

Position Paper

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EuropElectro - European Electrical and Electronics Industry's Position Paper on the "Measures for Restriction of the Use of Hazardous Substances in Electrical & Electronic Products (2015-05-18 draft version)"

To Whom it may Concern:

On 18 May 2015 MIIT Policy and Regulation Department solicited public comments on the "*Measures for Restriction of the Use of Hazardous Substances in Electrical & Electronic Products (2015-05-18 draft version)*" (hereinafter referred to as the "*The Revision of China RoHS Regulation (2015-05-18 draft version)*") which is the revision of China RoHS Regulation – "*Measures for Administration of the Pollution Control of Electronic Information Products*".

As a representative of the European electrical and electronic industry, we are paying special attention to the revision of China RoHS Regulation. In 2006 the former MII, which was the predecessor of the MIIT, published the China RoHS Regulation – "*Measures for Administration of the Pollution Control of Electronic Information Products*". This regulation requires a 2 steps process. Manufacturers are required to make self-disclosure on China RoHS information as the first step and to pass the CCC – China Compulsory Certification as the second step.

EuropElectro¹ solicited comments from our member companies. And for the "*The Revision of China RoHS Regulation (2015-05-18 draft version)*", we hereby propose the following detailed and concrete proposals and comments.

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.



ZVEI:

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

I. General Evaluation

Recognizing the burden to industry and taking their comments into consideration, the regulator modified the following two important contents in *“The Revision of China RoHS Regulation (2015-05-18 draft version)”* compared to the current valid version.

- China RoHS Information Label Specifications
- Conformity Assessment Requirements

Our industry welcomes and supports these positive changes and appreciates the regulator's consideration.

“The Revision of China RoHS Regulation (2015-05-18 draft version)” covers all electrical & electronic products and refers to “equipment and auxiliary products dependent on electric currents or electromagnetic fields in order to work properly and equipment for the generation, transfer and measurement of such currents and fields, and equipment designed for use with a voltage rating not exceeding 1 000 Volt for alternating current and 1500 Volt for direct current, except for the equipment involved in the electricity generation, transmission and distribution”. This impacts the electro industry heavily - particularly the content covering the establishment of the conformity assessment system for the products listed in the management catalogue of electrical & electronic products with the restriction of use of hazardous substance up to the criteria (hereafter called as “management catalogue”) in article 18 which is currently not clear. Our industry will closely track the next further development of “China RoHS Conformity Assessment System” establishment and would like to be involved in the system development.

Our industry hopes that the regulator's follow-up actions will continue to be transparent.

II. Proposals and Comments

For the *“The Revision of China RoHS Regulation (2015-05-18 draft version)”* we hereby propose the following proposals on 7 topics referring to 13 articles.

Our proposal structure is as follows:

- 1. Product Scope and Management Catalogue**
- 2. Provisions on Package Specifications**
- 3. China RoHS Information Label Specifications**
- 4. Conformity Assessment System**
- 5. Applied Standards**
- 6. Commendation and Reward Provisions**
- 7. Transition Period**

1. Product Scope and Management Catalogue

Related Articles/Clauses:

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

(1) Electrical & electronic product: refers to equipment and auxiliary products dependent on electric currents or electromagnetic fields in order to work properly and equipment for the generation, transfer and measurement of such currents and fields, and equipment designed for use with a voltage rating not exceeding 1 000 Volt for alternating current and 1500 Volt for direct current, except for the equipment involved in the electricity generation, transmission and distribution.

(4) The catalogue of electrical & electronic products with the restriction of use of hazardous substance up to the criteria (hereafter called as “management catalogue”) is a kind of catalogue established for the implementation of the restriction of use of hazardous substance in electrical & electronic products. This management catalogue consists of the product categories, types of the restricted substance, restriction time period and exception etc.

Article 19 MIIT shall, in consultation with the NDRC, MOST, MOF, MEP, MOFCOM, SAIC and AQSIQ, promulgate the implementation time limit that the hazardous substances shall not be permitted to be contained in the electrical and electronic products listed into the management catalogue according to the actual situation of industry development.

Proposal 1: This product scope is almost the same as the scope for the EU RoHS directive.

We propose that the regulator to issue an implementation product catalogue the same as the EU RoHS directive did. And which products are listed under “the equipment involved in the electricity generation transmission and distribution”? This detailed implementation product catalogue will be very helpful to interested parties in identifying the necessary measures for their products.

Proposal 2: Exemptions in product scope should be taken into account, considering technology development. We suggest the exemption in EU-RoHS be provided as a reference, because these exemption regulations have considered the technology development.

The exemptions of substance bans (Annex II) stipulated in the EU-Directive 2011/65/EU are mentioned in Annex III and IV for the categories of electric and electronic devices (Annex I) covered by this regulation. In Annex III for example 39 applications are exempted from the restriction in Article 4(1) and in annex IV presently 20 specific to medical devices and monitoring and control instruments are listed. These exemptions (without date of expiration) will expire on 22 July 2016 and need to be extended by an application to the EU commission in case the technical status makes this necessary.

Article 2 (Scope) describes for which areas this regulation does not apply (section 4/a - j). This mainly covers the following:

1. Material intended for specifically military purposes
2. Equipment designed to be sent into space
3. equipment which is specifically designed, and is to be installed, as part of another type of equipment that is excluded or does not fall within the scope of this Directive
4. Large-scale stationary industrial tools
5. Large-scale fixed installations

6. Means of transport for persons or goods
7. Non-road mobile machinery made available exclusively for professional use
8. Active implantable medical devices
9. Photovoltaic panels intended to be used in a system
10. Equipment specifically designed solely for the purposes of research and development only made available on a business-to-business basis

Components which are not considered as independent EEE (not a functional unit) do not fall into the scope of RoHS until now. Nevertheless they must fulfil the substance requirements if they are used in products which are part of the scope of RoHS.

Cables and accessories need to fulfil the RoHS requirements if they are sold as independent EEE. Spare parts only need to fulfil the requirements if their end device also falls into the scope of RoHS.

Proposal 3: Propose to set a clear time schedule for the catalogue of electrical & electronic products with the restriction of use of hazardous substance up to the criteria (hereafter called as “management catalogue”)

Supporting argument:

The scope of electronic & electrical products referring to equipment and auxiliary products dependent on electric currents or electromagnetic fields in order to work properly and equipment for the generation, transfer and measurement of such currents and fields, with a working voltage below DC 1500V or AC 1000V is very wide. It is very difficult for the manufacturers to identify whether their product is covered in this scope or not.

2. Provisions on Package Specifications

Related Articles/Clauses:

Article 12 A producer and importer of electrical & electronic products, when manufacturing or using packages of electrical & electronic products, shall not violate the criteria required in the compulsory standards, administrative measures and department rules and shall adopt innocuous materials easy to be degraded or convenient for recycle, and shall meet the national or industrial standards for the use of package.

Article 20 Whoever violates the present Measures and is under any of the following circumstances shall be penalized in accordance with the law by the commerce, customs, the administrative departments of industrial and commerce, quality inspection, etc. within the scope of their respective duties:

(3) A producer or importer of electrical & electronic products violates Article 12 of the present Measures because the electrical & electronic product packages it makes or uses do not meet the national or industrial standards for the package;

Proposal:

Propose to delete the provisions on ‘Package Specifications’ in this regulation.

Supporting argument : Provisions on restriction 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 electrical & electronic products.

3. China RoHS Information Label Specifications

Related Articles/Clauses:

Article 13 A producer and importer of electrical & electronic products shall according to the national and industrial labelling standards regarding the restriction of use of hazardous substance mark the hazardous substances in electrical & electronic products which they put into market, and shall indicate information on names and contents of the hazardous substances, components contained, as well as whether they could be recycled or not, and whether they do harm to environment and human health upon improper utilization or disposal, etc.; or shall, if such information cannot be marked on the products due to the limited product size, shape, surface material or function, indicate it in the product instructions.

Article 14 The producer or importer of electrical & electronic products shall mark the environmental protection use period on the electrical & electronic products which they produces or imports, or shall, if the said use period cannot be marked on the products due to the limited product size, shape, surface material or function, indicate it in the product instructions. The pattern and way of marking the environmental protection use period shall meet the national or industrial standards for the restriction of use of hazardous substances in electrical & electronics products.

Proposal:

Propose the regulator to support more environmental method to transfer the RoHS information, such as disclosing the RoHS information on the company website.

Supporting argument: Considering the trend of this regulation, we can foresee that more complex EEE 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, the e-format disclosure on the website should be a choice providing a solution equal to or more efficient than labelling and, in some cases, the detailed requirements can be specified in related labelling standards which are easier to update.

Related Articles/Clauses:

Article 13 A producer and importer of electrical & electronic products shall according to the national and industrial labelling standards regarding the restriction of use of hazardous substance mark the hazardous substances in electrical & electronic products which they put into market, and shall indicate information on names and contents of the hazardous substances, components contained, as well as whether they could be recycled or not, and whether they do harm to environment and human health upon improper utilization or disposal, etc.; or shall, if such information cannot be marked on the products due to the limited product size, shape, surface material or function, indicate it in the product instructions.

Proposal 2: Propose to delete provisions “whether they do harm to the environment and human health upon improper utilization or disposal, etc.”

Supporting argument: 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.

Related Articles/Clauses:

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

(3) The restriction of the use of hazardous substances in electrical & electronic product refers to the following measures adopted to reduce or eliminate the pollution of the electrical & electronic products:

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

(6) Environmental protection use period of electrical & electronic products refers to the time period within which the hazardous substances contained in electrical & electronic products will not leak or suddenly change, and the users will not cause serious pollution to the environment or serious personal or property damages during normal usage of the electrical & electronic product, when the products are used properly according to the product description.

Article 14 The producer or importer of electrical & electronic products shall mark the environmental protection use period on the electrical & electronic products which they produces or imports, or shall, if the said use period cannot be marked on the products due to the limited product size, shape, surface material or function, indicate it in the product instructions. The pattern and way of marking the environmental protection use period shall meet the national or industrial standards for the restriction of use of hazardous substances in electrical & electronics products.

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

MIIT encourages the relevant industrial organizations to formulate their guidelines on the environmental protection use period of their electrical & electronics product, and then submit to MIIT.

Article 20 Whoever violates the present Measures and is under any of the following circumstances shall be penalized in accordance with the law by the commerce, customs, the administrative departments of industrial and commerce, quality inspection, etc. within the scope of their respective duties:

(5) A producer or importer of electrical & electronic products violates Article 14 of the present Measures by failing to mark the environmental protection use period of its electrical & electronic products;

Proposal: Propose the regulator to cancel the labelling of “environmental protection use period”

Supporting argument: 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”.

4. Conformity Assessment System

Related Articles/Clauses:

Article 18 The state will establish the conformity assessment system for the restriction of use of hazardous substances in electrical & electronic products. The electrical & electronic products listed in the management catalogue shall meet the national or industrial standards for the restriction of use of hazardous substances in electrical & electronics products and shall be managed according to the conformity assessment system for the restriction of use of hazardous substance in the electrical & electronics products.

MIIT shall according to the work arrangement regarding the restriction of use of hazardous substance propose CNCA to establish the conformity assessment system for the restriction of use of hazardous substance in the electrical & electronic products. MIIT and CNCA establish, publish and organize the conformity assessment system for the restriction of use of hazardous substance in the electrical & electronic product. MIIT and MOF establish the adoption system regarding the results of the conformity assessment.

Proposal: What is the new “conformity assessment system for the restriction of use of hazardous substances in electrical & electronic products”? We propose that the “**Manufacturer Self-declaration for Compliance**” will be accepted in the new “conformity assessment system for the restriction of use of hazardous substances in electrical & electronics products”.

Supporting argument: We support the regulators cancelled the CCC requirement for the products listed in the management catalogue as the compliance method, and we hope Manufacturer Self-declaration for Compliance will be accepted in the new “conformity assessment system for the restriction of use of hazardous substances in electrical & electronics products”.

5. Applied Standards

Related Articles/Clauses:

Article 9 An electrical & electronic product designer, when designing electrical & electronic products, shall not violate the criteria required in the compulsory standards, administrative measures and department rules, and with the pre-condition of meeting the technology process requirements shall according to the national standards or industrial standards regarding the restriction of use of hazardous substance adopt a innocuous or a low-noxiousness solution and the solution in which the said substances are easy to be degraded or convenient for recycle.

Article 10 A producer of electrical & electronic products shall not violate the criteria required in the compulsory standards, administrative measures and department rules and shall according to the national standards or industrial standards regarding the restriction of use of hazardous substance use the materials, technology and technical process with high resource utilization rate, easy for recycling and treatment, and beneficial to environmental protection, restrict and eliminate use of hazardous substances in electrical & electronic products.

Article 11 The imported electrical & electronic products shall not violate the criteria required in the compulsory standards, administrative measures and department rules and shall meet the national or industrial standards for the restriction of use of hazardous substances in electrical & electronic products.

Article 13 A producer and importer of electrical & electronic products shall according to the national and industrial labelling standards regarding the restriction of use of hazardous substance mark the hazardous substances in electrical & electronic products

Article 14 The producer or importer of electrical & electronic products shall according to the national and industrial labelling standards regarding the restriction of use of hazardous substance mark the environmental protection use period on the electrical & electronic products which they produces or imports.....

Article 16 A seller of electrical & electronics products shall not sell any electrical & electronic product not meeting the national or industrial standards for the restriction of use of hazardous substances in electrical & electronics products.

Article 18 The state will establish the conformity assessment system for the restriction of use of hazardous substances in electrical & electronic products. The electrical & electronic products listed in the management catalogue shall meet the national or industrial standards for the restriction of use of hazardous substances in electrical & electronics products and shall be managed according to the conformity assessment system for the restriction of use of hazardous substance in the electrical & electronics products.

Article 20 Whoever violates the present Measures and is under any of the following circumstances shall be penalized in accordance with the law by the commerce, customs, the administrative departments of industrial and commerce, quality inspection, etc. within the scope of their respective duties:

(1) A producer of electrical & electronic products violates Article 10 of the present Measures because the materials, technologies or technical process it adopts do not meet the national or industrial standards for the restriction of use of hazardous substances in electrical & electronic products and the producers leave the products which violate the national or industrial standards regarding the restriction of use of hazardous substance out of factory or sell in the market.

(2) A importer of electrical & electronic products violates Article 11 of the present Measures because the products which they import don't meet the national or industrial standards regarding the restriction of use of hazardous substance.

(6) A seller of electrical & electronics products violates Article 16 of the present Measures by selling its electrical & electronic products which don't meet the national or industrial standards regarding the restriction of use of hazardous substance.

(7) A producer, seller or importer of electrical & electronic products violates Article 17 of the present Measures by producing, selling or importing electrical & electronic products whose content of hazardous substances exceeds the national or industrial standards for the restriction of use of hazardous substance in the electrical & electronics products as of the implementation date of the products listed in the management catalogue shall not contain any hazardous substances.

Proposal 1: Propose the regulator to make a list of the applied national and industrial standards in present Measures with certain legally effective document.

Supporting argument: Such as, for the requirements for concentration limits for the hazardous substances, it is applied for the industrial standard SJ/T 11363-2006 or the national standard GB/T 26572-2011? For the test method it is applied for the industrial standard SJ/T 11365-2006 or the national standard GB/T 26125-2011?

Proposal 2: Propose to modify the sentence “shall according to the national standards or industrial standards regarding the restriction of use of hazardous substance” referred in article 9, 10, 11, 16 to be “shall according to the **compulsory or in present Measures applied** national standards or industrial standards regarding the restriction of use of hazardous substance”.

Supporting argument: In the 1st part of article 9, it is clear that the compulsory requirement is the criteria required in the compulsory standards, administrative measures and department rules. But in the 2nd part, with the word “shall” the compulsory requirements are extended to national standards and industrial standards which include compulsory and voluntary standards.

There is meaning conflict between the 1st part and 2nd part.

6. Commendation and Reward Provisions

Related Articles/Clauses:

Article 8 MIIT and the relevant administrative departments of the State Council shall give commendations and rewards to the relevant organizations and individuals who actively develop and research electrical & electronics products in compliance with requirements and regulations in the present Measures.

The administrative department of industry and information of each province, autonomous region, or municipality directly under the Central Government may commend and award the organizations and individuals that have made prominent achievements in the restriction of use of hazardous substance in electrical & electronic products and other relevant activities.

Proposal: Propose to delete 1st part of the commendation and reward provision in article 8.

Supporting argument: As a Chinese department rule the requirements in China RoHS Regulation are compulsory for the manufacturers. “Actively develop and research electrical & electronics products in compliance with requirements and regulations in the present Measures” is the basic requirement in this regulation. The commendation and reward on this basic develop and research activities will lead to unreasonable administration cost and unfair market competition.

7. Transition Period

Proposal: Propose the regulator to establish a transition period of 3-5 years for the products newly added into the product scope.

Supporting argument: For the products newly added into the product scope, it will take a long time period for the manufacturers to prepare the implementation of China RoHS, such as the review of RoHS information disclosure; establishment of RoHS management system; the label printing and sticking, especially for the products with large quantity, is complex and time-consuming.

We would be very appreciative if MIIT takes our positions into account when formulating this Measures.

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ORGALIME - Speaking for European engineering, Orgalime, represents 3 industrial branches (electrical & electronic, mechanical engineering and metal articles & metalworking) that manufacture over 28% of the total EU manufacturing output and has 37 member trade federations in 22 European countries. The industry accounted for some €1,666 billion in 2011. The industry not only represents more than one quarter of the output but also a third of the EU's manufacturing industries exports.

ZVEI – the German Electrical and Electronics Industry Association is one of the world's largest electrical and electronics industry associations. ZVEI represents, with 26 product divisions and 1600 member companies, the German electrical and electronics industry with €178 billion turnover in 2011 and accounts for more than 840,000 employees.