

Eu Rohs Recast – Are You Ready?

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ABSTRACT

Since the European Union (EU) first published the Restriction on the use of Certain Hazardous Substances in electrical and electronic equipment directive (RoHS) in 2003, the document required updating per the methodologies within the EU's legislative system. In December 2008, a draft of this review was publically available. Since then, several meetings have taken place and additional updates to the draft are available. There are expected changes, as well as unexpected changes, which are under discussion. In late 2010, the parties involved agreed on the majority of text for the recast. In early 2011, Parliament is expected to take an official vote to adopt the text as law. This paper will discuss these points; the conference presentation will discuss the most recent updates and status.

Key words: EU RoHS, EU RoHS Recast, restricted substances, hazardous substances, restriction on hazardous substances.

INTRODUCTION

In December 2008, the European Union published the draft update to the Restriction on the use of certain Hazardous Substances Directive (RoHS). Since the release of the draft, the commission has been holding regular meetings to discuss the updates and changes to the original directive. Some updates to the directive followed expectations; others did not. Drafted updates include inclusion of categories 8 & 9, reviewing existing substances and analyzing additional substances, and an update of all exemptions. Not anticipated was a separation of scope from the Waste Electrical and Electronic Equipment Directive (WEEE), but it meshes well with the other changes in the draft recast.

Two of the unexpected and major changes effecting companies – open scope and CE Marking – are now agreed to as part of the recast text. The exemption review, completed in September 2010, is also part of the RoHS Recast text.

EXPECTED CHANGES

Inclusion of Categories 8 & 9

When first published in 2003, the RoHS Directive specifically excluded two of the categories listed in the WEEE Directive: Medical Devices (Category 8), Monitoring & Control Instrumentation (Category 9).

A separate annex of exemptions for use only in category 8 and 9 products is part of the draft recast. As with the previous updates to exemptions, specific technology requirements for the products in Categories 8 & 9 drive the separate annex of exemptions.

Review of Additional Substances

The original RoHS Directive allows for additional restricted substances. In the initial draft, there was a listing of four additional substances to be studied for inclusion in the Directive. There was much information given to the Commission to assist in this list. The Commission asked Industry for its opinion, research and data on the substances.

Industry lobbied for not including any more substances. One of the reasons was due to the burden of now needing to comply with the Restriction, Evaluation, Authorisation, and restriction of CHemicals (REACH) Regulation. Industry lobbyists cited industry self-regulation of hazardous substances. This movement is led by larger companies. At this time, fortunately, the commission has not moved the additional substances from the review list to the restricted list. They will be continuing to commission new studies on the addition of other hazardous substances.

Exemptions Updated

The original RoHS Directive listed very few exemptions. As exemption reviews were completed and agreed upon, the commission published updates to the original text in the official journal. The commission published over six updates before the draft recast,

In the exemption update, approximately half the exemptions received expiration dates. Many exemptions with expiration dates were from the lighting portion of electronics; which has grown its awareness of recycling as well as its recycling capabilities. For a complete listing of the exemptions and published errata, see the annex at the end of this paper.

UNEXPECTED CHANGES

Open Scope

While the concept of open scope simplifies things from an enforcement perspective, it raised questions and concerns from industry. Throughout the original publication RoHS Directive, it referred to the WEEE Directive. The WEEE Directive lists the products covered by the RoHS Directive. The RoHS draft recast separates the two directives and lists the categories directly in the RoHS text. There are still to be 10 categories in WEEE, but the RoHS text now has an eleventh category: all electronics not previously included.

This means electronics covered by the RoHS directive must restrict lead, mercury, cadmium, hex-chrome, PBBs & PBDEs. There are some specific items excluded. Four examples are: large-scale stationary industrial tools; large-scale fixed installations; equipment specifically designed for research and development only available on a business to business basis; equipment which is necessary for the protection of the essential interests of the security of Member States, including arms, munitions and war material intended for specifically military purposes.

This is a major change for the electronics industry. Companies originally unsure of their categorization are now able to act based on this expanded information. Once published in the Official Journal, the implementation of category 11 will take place over an eight-year period.

CE Mark

Using the CE mark for compliance identification is now part of the recast text. This is an area of concern for the electronics industry. To date, the RoHS Directive has been a self-declaration directive: by simply shipping a product into an EU member state jurisdiction, the assumption is that a product is compliant with the RoHS Directive.

With the agreed to text now available, industry can begin to work on the required declarations of conformity for each product. This will include similar required reporting characteristics of other New Approach Directives, such as EMC and Safety. It is an all-inclusive report about the product's compliance with the RoHS.

With the RoHS directive becoming a New Approach Directive, enforcement will be easier to facilitate through the standardization of reporting formats. Like other New Approach directive reports, it must be available upon the request of an auditor.

CONCLUSIONS

The RoHS draft recast is a cause for attentiveness throughout the electronics industry. From a removed point of view, the two major changes – open scope and CE Marking – will assist companies in complying with the directive in the long term, whether this is evident now or not. Open Scope removes the ambiguity of whether or not a product is in scope. The CE Marking will assist with a quick visual indication of compliance; and additionally put forth a standardized method of reporting compliance.

More details and up-to-date information will be in the conference presentation.

REFERENCES

- Adopted Text 24 Nov 2010 – European Parliament
- Press release 24 Nov 2010 – Europa.eu website
- Directive 2002/95/EC of the European Parliament and of the Council of 27 January 2003 on the restriction of the use of certain hazardous substances in electrical and electronic equipment; pp. L37/19-23
- Commission proposes revised laws on recycling and use of hazardous substances in electrical and electronic equipment, Europa Press Release, 3 Dec 2008
- Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment (WEEE); pp. L37/24-38
- RoHS Recast Free Forum, IPC APEX, April 2010
- Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH)

RoHS Recast

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RoHS Recast

- Expected Changes
- Unexpected Changes
- Status of the Vote
- Implementation Timelines
- Question & Answer time

Expected Changes

Dispelling Myths:

- No new substances in this recast
- New substances outlined noted for review - Annex III:
 - HBCDD, DEHP, BBP, DBP
- Military, Avionics, National security exclusions not expected to change.

Other Items:

- De-coupling with WEEE
 - Scope, categories now within RoHS
- Clarification of “Producer”
 - Specific Articles for Importer, Manufacturer, Distributor
- Still Presumption of Conformity
 - Article 16
- Clarification/guidance on “proving compliance” - CE Mark



EC DECLARATION OF CONFORMITY

1. No ... (unique identification of the EEE):
2. Name and address of the manufacturer or his authorised representative:
3. This declaration of conformity is issued under the sole responsibility of the manufacturer (or installer):
4. Object of the declaration (identification of EEE allowing traceability. It may include a photograph, where appropriate):
5. The object of the declaration described above is in conformity with Directive...on the restriction of the use of certain hazardous substances in electrical and electronic equipment
6. Where applicable, references to the relevant harmonised standards used or references to the specifications in relation to which conformity is declared:
7. Where applicable, the notified body ... (name, number) ... performed ... (description of intervention) ... and issued the certificate: ...
8. Additional information:

Signed for and on behalf of:

(place and date of issue):

(name, function) (signature):



Expected Changes

- Exemptions updated:

Published in Official Journal 24 Sept 2010

- To be translated directly from publication into recast text
- Immediate enforcement as of 24 Sept 2010
 - transition time is built into some dates
- Exemption Expirations
 - Some expiration dates published
 - Automatic expiration is TBD (part of recast)
 - About half have expirations dates
 - Many are associated with lighting



Expected Changes

- Exemptions updated: Published in Official Journal 24 Sept 2010 with errata
- Historically: 41 existing exemptions
 - Now: 77 split exemptions
 - Updated numbering allows for sub-parts of exemptions to have varying expiration dates (if any)
 - Examples:
 - 4 → 4(a), 4(b), 4(b)-I, 4(b)-II, 4(b)-III, 4(c)-I, 4(c)-II, 4(c)-III, 4(d), 4(e), 4(f)
 - 7 → 7(a), 7(b), 7(c)-I, 7(c)-II, 7(c)-III
 - Some exemptions now have expiration dates for both new and spare parts
 - Example: #23 - Lead in finishes of fine pitch components other than connectors with a pitch of 0,65 mm or less
 - Expiration for #23: May be used in spare parts for EEE placed on the market before 24 Sept 2010

Expected Changes

- Inclusion of Categories 8 & 9
 - Medical Devices
 - Monitoring & Control Equipment
- Separate Exemptions specific to Category 8/9
 - Currently 20
 - Mostly Technology based; needed to protect human health/environment

Unexpected Changes

- Open Scope
 - All electrical and electronic equipment, unless specifically excluded.
 - Came about when RoHS & WEEE were decoupled
 - Discussions about including peripherals
 - 8 year implementation timeline



Unexpected Changes

- CE Mark
 - RoHS Directive now a New Approach Directive
 - Will require declaration of conformity, technical compliance file
- Positive impacts:
 - Will assist in standardizing the information expected for proof of compliance
 - Expected to assist in harmonizing enforcement between Member States

Unexpected Changes

- CE Mark
 - Required to show compliance with RoHS
 - Documentation required
 - Audit Manufacturers to ensure sample testing, where appropriate
 - Audit Importers, manufacturers located in EU
 - Distributors need to assess compliance of products they sell and not purely rely on declarations from OEMs/suppliers.
 - Items to notes:
 - CE Test houses are not familiar with RoHS requirements or familiar with enforcement activities
- Keeping good records is key



Timeline of Enforcement

Time line is still fluid

- First Reading Deal Secured - 24 Nov 2010
- Text is agreed to - waiting on final translations

- New Directive Publication expected June 2011
 - Enters into force 20 days after publication

Best guess: Enforcement 1-JANUARY-2013



Partial Listing of EcoTech Legislation

- Europe - EU
 - RoHS – 2003, '06
 - WEEE – 2003, '05
 - REACH – 2007, '08, '09, '10
 - EuP – 2006, '08
 - RoHS/WEEE Recast 2008, 2010
- Asia
 - China RoHS – 2006, '07, '09
 - S. Korea RoHS/ELV/WEEE 2007
 - Japan JGPSSI
 - Japan – JAMP
 - Taiwan RoHS – 2006
- USA
 - CPSIA
 - State level:
 - Several states/municipalities with e-waste legislation
 - Several states with hazardous substance restrictions/bans
 - CA-Prop65
- South America
 - Argentina, Brazil, Chile, Columbia, Venezuela w/e-waste legislation





Questions?

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