

QUESTIONS AND ANSWERS

China RoHS Webinar:

Overview & Best Practices

January 11, 2007

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Note: Please refer to the end of [Jon Boyens' presentation](#) for links to China RoHS documents and sources of information.

EU vs. China RoHS

1. Questions: What is the difference between the European and Chinese regulations? What are the major issues in doing the compliance for EU RoHS? Implications for China RoHS?

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

Some, but not all, of the differences include: product scope, 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, MII has spelled out the major differences in its General Q&A (question 1). An English translation can be found at the GraSp web site (Grace Compliance Specialists):
<http://www.graspllc.com/China%20RoHS%20Q&A%20-%20Measure.php>

Scope

2. Questions: If a product is not explicitly stated on the Classification list, can it be roped into the list as it has 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 marking and labeling requirements. The scope of the regulation is defined by the “Note for Classification of Electronic Information Products,” which basically consists of the products that fall under MII’s administrative responsibility, minus software. English translations of the “Note for Classification of Electronic Information Products” can be found at the at the 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_ChinaRoHSpage0905.asp

MII has 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 for themselves whether or not their products fall within the scope. MII has recommended that companies err on the side of caution.

3. Questions: 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 referral 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 13 of its General Q&A. An English translation can be found at the GraSp web site (Grace Compliance Specialists): <http://www.graspllc.com/China%20RoHS%20Q&A%20-%20Measure.php>

4. Questions: 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 comprises 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, legislation or standards.

5. Questions: 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, so 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 they are 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 in its General Q&A (question 1). Medical equipment coverage is verified in question 19 and instrumentation coverage in question 23. An English translation can be found at the GraSp web site (Grace Compliance Specialists): <http://www.graspllc.com/China%20RoHS%20Q&A%20-%20Measure.php>

Exemptions, per se, are part of the EU’s RoHS and do not apply to China RoHS. MII is adamant that their approach to regulating hazardous substances is very different than the EU’s approach. China’s approach is 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. The first part, marking and labeling, applies to all the products in the scope and contained in the “Note for Classification of Electronic Information Products.” The second part of the approach consists of restricting specific substances in certain products, parts, or components. The specific substances and

products, parts, or components will be a subset of products within the scope of the regulation. The second part of the approach will use the “Catalogue” method or “positive list” approach. As MII has stated, all products are exempt until they are put in the Priority Products 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 for companies.

6. Question: When will HS code be mapped to EIP list?

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

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 has recently stated in its General Q&A that test machines, demo machines or models used for research and development, experiment, and test, 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 isn’t in the scope. Machine tools, however, have not been mentioned. Also, please note that the Q&A’s furnished by MII, particularly when they are translated, do not hold any legal weight.

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 be considered for the initial marking/labeling requirements. Is this interpretation correct?

Answer: That is how we interpret MII’s response. 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 products “put on the market”, whether the products are manufactured in China or abroad. However, there are a few exceptions where products exported to or produced in China may not be considered to be “put on the market” and thus not be included in the scope of the regulation (such as the example in question/answer7, above). Other situations exist, but more may be made known in the future. The main examples of products not in scope 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.” Additionally, 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) do not have to comply with the marking and labeling requirements of China RoHS. However, the final product does have to comply with the marking and labeling requirements, so the supplier of the exported parts and components must supply the manufacturer of the finished product with the required information so that the finished product can be marked and labeled appropriately.

10. Questions: Are used products imported into China in or out of scope? 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 English translation of the recent General Q&A, MII responded to question 26 that “second hand” or “used” products were NOT in the scope of China RoHS. 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. It is particularly precarious because of the need for definitions and the legal differences between “used” and “refurbished” goods and how the Chinese concepts and terms are translated into English.

11. Questions: Is replacement equipment out of the scope as spare equipment? Spare parts are mentioned to be out of the scope. Is it unconditional? That is, if spare parts are sold to customer/warranty/by whom?

Answer: If a replacement part is supplied under warranty and the customer does not have to pay for it, it is out of scope. If the replacement part is sold to a customer, it is in scope. MII addressed parts used for service or upgrade during after sales service in Question 16 of its General Q&A. An English translation can be found at the GraSp web site (Grace Compliance Specialists): <http://www.graspllc.com/China%20RoHS%20Q&A%20-%20Measure.php>

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

Answer: Products that are manufactured March 1, 2007 and afterward need to comply with China RoHS.

13. Questions: 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. Questions: Regarding the definition of max concentration value - is that a percentage of the total product weight or a percentage of sub-component weight? Please explain how the hazardous materials are calculated (e.g., 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. The English translation of these standards can be found on AeA's RoHS web page at: http://www.aeanet.org/governmentaffairs/gabl_ChinaRoHSpage0905.asp

15. Questions: 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 whether or not they accept the explanation that labels will be put on later (though most likely they will not accept this). If it is not a part or material to be assembled in China (see question/answer number 10 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. Questions: Is there any guidance on the method for putting the label on or disclosing the required information? 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 on AeA's RoHS web page at: http://www.aeanet.org/governmentaffairs/gabl_ChinaRoHSpage0905.asp, as well as questions and answers 13 and 14 in the translated Standards Q&A found at the at the GraSp web site (Grace Compliance Specialists): <http://www.graspllc.com/China%20RoHS%20Q&A%20-%20Standards.php>

17. Questions: What type of documentation is required to back up initial March 1st marking requirements? Are you 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 to be 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, though it is not clear how this would play out legally.

18. Question: If a product qualifies for Symbol 1 (e.g., free of hazardous substances), is marking on the product mandatory or should the Symbol 1 marking be placed only in the 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. The English translation of these standards can be found on AeA's RoHS web page at:
http://www.aeanet.org/governmentaffairs/gabl_ChinaRoHSpage0905.asp

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 visa 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 them to use for the final product. If the reel is sold as a final product and "put on the market" (not for assembly) it will need to have the label. Please refer to question and answer 4 in the translated Standards Q&A found at the at the GraSp web site (Grace Compliance Specialists): <http://www.graspllc.com/China%20RoHS%20Q&A%20-%20Standards.php>

20. Questions: 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 you believe my assumption 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" 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" in scope will require the needed information so that they 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 in the scope of the regulations, it would be advisable to provide that information in the export documentation. Please refer to question and answer 4 in the translated Standards Q&A found at the at the GraSp web site (Grace Compliance Specialists): <http://www.graspllc.com/China%20RoHS%20Q&A%20-%20Standards.php> and question 33 in the translated general questions at GraSp: <http://www.graspllc.com/China%20RoHS%20Q&A%20-%20Measure.php>.

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

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

22. Questions: What was meant by not every component needs 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 translated Standards Q&A found at the at the GraSp web site (Grace Compliance Specialists): <http://www.graspllc.com/China%20RoHS%20Q&A%20-%20Standards.php>

23. Questions: 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, which toxic and hazardous substances or elements in electronic information products do not leak to pollute the environment or harm human beings and properties.

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

Answer: No EFUP guidance documents have officially been released at the time of this writing. However, there is a DRAFT guide, "General Rule of Environment-Friendly Use Period of Electronic Information Products" available at: http://www.rohs-international.com/files//General_rule_of_Environment_Friendly_use_Period_of_Electronic_Information_Products.pdf

Please note that this document is very old. And while not ideal, 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 and is primarily an issue of translation.

26. Questions: 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: According the question and answer number 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. Questions: What are the packaging requirements related to China RoHS? Is a packaging label required only on 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 Marks) is required for all EIP products entering China. The English translation of this standard can be found on AeA's RoHS web page at: http://www.aeanet.org/governmentaffairs/gabl_ChinaRoHSpag0905.asp. Also, for additional assistance in determining where to put the packaging label, please look at question and answer 27 on the Standards Q&A found at the at the GraSp web site (Grace Compliance Specialists): <http://www.graspllc.com/China%20RoHS%20Q&A%20-%20Standards.php>.

28. Questions: What is the Green Point Mark and when and how should it be used? The Green Point Mark is only meaningful in countries with a 3rd party waste recovery program (such as Europe), so why is this mark listed in standard GB 18455-2001?



Answer: The Grüne Punkt 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 non-profit organization that was established to enable manufacturers and distributors to fulfill the requirements of the legislation. The marking shows that a fee has been paid for the recovery of the packaging in some European countries. 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 other packaging labels.

Penalties and Enforcement

29. Questions: What are the consequences if the Chinese authorities do not agree with our EPUP timeframe of 50 years? For example, would our products be prevented from entering China until we revised the EPUP number? What are the legal implications of the environment friendly use period? If a 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 the responsible parties will also be open to legal liabilities if they choose too long of an EFUP. Additionally, questions and answers 38 and 39 address penalties in general. An English translation of the General Q&A can be found at the GraSp web site (Grace Compliance Specialists): <http://www.graspllc.com/China%20RoHS%20Q&A%20-%20Measure.php>

Priority Products Catalogue

30. Questions: Has the Priority Products 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 standards working group working on labeling and certification, have been focused on the marking and labeling requirements of 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 a draft document “Formulation Process for the Key Administrative Catalogue of Electronic Information Products”. At the recent DOC-MII ICT Standards and Conformity Assessment (S&CA) Symposium, MII indicated that an Advisory Committee will be established to determine which products will be included in the Catalogue. For additional information, please refer to questions and answers in numbers 5 and 8 of the General Q&A which can be found at the GraSp web site (Grace Compliance Specialists): <http://www.graspllc.com/China%20RoHS%20Q&A%20-%20Measure.php>

The specific time products will have before they 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 they 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 "Note for Classification of Electronic Information Products." MII has indicated that not all of the products contained in the Note will be placed in the Catalogue.

33. Question: Once Priority Catalog is published, and if my product is not in the Catalog, 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 (Note for Classification of Electronic Information Products) the labeling and disclosure provisions still apply. The labeling provision is separate from the catalogue provisions.