

# Environmental Alert: China

## English Translation of China's Measures for the Administration of the Control of Pollution by Electronic Information Products

On February 28, 2006, the People's Republic of China promulgated its final Measures for the Administration of the Control of Pollution by Electronic Information Products (often referred to as "China RoHS"). The following is WilmerHale's translation of China RoHS.

### Measures for the Administration of the Control of Pollution by Electronic Information Products

March 2, 2006

- Ministry of Information Industry
- National Development and Reform Commission
- Ministry of Commerce
- General Administration for Customs
- State Administration for Industry and Commerce
- General Administration for Quality Supervision, Inspection and Quarantine
- State Environmental Protection Administration

### Order No. 39

Measures for the Administration of the Control of Pollution by Electronic Information Products are now promulgated, effective March 1, 2007.

- Ministry of Information Industry Minister: Wang Xudong
- National Development and Reform Commission Chairman: Ma Kai
- Ministry of Commerce Minister: Bo Xilai
- General Administration for Customs Commissioner: Mu Xinsheng
- State Administration for Industry and Commerce Minister: Wang Zhongfu
- State General Administration for Quality Supervision, Inspection and Quarantine Minister: Li Changjiang
- State Environmental Protection Administration Minister: Zhou Shengxian

February 28, 2006

### Measures for the Administration of the Control of Pollution by Electronic Information Products

["Measures"]

#### Chapter I General Principles

**Article 1** These Measures are formulated to control and reduce pollution to the environment resulting from the disposal of electronic information products, to promote the production and sale of low-pollution electronic information products and, to protect the environment and human health in accordance with the PRC Law for the Promotion of Clean Production, the PRC Law on the Prevention and Control of Environmental Pollution by Solid Waste, and other laws and administrative measures.

**Article 2** These Measures shall apply to the control and reduction of environmental pollution and other public hazards by electronic information products in the process of production, sale and import of electronic information products within the territory of the People's Republic of China. These Measures shall not, however, apply to the production of products for export.

**Article 3** As used herein, the meanings of the following terms shall be:

- (1) Electronic information products refer to products and their accessories using electronic information technology, such as electronic radar products, electronic telecommunications products, radio and television products, computer products, home electronics products, electronic measurement equipment products, specialized electronics products, electronic components and parts products, electronic applications products and electronic materials products.
- (2) Pollution by electronic information products refers to the destruction, damage, waste or other negative impacts of electronic products on the environment, resources, human life and health, and the safety of property

resulting from toxic or hazardous substances or elements contained in electronic information products, or due to the fact that toxic or hazardous substances or elements contained in electronic information products exceed national or industry standards.

- (3) Control of pollution by electronic information products refers to the following measures undertaken to reduce or eliminate toxic and hazardous substances or elements contained in electronic information products:
- 1) Technical measures undertaken during design and production processes, such as altering research and design plans, adjusting technological processes, replacing materials to be utilized, and innovating manufacturing methods;
  - 2) Measures undertaken during the design, production, sale and import processes, such as identifying the names of toxic or hazardous substances or elements and their contents, and the environmental protection use period for electronic information products;
  - 3) Measures undertaken during the sale process, such as strict control of purchase channels, and refusal to sell electronic information products whose toxic or hazardous substances or elements fail to meet national or industry standards for the control of pollution by electronic information products;
  - 4) Measures designed to ban the import of electronic information products that fail to meet national or industry standards for the control of toxic or hazardous substances or elements by electronic information products;
  - 5) Other pollution control measures specified in these Measures.
- (4) Toxic and hazardous substances or elements refer to the following substances or elements contained in electronic information products:
- 1) lead
  - 2) mercury
  - 3) cadmium
  - 4) hexavalent chromium
  - 5) polybrominated biphenyl (PBB)
  - 6) polybrominated diphenylether (PBDE); and
  - 7) other toxic and hazardous substances or elements specified by the State.
- (5) The environmental protection use period for electronic information products refers to the period during which

toxic or hazardous substances or elements contained in electronic information products will not leak or mutate, thus the use by users of electronic information products of such products will not cause serious environmental pollution or serious personal injury or property damage.

**Article 4** The Ministry of Information Industry (hereinafter referred to as “MII”), National Development and Reform Commission (hereinafter referred to as “NDRC”), Ministry of Commerce (hereinafter referred to as “MOFCOM”), General Administration for Customs (hereinafter referred to as “GAC”), State Administration for Industry and Commerce (hereinafter referred to as “SAIC”), General Administration for Quality Supervision, Inspection and Quarantine (hereinafter referred to as “AQSIQ”), and State Environmental Protection Administration (hereinafter referred to as “SEPA”) shall conduct administration and supervision of the control of pollution by electronic information products within the scope of their respective duties. When necessary, a work coordination mechanism shall be set up by the above responsible departments to resolve major matters and issues involving the control of pollution by electronic information products.

**Article 5** MII shall formulate measures to enhance the control of pollution by electronic information products after consultation with relevant responsible departments of the State Council.

MII and the relevant responsible departments of the State Council shall, within the scope of their respective duties, promote technologies for the control of pollution by electronic information products and the comprehensive utilization of resources; encourage and support scientific research, technological development and international cooperation on the control of pollution by electronic information products; and implement provisions related to the control of pollution by electronic information products.

**Article 6** MII may provide certain support to organizations and individuals that are actively engaged in research and development of new types of electronic information products that protect the environment.

**Article 7** The responsible departments of information industry, development and reform, commerce, customs, industry and commerce, quality inspection, and environmental protection at the provincial, autonomous region and municipality directly under the central government level, shall—within the scope of their respective duties—conduct administration and supervision for the control of pollution in the production, sale and import of electronic information products. When necessary, a regional

work coordination mechanism shall be set up by the above relevant departments to provide centralized coordination and a division of responsibilities.

**Article 8** The responsible departments of information industry at the provincial, autonomous region and municipality directly under the central government level may give recognition and awards to organizations and individuals that have made outstanding achievements in the work of the control of pollution by electronic information products and related activities.

## Chapter II Control of Pollution by Electronic Information Products

**Article 9** When designing electronic information products, designers of electronic information products shall use plans that are nontoxic, nonhazardous, or low toxic, low hazard (and readily degradable and recyclable), and that satisfy national or industry standards for the control of toxic and hazardous substances or elements contained in electronic information products subject to the fulfillment of technological requirements.

**Article 10** When producing or manufacturing electronic information products, producers of electronic information products shall use resource-efficient, readily recoverable and disposable, and environmentally benign materials, technologies and processes that satisfy national or industry standards for the control of toxic and hazardous substances or elements contained in electronic information products.

**Article 11** The environmental protection use period for electronic information products shall be decided by the producers and importers of [such] electronic information products themselves. The producers and importers of electronic information products shall mark the environmental protection use period on the electronic information products that they produce and import. If the use period cannot be marked on the product due to size or functional limitations, it shall be specified in the product instruction brochure.

The styles and methods for markings set forth in the above clause shall be centrally regulated by MII in consultation with relevant responsible departments of the State Council, and shall be in conformity with national or industry standards for the control of toxic and hazardous substances or elements contained in electronic information products.

Relevant industry organizations may formulate advisory opinions on the environmental protection use period of electronic information products in accordance with the level of technological development.

**Article 12** MII encourages relevant industry organizations to submit advisory opinions on the environmental protection use period of electronic information products to MII.

**Article 13** Producers and importers of electronic information products shall mark the toxic or hazardous substances or elements contained in the electronic information products that they launch in the market, identifying the name and level of the toxic or hazardous substances or elements, and the parts containing toxic or hazardous substances or elements and whether such parts are recyclable. If the markings cannot be made on the product due to product size or functional limitations, they shall be specified in the product instruction brochure.

The styles and methods for markings set forth in the above clause shall be centrally regulated by the MII in consultation with relevant responsible departments of the State Council, and shall be in conformity with national or industry standards for the control of toxic and hazardous substances or elements contained in electronic information products.

**Article 14** When making and using packaging for electronic information products, producers and importers of electronic information products shall use nontoxic, nonhazardous and readily degradable and recyclable materials in accordance with national or industry standards for the control of toxic or hazardous substances or elements contained in electronic information products.

Producers and importers of electronic information products shall mark the name of the packaging material on the packaging of the electronic information products that they produce or import. If the markings cannot be made due to size or exterior surface limitations, they shall be specified in the product instruction brochure.

The styles and methods for markings set forth in the above clause shall be centrally regulated by MII, in consultation with relevant responsible departments of the State Council, and shall be in conformity with national or industry standards for the control of toxic and hazardous substances or elements contained in electronic information products.

**Article 15** Sellers of electronic information products shall strictly control their purchase channels and may not sell electronic information products for which the toxic or hazardous substance or element contents fail to satisfy national or industry standards for the control of toxic and hazardous substances or elements contained in electronic information products.

**Article 16** Imported electronic information products shall satisfy national or industry standards for the control of toxic

and hazardous substances or elements contained in electronic information products.

**Article 17** MII shall formulate industry standards for the control of toxic and hazardous substances or elements contained in electronic information products in consultation with SEPA.

MI shall draft national standards for the control of toxic and hazardous substances or elements contained in electronic information products in consultation with the Standardization Administration of China.

**Article 18** MII shall compile and adjust the catalogue for priority control of pollution by electronic information products in consultation with NDRC, MOFCOM, GAC, SAIC, AQSIQ and SEPA.

The catalogue for priority control of pollution by electronic information products shall consist of categories of electronic information products, toxic substances and hazardous substances, and elements restricted for use and restrictions on their use period. The catalogue shall be adjusted annually in accordance with actual circumstances and the requirements of scientific and technological development levels.

**Article 19** The Certification and Accreditation Administration shall, in accordance with law, implement the administration of mandatory product certifications for electronic information products included in the catalogue for priority control of pollution by electronic information products.

Entry and exit inspection and quarantine departments shall, in accordance with law, make checks and inspections at the port of entry on electronic information products that are imported, which shall be inspected and released by customs upon presentation of the Goods Entry Clearance Sheet, signed and issued by the entry and exit inspection and quarantine department.

**Article 20** Electronic information products included in the catalogue for priority control of pollution by electronic information products shall, in addition to satisfying the requirements for the control of pollution by electronic information products in the provisions of these Measures, also satisfy the requirements for priority control of pollution specified in the catalogue for priority control of pollution by electronic information products.

Electronic information products not listed in the catalogue for priority control of pollution by electronic information products shall satisfy other provisions set forth in these Measures related to the control of pollution by electronic information products.

**Article 21** In accordance with the actual circumstances of industry development, MII shall, in consultation with NDRC, MOFCOM, GAC, SAIC, AQSIQ and SEPA, issue the implementation periods for the ban of toxic and hazardous substances or elements in electronic information products listed in the catalogue for the priority control of pollution by electronic information products.

### Chapter III Penalties

**Article 22** Should any of the following actions occur in violation of these Measures, such departments as customs, industry and commerce, quality inspection and environmental protection shall impose penalties in accordance with law within the scope of their respective duties:

- (1) Producers of electronic information products who, in violation of the provisions of Article 10 of these Measures, utilize materials, technologies or processes that fail to satisfy national or industry standards for the control of toxic and hazardous substances or elements contained in electronic information products;
- (2) Producers and importers of electronic information products who, in violation of the provisions of the first clause of Article 14 of these Measures, make or use electronic information product packaging materials that fail to satisfy national or industry standards for the control of toxic and hazardous substances or elements contained in electronic information products;
- (3) Sellers of electronic information products who, in violation of the provisions of Article 15 of these Measures, sell electronic information products that fail to satisfy national or industry standards for the control of toxic and hazardous substances or elements contained in electronic information products;
- (4) Importers of electronic information products who, in violation of the provisions of Article 16 of these Measures, import electronic information products that fail to satisfy national or industry standards for the control of toxic and hazardous substances or elements contained in electronic information products;
- (5) Producers, sellers and importers of electronic information products, who in violation of the provisions of Article 21 of these Measures, produce, sell or import electronic information products containing toxic or hazardous substances or elements whose contents exceed national or industry standards for the control of toxic and hazardous substances, or elements contained in electronic information products after the date of implementation of the ban on toxic and hazardous

substances, or elements in electronic information products listed in the catalogue for priority control of pollution by electronic information products; and

- (6) Importers of electronic information products who, in violation of the provisions on the administration of imports set forth in these Measures, import electronic information products.

**Article 23** Should any of the following actions occur in violation of the provisions of these Measures, such departments as industry and commerce, quality inspection and environmental protection shall impose penalties in accordance with law within the scope of their respective duties:

- (1) Producers or importers of electronic information products who, in violation of the provisions of Article 11 of these Measures, fail to clearly indicate the environmental protection use period of electronic information products;
- (2) Producers or importers of electronic information products who, in violation of the provisions of Article 13 of these Measures, fail to clearly indicate the names and contents of, and the parts in which, toxic and hazardous substances or elements are located in electronic information products or whether such parts are recyclable; and

- (3) Producers or importers of electronic information products who, in violation of the provisions of the second clause of Article 14 of these Measures, fail to clearly indicate the composition of the packaging materials of electronic information

**Article 24** Should government employees abuse their powers, engage in graft for personal gain, connive or shield actions in violation of the provisions of these Measures, or assist parties in violation of the provisions of these Measures to escape investigation and disciplinary action, administrative penalties shall be imposed in accordance with law.

#### Chapter IV Supplementary Provisions

**Article 25** Any organization or individual may report to MII or the responsible information industry department at the provincial, autonomous region or municipality directly under the central government level with respect to designers, producers, importers and sellers who cause electronic information products pollution.

**Article 26** These Measures shall be interpreted by MII in consultation with NDRC, MOFCOM, GAC, SAIC, AQSIQ and SEPA.

**Article 27** These Measures shall take effect March 1, 2007.

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#### IF YOU HAVE ANY QUESTIONS OR NEED ADDITIONAL INFORMATION, PLEASE CONTACT:

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