certification is as follows:

Article 29 With regard to products subject to compulsory certification, the State shall apply one product catalogue, one set of technical regulations, standards and conformity assessment procedures, one obligatory mark and one structural fee chart.

The unitary product catalogue (hereinafter referred to as the Catalogue) shall be formulated and adjusted by the certification and accreditation regulatory department of the State Council jointly with the relevant departments of the State Council, announced by the certification and accreditation regulatory department of the State Council, and implemented by the certification and accreditation regulatory department of the State Council jointly with relevant sides.

Items re catalogue management to be clarified:

1. The limitation of substance in the products listed in The Catalogue of Electronic & Electrical Products with Pollution Control meeting the Criteria is compulsory or voluntary?
2. What is the “implementation period of which hazardous substances couldn’t be contained in electronic & electrical products listed in The Catalogue of Electronic & Electrical Products with Pollution Control meeting the Criteria” Referring in Article 23?

Yours sincerely,

EuropElectro

European Electrical and Electronics Industry

欧洲电气电子行业办事处

- Attachment: EuropElectro’s Comments Conclusion on the “Revision of ‘China RoHS’ (Exposure Draft)” issued by MIIT on July 20