



**Frequently Asked Questions (FAQ) About
2008 China RoHS Updates
Prepared for SEMI Member Companies
December 15, 2008**

Disclaimer

This document reflects comments by the Chinese government, third party experts, SEMI staff, and representatives from SEMI member companies. This document is intended for general guidance and background information only, not for compliance decision making. Further, this document does not constitute legal advice. Each company should seek a qualified advisor for specific advice on their own situation.

While every care was taken in preparing this document, in light of the dynamic characteristics of China's hazardous substance restriction laws, there are still likely to be errors, omissions, or out-of-date information. Please email your suggestions for improving this document to Sanjay Baliga (SEMI Senior Manager) at sbaliga@semi.org.

1) What does this FAQ cover?

This FAQ focuses on new information from the Chinese government and third party experts about Phase 2 implementation of China RoHS.

For more information, please review the *SEMI Primer on China RoHS for the Semiconductor Equipment Manufacturing Industry* located here:

http://www.semi.org/en/issues/ehs/ctr_027975

The 33 page Primer published in April 2007 explains fundamental aspects of the existing regulations and possible impacts to SEMI members.

2) Who should read this FAQ?

If you have no expertise about China RoHS, please first review the SEMI Primer and then read this FAQ for the most recent updates. If you consider yourself an expert, but want to re-acquaint yourself with China RoHS, you can probably avoid the SEMI Primer and instead, read this FAQ in its entirety. If you have up-to-date expertise, you should probably start on Question 6 of this FAQ below.

3) What is the China RoHS Regulation?

The China RoHS regulation, formally referred to as the Management Methods on the Control of Pollution from Electronic Information Products, is intended to protect humans and the environment from certain hazardous substances contained in electronic information products. The regulation does so by mandating information disclosures during Phase 1 implementation and placing restrictions on hazardous substances (RoHS) and mandating pre-market testing and certification for certain, listed electronic information products during Phase 2 implementation.

4) Who are the responsible authorities for administering China RoHS?

The China RoHS regulation was jointly issued by seven Chinese agencies. These agencies are the Ministry of Information Industry (MII, now renamed the Ministry of Industry and Information Technology, or MIIT), the National Development and Reform Commission (NDRC), the General Administration of Customs, the State Administration of Industry and Commerce (SAIC), the Ministry of Commerce, the Administration for Quality Supervision, Inspection and Quarantine (AQSIQ), and the State Environmental Protection Administration (now the Ministry of Environmental Protection, or MEP). Of these agencies, MIIT currently serves as the lead agency for China RoHS interpretation and policy coordination purposes. However, for phase 2 of China RoHS, as the substance restriction "Catalogue" is linked to mandatory, pre-market testing and certification, the Certification and Accreditation Administration under AQSIQ has a significant role as China's lead agency for certification programs.

It is also worth noting that although MIIT has a primary role where enforcement policy and interpretative issues are concerned, actual China RoHS enforcement involves the border inspection authorities (entry-exit inspection and quarantine bureaus) under AQSIQ and the internal market industry and commerce bureaus under SAIC.

As part of a Chinese government re-structuring effort that currently occurs every five years, MII's reorganization into MIIT was officially announced in March 2008. MIIT continues to oversee and coordinate China RoHS activities.

5) What substances are currently included in China RoHS?

The six substances covered under the regulation have not changed since first published in 2006. These include Lead, Mercury, Cadmium, Chromium (Cr6+), Poly-Brominated-Biphenyls (PBBs), and Poly-Brominated-Diphenyl-Ether (PBDEs). The Ministry of Industry and Information Technology (MIIT) has recently surveyed members of the MIIT Standards Working Group (SWG) to determine how they use DecaBDE. MIIT is reportedly interested in understanding how SWG members use DecaBDE and is considering whether to remove the current exemption for DecaBDE included in the China RoHS concentration limit standards.

6) Why is China RoHS important to my company?

The China RoHS regulation directly affects what electronic information products can be marketed in China (whether imported to or manufactured in China). This may include semiconductor manufacturing equipment and semiconductor devices. Non-compliance could restrict your ability to produce, import, and / or market your product in China. Even if you do not directly market products in China, your supply chains may be affected.

7) What does China RoHS apply to?

China RoHS affects "Electronic Information Products", also called EIP. The Chinese MIIT produced an EIP list in March 2006, containing an inventory of approximately 1800 products. Items not on the EIP list are not subject to the regulation. Specifically listed items on the EIP list may be subject to Phase 1 implementation, which mandates disclosure and labeling of EIP containing the restricted hazardous substances. Further, specifically listed items on the EIP list may be candidates for inclusion on the substance restriction Catalogue for phase 2 implementation.

8) What is the China RoHS Catalogue?

Generally speaking, the Catalogue will constitute a list, issued in phases or "batches", of EIP. Phase 2 will involve substance restrictions and associated compulsory pre-market compliance certification (essentially, a CCC Mark for RoHS purposes) for all EIP listed in the Catalogue batches currently in effect. The Catalogue does NOT yet exist in final form, as of December 1, 2008.

However, the Chinese MIIT recently published Procedures for Formulating the Priority Administrative Catalogue for the Control of Pollution from Electronic Information Products. This document essentially reflects general procedures and criteria that the Chinese government will use for the selection of EIP and finalization of the Catalogue. The original text of this "Procedures" document is located on the MIIT website here:

<http://www.miit.gov.cn/n11293472/n11293832/n11293907/n11368223/11527417.html>

In consultation with third party experts, SEMI is publishing this FAQ to summarize this new information about Catalogue development.

9) What is the impact of a company's products being listed in the Catalogue?

The possible impacts are extremely serious. Companies are prohibited from marketing in China any EIP listed in the Catalogue unless they first (e.g., prior to import for imported products) obtain Chinese government certification that these products do not contain certain restricted substances over certain amounts. The certification process is discussed in the April 2007 SEMI Primer. Certification may be a complex and costly endeavor.

10) How will products be added to the Catalogue?

As mentioned above, the Catalogue does NOT yet exist. When introduced, the Catalogue will be expanded in batches, via a staged process. Whether a product in the EIP list is included in the Catalogue and the timing of this inclusion will be based on official procedures and criteria that MIIT recently published, referenced above.

The MIIT intends to update the Catalogue with new EIP on a frequent basis. If the product currently exists on the EIP list, companies should be concerned about their products being

included in the Catalogue at some point in the future. SEMI urges companies to monitor the Catalogue development process.

11) What are the procedures for publishing the Catalogue?

The procedures for publishing the Catalogue (or updates to the Catalogue) are discussed in the newly published MIIT document described above. Essentially, key procedures are as follows:

- MIIT Expert Committee review of the nominations for the Catalogue batch.
 - Posting of the draft Catalogue batch on the MIIT web site followed by a one month public consultation period, where stakeholders are asked to provide feedback on the proposed list.
 - In collaboration with other agencies, MIIT conducts an inter-ministerial review of the proposed Catalogue and makes suggestions for changes.
 - The proposed Catalogue batch officially notified to World Trade Organization (WTO) Technical Barriers to Trade Committee.
 - The finalized Catalogue (or updates to the Catalog) is promulgated with the aim of providing a six-month period before the Catalogue enters into effect.
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12) What is the timetable for publishing the initial Catalogue and updates to the Catalogue?

The MIIT has NOT published an official timeline or timetable for publishing the Catalogue. Based on published procedures, the earliest a Catalogue could be published is mid 2009. The actual publication date may be later due to any delays. Updates to the Catalogue may occur every 6 – 12 months thereafter, although members should note that the drafting timing is very difficult to determine with any accuracy at this time.

13) What are the criteria for including products or components under the Catalogue?

The criteria for selecting EIP for listing in the Catalogue are discussed in the newly published MIIT Procedures document, referenced above. These criteria provide members with significant insights into what types of EIP, under what circumstances, are likely to be selected for listing in the Catalogue. The criteria also provide insights into what factors may support a decision NOT to list EIP in the Catalogue. Key criteria include:

- EIP candidates could be those EIP which are in large production and have extensive application in the China market.
- EIP candidates could be those EIP for which acceptable substitutes for the restricted substances are available and are technically and economically viable.
- EIP candidates could be those EIP the restricted substances in which can be limited in a technically and economically feasible manner, where no acceptable substitutes for the restricted substances are available.

- EIP candidates could be those EIP "that have been expressly restricted by international conventions due to serious pollution." This alludes to international agreements such as the EU RoHS Directive, and the fact that EIP candidates could be those EIP which are also restricted under such programs.

14) Is semiconductor manufacturing equipment likely to be included in the Catalogue?

The current EIP list does include many types of semiconductor manufacturing equipment. The recently-published MIIT procedures and criteria document does not specifically mention semiconductor manufacturing equipment. At some point, MIIT may consider placing semiconductor manufacturing equipment in the Catalogue. Whether they do so cannot be easily predicted at this time.

One effective argument that may be a factor in a China government decision not to include semiconductor manufacturing equipment in the Catalogue, at least in the early batches, is the competitive / economic importance for industry, including Chinese companies, of China alignment with "international agreements" on RoHS issues, such as the EU RoHS Directive. EU RoHS has an explicit exemption for Large Scale Stationary Industrial Tools (LSIT), which can be applied for some semiconductor manufacturing equipment.

15) What can SEMI members do to engage the Chinese government on the development of the Catalogue?

There are several ways SEMI members can influence what is placed into the Catalogue. They can provide direct feedback on Catalogue candidates during the one month public consultation period as specified in the procedures document. They can also work with their government representatives to influence the WTO deliberations process associated with China's expected notification of the first batch of the Catalogue to the WTO TBT Committee.

Perhaps one of the most influential approaches is to be able to engage in the Catalogue development process at an earlier stage, when MIIT drafts the Catalogue (or updates the Catalogue). As mentioned above, MIIT will propose candidate products to the Catalogue with the assistance of technical experts voluntarily serving on an Experts Committee.

MIIT has formally invited competent industry representatives to place their names on an Experts Database, which may form the basis of this Experts Committee. Representatives from SEMI member companies or SEMI staff may be able to nominate themselves to be placed on this Experts Database.

16) What is the Experts Committee?

The Experts Committee is a group of representatives from government, industry and other stakeholders. The Committee may be called on to inform MIIT about technical issues surrounding the listing of EIP in the Catalogue. The Experts Committee does NOT currently exist. The structure of the Committee and its relationship to MIIT is currently not known.

17) Who can serve on the Experts Committee?

Essentially, MIIT will determine who serves on the Experts Committee. Industry representatives may nominate themselves to serve on the Experts Committee. The formal listing of such nominations is contained in a formal Experts Database, that MIIT maintains. The Experts Committee may be populated, on an ad hoc basis, from the Experts Database. While people in the Experts Database are not automatically included in the Experts Committee, the two will likely have a high degree of overlap.

Representatives on the Experts Committee are expected to read, write and speak Chinese or arrange for translation services. Representatives on the Experts Committee should be available for local meetings in China.

Unlike the MIIT Standards Working Group, qualified representatives from industry groups (such as SEMI) should be allowed to serve on the Experts Committee for Phase 2.

18) What is the Experts Database?

The Experts Database is a listing of representatives from government, industry and other stakeholders who have been nominated to potentially serve on the Experts Committee for particular EIP. It is noteworthy that experts from this database will be selected depending on what EIP are being considered for Catalogue listing. If home appliances are being considered, for instance, MIIT and others overseeing the creation of the Experts Committee will seek to select representatives with experience in home appliance material restrictions issues. It is expected that not all experts with a particular area of experience would be selected, if there are a significant number of experts in the database with similar experience.

Nominations for the Experts Database were first made six months ago by the Secretariat of the MIIT SWG. Roughly one hundred (100) people are currently on the Experts Database.

In the coming months, MIIT may invite, on an official basis, competent industry representatives to place their names on an Experts Database. Representatives from SEMI member companies or SEMI staff are urged to nominate themselves to be placed on this Experts Database. SEMI may also directly approach MIIT to recommend a new round of nominations should an MIIT invitation be delayed or otherwise not renewed on an official basis.

19) Why is the Experts Database important?

The Experts Database will, to a large extent, form the basis of the Experts Committee. The Experts Committee will assist MIIT in determining which EIP are listed in the Catalogue and in addressing particular technical issues associated with such listings.

The Experts Database represents the one major avenue for ensuring that Chinese government decisions concerning semiconductor equipment and the China RoHS Catalogue are informed by industry representatives with practical experience in the areas of substance restrictions and the semiconductor industry. Representatives from SEMI member companies are urged to nominate themselves to be placed on this Experts Database.

20) How do I obtain more information?

This FAQ may be updated on a frequent basis. For the most up-to-date information, please visit the following SEMI website devoted to China RoHS issues:

http://www.semi.org/en/issues/ehs/ctr_027976

SEMI member companies may also wish to join the SEMI RoHS Working Group. For more information about the RoHS Working Group, please contact Sanjay Baliga (Senior Manager, San Jose) at sbaliga@semi.org.
