

# Environmental Alert: China



## English Translation of New Frequently Asked Questions on China's Measures for the Administration of the Control of Pollution by Electronic Information Products

February 28, 2006, marked the release by the People's Republic of China of its final Measures for the Administration of the Control of Pollution by Electronic Information Products (often referred to as China RoHS). On June 5, 2006, China's Ministry of Information Industry (MII) published responses to 36 frequently asked questions (FAQ) on China RoHS. This FAQ includes eight of the questions and answers issued by the Ministry of Information Industry on March 3, 2006. The following is WilmerHale's translation of the FAQ.

### Ministry of Information Industry FAQ on the Measures for the Administration of the Control of Pollution by Electronic Information Products, June 5, 2006

**Q1:** China's Measures for Administration of the Control of Pollution by Electronic Information Products (hereinafter referred to as the Administration Measures) was promulgated on February 28, 2006. What do the Administration Measures and the EU directive published in February 2003 have in common and how do they differ?

**A:** They have four features in common:

- (i) Both are legal normalization documents;
- (ii) Their main purpose is to realize the control of toxic and hazardous substances in electronic and electrical products by prohibiting and reducing their utilization;
- (iii) Both involve trade activities (trade in goods); and
- (iv) The restricted and prohibited toxic and hazardous substances are the same six items: lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls (PBB) and polybrominated diphenylethers (PBDE).

China's Administration Measures and the EU directive differ in six respects:

- (i) China's Administration Measures can be implemented directly without transformation to lower-level normalization documents, while the EU RoHS directive has no direct binding force and must be transformed

into law (regulation) by each EU member before it can be implemented.

- (ii) The adjustment target of China's Administration Measures is electronic information products; the adjustment target of the EU RoHS directive is electronic and electrical equipment that does not exceed 1000V (AC) or 1500V (DC), so the EU RoHS directive has a broader adjustment scope and more targets for adjustment.

- (iii) China's Administration Measures adopt the supervision and administration by catalogue of the control of toxic and hazardous substances. The catalogue is formed by the "exhaustion method," while the EU RoHS directive uses the "exclusion method" in which the eight product categories in the WEEE directive are incorporated and products with immature and economically infeasible technologies for controlling toxic and hazardous substances are exempted.

- (iv) China's Administration Measures were issued on February 28, 2006, and become effective on March 1, 2007. The timing for restriction and prohibition of toxic and hazardous substances under China RoHS is not finalized, while the timeline for the EU RoHS directive is: the Directive was issued February 13, 2003, and transformed into each EU member's laws (regulations) on August 13, 2004, to be implemented by July 1, 2006. Therefore, the timing for implementation of the EU RoHS directive and restriction and prohibition of toxic and hazardous substances antecedes that of China's Administration Measures.

- (v) The implementation and performance of China's Administration Measures require the formulation of "standards" and a "catalogue," and the formulation of "standards" requires the support of a "catalogue"; the implementation of the EU RoHS directive only requires the support of standards.

(vi) China's Administration Measures adopt the "two-step" method for the control of toxic and hazardous substances. In the first step, as of the effective date of the Administration Measures, producers of electronic information products on the market are merely required to disclose related environmental protection information by self-declaration. In the second step, strict supervision and administration will be applied to products included in the catalogue for priority control of pollution by electronic information products to ensure that they satisfy the requirements for substitution or restriction standards for toxic and hazardous substances. [Such products] must then undergo mandatory verification (3C verification) before being placed on the market. The EU RoHS directive also adopts the "self-declaration" method for the control of toxic and hazardous substances, but the EU requirements are to be achieved in one step. The "self-declaration" is subject to satisfaction of the requirements for toxic and hazardous substances.

**Q2:** What are electronic information products? How does one identify whether products that have applied electronic information technology fall within electronic information products? How do enterprises identify whether their products are "electronic information products" in accordance with the definition of "electronic information product" in Article 3, Chapter I (General Principles), of the Administration Measures?

**A:** At the same time that the Administration Measures were promulgated, we published a "notes by category of electronic information products" compiled in accordance with the catalogue of electronic information industry categories verified by the China National Statistics Bureau. This is a detailed list of electronic information products and explanations thereof. With the detailed list and explanations, every producer in the industry can easily "find the seat according to the ticket" and can verify whether the products manufactured by himself fall within the sphere of "electronic information products." This "notes by category of electronic information products" is posted on MII's website.

**Q3:** Why do the Administration Measures not have any exemption provisions and methods for requesting exemptions like the EU RoHS directive?

**A:** The EU directive first includes all electrical and electronic products under 1500V (DC) and 1000V (AC) in the scope for restriction, then "gives exemptions" to those products with so-called "immature technology

and which are economically infeasible." The EU exemptions are not for an unlimited time, however. The Administration Measures adopt the "administration by catalogue" model for the control of toxic and hazardous substances, which differs from the method adopted by the EU's RoHS directive. The Administration Measures set up a Catalogue for Priority Control of Pollution by Electronic Information Products (Catalogue), which is initially empty. As time goes by, those products with "mature technology" and that are "economically feasible" for completion of the substitution for toxic and hazardous substances or can meet the restriction standards will be included in the Catalogue. Non-inclusion in the Catalogue signifies that the product has been "exempted" temporarily. Thus, there is no need to provide exemption clauses in the Administration Measures.

**Q4:** What is administration by catalogue? How is the Catalogue for Priority Control of Pollution by Electronic Information Products formed?

**A:** Administration by catalogue is the administration method set forth in the Administration Measures, which differs from the EU's RoHS directive for the control of toxic and hazardous substances. Its targets are all products presently known to contain the six toxic and hazardous substances. When a certain type of product is confirmed to have completed product substitution or substitution for toxic and hazardous materials, or it is confirmed that substitution is unlikely to be achieved but the restriction standards ban can be met, the relevant industry can be said to have realized "mature technology and economic feasibility" for the priority control of pollution by electronic information products, and such type of product will be included in the Catalogue for 3C verification. The formation of the Catalogue is progressive and is subject to certain procedures, such as the solicitation of comments from the relevant industry and evaluations by specialists. We have already drafted a regulation on the procedures for formulation of the Catalogue for Priority Control of Pollution by Electronic Information Products, which is intended to legalize the formulation procedures. Catalogue formulation procedures must be decided first, and then we will study which products shall be included in the Catalogue and how they are to be included in the Catalogue.

**Q5:** Please concretely explain the “two steps” in the control of toxic and hazardous substances in electronic information products under the Administration Measures.

**A:** The Administration Measures segment the control of toxic and hazardous substances in electronic information products into two steps. In the first step, when the Administration Measures have first begun to be implemented (take effect), we only require that all of your electronic information products on the market containing toxic and hazardous substances conduct “express indication,” that is, by informing downstream users (consumers) by labeling or indicating in a product’s instruction brochure the names, levels and the environmental protection use period of the toxic and hazardous substances or elements in your products, and whether the products are recyclable after being discarded. At this stage, such products are not subject to substitution or restriction of toxic and hazardous substances or elements requirements. In the second step, when your products are included in the Catalogue for Priority Control of Pollution by Electronic Information Products, your products must either have completed the substitution for toxic and hazardous substances, or have met the restriction standards. They may enter the market only after stringent 3C verification determines that they are qualified.

**Q6:** According to Article 18 of the Administration Measures, it seems that all electronic information products on the market shall have RoHS verification. However, the verification procedures in the Administration Measures are not clear. It is uncertain whether verification will increase the burden on producers, sellers and importers.

**A:** Because the Administration Measures adopt the “administration by catalogue” method to restrict and prohibit toxic and hazardous substances in electronic information products, only products included in the Catalogue are subject to 3C verification. When the Administration Measures first begin to be implemented (take effect), products not yet included in the Catalogue are not required to undergo 3C verification. This is a “progressive” process; therefore, enterprises will have sufficient time to get prepared. The implementation of 3C verification of products in the Catalogue will undoubtedly increase the production costs of such products, but the requirements are the same for all enterprises, whether local or foreign enterprises, producers, sellers or importers.

**Q7:** The Administration Measures were promulgated on February 28, 2006, and will take effect on March 1, 2007, but there is no timeline for the implementation period of restriction and prohibition of toxic and hazardous substances. Here we have a “promulgation date,” “implementation date” and “restriction and prohibition date of toxic and hazardous substances.” What is the meaning of these three dates?

**A:** The promulgation date of the Administration Measures refers to the date of official promulgation, upon which no more opinions were solicited and no more revisions were made. The implementation date indicates that the Administration Measures take legal effect, upon which all provisions begin to be implemented except for those provisions with respect to inclusion in the Catalogue for the Priority Control of Pollution by Electronic Information Products. There is, as yet, no timeline for the inclusion of electronic information products with toxic and hazardous substances in the Catalogue for Priority Control of Pollution by Electronic Information Products. Article 21 of the Administration Measures provides: “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.” Therefore, the implementation period for the control of toxic and hazardous substances or elements in products listed in the Catalogue is not specified in the Administration Measures.

**Q8:** It can be perceived from the arrangement of the contents in the Administration Measures that the Catalogue for the Priority Control of Pollution by Electronic Information Products and the prevention and control standards for pollution by electronic information products will be the two important supports for the Administration Measures. Issues with respect to the Catalogue have been made fully clear, but an explanation concerning formulation of standards has not been discussed much. Please introduce the situation with respect to the formulation of standards.

**A:** In 2004, MII began the work of formulating the standards for prevention and control of pollution by electronic information products. Our thinking was: vigorously follow and actually participate in the formulation of international standards; complete the tasks entrusted by the Standardization Administration of China (SAC) to draft national standard testing procedures for the concentrations of toxic substances in

electronic and electric products; and formulate industry standards for the prevention and control of pollution by electronic information products. As of now, we have sent people to actively take part in the international IEC/TC111 activities, and, under the unified coordination of SAC, we initiated China's TC111 WG3 technical committee (temporarily called the China WG3 Working Group). The work of the organization of the national standards working group on testing procedures for the concentration of toxic substances in electronic and electrical products is finished. The working group on industry standards for the prevention and control of pollution by electronic information products was formed in October 2004 and has begun to formulate restriction standards and testing standards for toxic and hazardous substances in electronic information products, lead-free welding standards, and verification and marking standards. Eight industry standards for the prevention and control of pollution by electronic information products have been authorized, including the Requirements for the Restriction of Toxic Substances in Electronic Information Products, Testing Methods for Restricted Use Substances in Electronic Information Products, Markings and Requirements for the Prevention and Control of Pollution by Electronic Information Products, Chemical Compositions of Lead-Free Welding Materials, and four materials standards for lead-free welding materials. At present, the work of formulating the first three standards has gone smoothly. The drafts have been finalized for review with the intent of submitting them for examination by the technology base office that is in charge of standards administration in MII. The drafts will then undergo demonstrations afterwards, and after the demonstrations, the drafts will be submitted for review by the ministers at a specialists meeting—only then can they be promulgated. Only after the standards have been promulgated will enterprises have the basis for preparation in accordance with the Administration Measures. There are numerous procedures for standards formulation and the timing is relatively lengthy. It would be difficult to complete them more quickly, so we have delayed the effective date of the Administration Measures.

The procedures for formulation of the standards for prevention and control of pollution by electronic information products is exceptionally “standardized” and normalized. First, we strictly follow standards formulation procedures to establish standards work groups and formulate their charters. Second, [they are]

open and transparent. The doors of the standards work groups are wide open. There were just thirty-some enterprises and units in standards work groups when they were first formed, and now there are more than 80 enterprises and units there. Third, the formulation of standards has striven for convergence with international standards to achieve “equivalent adoption.” Because international standards are still in the form of drafts and will require some time in development before they are issued, we have followed and participated in [international standards activities], collected information, and worked hard to make our industry standards “start high, and keep pace with international standards,” so as to enable national standards to smoothly transform into equivalently adopted international standards.

**Q9:** The Administration Measures provide that the design and production of electronic information products shall also comply with relevant national or industry standards, and, subject to the satisfaction of processing conditions, adopt plans that will benefit environmental protection. Are there any hard measures with respect to product design and production?

**A:** The Administration Measures introduce a concept of environmentally friendly product design and production to the design and production of electronic information products. Two prerequisites are put forward for product design and production: (i) accordance with national or industry standards for the control of toxic and hazardous substances in electronic information products; and (ii) satisfaction of processing requirements. One cannot only consider whether a product is nontoxic or nonhazardous. Current technology and processing must be considered as the basis, and on the premise that processing and performance are ensured, plans that are nontoxic and nonhazardous—or low toxic, low hazardous—and readily degradable and recyclable, shall be adopted. However, this provision is only of a guidance nature and is not a hard measure.

**Q10:** Does “household electronic product” in the definition of electronic information product include “white household electronic appliance” and “black household electronic appliance” in the traditional sense?

**A:** In the traditional sense, “white household electronic appliance” mainly refers to such household electrical appliance products as refrigerators, washing machines and air conditioners; “black household electric appliance” mainly refers to such household electronic products as

televisions, radios, DVD players and stereos. At present, “white household electrical appliances” have still not been recognized by the state department in charge of statistics as “electronic information products.” Therefore, as the scope of application of the Administration Measures is electronic information products, within which “household electronic products” refer to “black household electronic appliances” in the ordinary sense, “white household electrical appliances” are not included in the definition. Although the complete set of “white household electrical products” do not constitute electronic information products, the components of some “white electrical products” are electronic information products. These components do not have to comply with provisions of the Administration Measures when they are supplied to complete set manufacturers in B2B (business to business), but the components shall comply with relevant provisions of the Administration Measures when they are sold separately as commodities.

**Q11:** The EU RoHS directive is directed only at end products. Are the targets supervised and monitored by the Administration Measures also only end products? Are all products in the supply chain included?

**A:** The targets supervised and monitored under the Administration Measures include all products in the supply chain. Although electronic component products and electronic materials products are not end products, these products may also contain toxic or hazardous substances and may also pollute the environment. We should therefore also treat these products as targets to be supervised and monitored under the Administration Measures. Although the EU RoHS directive does not include these products, the requirements for end products are indirectly passed down to electronic components products and electronic materials products by the industry’s upstream and downstream supply chains. Thus, compared with the EU RoHS directive, our Administration Measures merely sets forth a clearer scope of products.

**Q12:** Do some electronic products in an automobile fall within the supervision and monitoring targets under the Administration Measures?

**A:** The electronic products supplied to automobile manufacturers specifically for automobile production via B2B (business to business) do not fall within the supervision and monitoring targets under the Administration Measures, but electronic information products sold separately, which can be used in the

automobile industry via B2C (business to consumer), fall within the supervision and monitoring targets under said regulations.

**Q13:** Does “radar” fall within the targets bound by the Administration Measures?

**A:** In China, radar falls within electronic information products, and therefore falls within the targets bound by the Administration Measures.

**Q14:** Do replacement parts and complete sets under replacement warranty fall within the targets bound by the Administration Measures?

**A:** Replacement parts and complete sets products produced after March 1, 2007, whether for maintenance or separate sale, fall within the targets bound by the Administration Measures. If the replacement parts and products under replacement warranty produced before March 1, 2007, are used after March 1, 2007, only for maintenance and warranty replacement of previously sold products, they do not fall within the targets bound by the Administration Measures; but if they are sold as separate commodities they fall within the targets bound by the Administration Measures.

**Q15:** How shall we interpret “7. other toxic and hazardous substances or elements specified by the State,” set forth in Article 3 of the Administration Measures?

**A:** At present, the only toxic or hazardous substances restricted for use under the Measures for the Administration of the Control of Pollution by Electronic Information Products are lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls (PBB) and polybrominated diphenylethers (PBDE) (10 bromine excepted), which is consistent with the EU RoHS directive. “7. other toxic and hazardous substances or elements specified by the State” set out in Article 3 of the Administration Measures is a common expression in Chinese standard legal documents and in Chinese legal parlance, which is consistent with the meaning expressed in Article 5 of the EU RoHS directive entitled “Adaptation to scientific and technical progress.” Along with technological development and the continuing increase of environmental requirements, in addition to the above six toxic and hazardous substances, other substances may be discovered to be relatively harmful to the human body and environment, requiring restrictions on their use. “Other toxic and hazardous substances or elements,” as used here, is meant to facilitate the potential addition of toxic and hazardous substances

for which use will be restricted, and to make the corresponding amendments.

**Q16:** What is “environmental protection use period for electronic information products”? Is environmental protection use period the equivalent of safe useful life? How can a particular product’s environmental protection use period be determined? Does environmental protection use period require government approval?

**A:** An electronic information product's environmental protection use period refers specifically to the environmental quality safety period, merely referring to the period during which the toxic and hazardous substances or elements contained in electronic information products will not leak, causing pollution to the environment or serious damage to humans or property. The environmental protection use period is not equivalent to safe use life and does not include such factors as useful life restrictions for electrical performance safety and electromagnetic safety. The environmental protection use period may be shorter or longer than a product's safe useful life.

In order to be responsible to consumers and manufacturers and to achieve the goal of environmental protection, the provision of "environmental protection use period for electronic information products" is both necessary and beneficial. The environmental protection use period for electronic information products is determined by the manufacturer or importer of its own accord, mainly in the consideration that enterprises are more familiar with the products which they themselves manufacture, and it is easier for them to determine the product's reasonable and scientific environmental protection useful life. If an enterprise sets out a longer safe useful life for its own products, it will bear liability for a longer period of time; if the term is shorter, it will lose certain market competitiveness. Therefore, enterprises must determine the safe useful life for their own products objectively and scientifically. Products whose environmental protection use period has expired shall enter the discard stage to be recycled, disposed and reused; otherwise, toxic substances are likely to leak or infiltrate. Naturally, the environmental protection use period means a product's environmental protection use period under ordinary conditions, not an environmental protection use period under extreme conditions.

In China, there are several tens of industry associations involved with the information industry, which cover almost all electronic information products. Each

association has a comparatively clear understanding of the average technology of said industry's products, and represents the entire industry rather than any one enterprise. Therefore, the guiding opinions on safe useful life of products in said industry formulated by such association shall be scientific and objective. MII encourages these industries to file the safe useful life formulated by such industries with MII mainly for the purpose of conveniently understanding the general situation of the industries and to effect supervision and administration thereof.

The environmental protection use period does not require government approval.

**Q17:** If a product has a part containing toxic or hazardous substances (such as lead acid storage batteries), which requires periodic replacement, and the environmental protection use period for such part is much shorter than that of the other parts, under such circumstances, how does one determine and label the environmental protection use period for the entire product?

**A:** In general, the environmental protection use period for a complete set product shall take the life of the part in such product with the shortest environmental protection use period as the standard. With respect to the above circumstance, however, the environmental protection use period of a set product may be calculated by excluding those parts that require periodic replacement.

**Q18:** Do the Administration Measures pertain to such issues as recycling, disposal and reuse after electronic information products are discarded?

**A:** One of the legislative purposes of the Administration Measures is to facilitate decomposition and disposal of electronic information products, reducing environmental pollution caused by electronic information products after they are discarded. However, behaviors regulated by the Administration Measures are actions in the processes of electronic information product design, production, sale and import. The recycling, disposal, and reuse after electronic information products have been discarded do not fall within the scope of regulation of the Administration Measures. The national and industry standards under Article 17 of the Administration Measures are standards supporting the Administration Measures; their contents also do not pertain to regulation of actions after electronic information products have been discarded.

**Q19:** Packaging for electronic information products is not bound by the EU RoHS directive, but falls within the scope of regulation of the Administration Measures. Are China's Administration Measures more stringent? Does packaging material include instructional brochures and other packaging?

**A:** Packaging for electronic information products is also a major factor polluting the environment after electronic information products have been discarded, and must be efficiently recycled, disposed of or reused to reduce environmental pollution. Although the EU RoHS directive does not provide requirements for product packaging, the EU has a directive specifically addressing packaging. Therefore, it is not that the EU does not have requirements for packaging of electronic and electric products, but that its requirements are even more stringent. So far, China does not have a special law or regulation regulating the packaging of electronic information products, thus it is necessary to specify some provisions relevant to environmental protection information statements in the Administration Measures. Instructional brochures and the packaging of electronic information products are also targets bound by the Administration Measures.

**Q20:** Can self-declarations be made together if both an electronic information product and its packaging contain toxic or hazardous substances?

**A:** The Administration Measures require that toxic and hazardous substances contained in products or packaging shall be marked and declared, but that does not mean declared together. Toxic and hazardous substances contained in packaging shall be marked on the packaging; toxic and hazardous substances contained in a product shall be marked on the product (or in the instructional brochure).

**Q21:** Can an enterprise make the self-declaration on its website?

**A:** In order to facilitate recycling, disposal and reuse of electronic information products after they have been discarded, reducing environmental pollution in the process of decomposition and disposal, the Administration Measures provide that manufacturers and importers shall mark relevant environmental protection information on electronic information products, including the name and contents of the toxic or hazardous substances contained therein, and whether they are recyclable. If the product cannot be marked because of size or functional limitations, the marking may be made in the product instructional brochure.

As to making explanations on an enterprise's website, we have not set out provisions in the relevant standards because, at present, the Internet usage rate and popularization rate are still comparatively low in China, so said means will not help general consumers or users of recycled products after they have been discarded to understand relevant information when needed. Making explanations of relevant environmental protection information for products on websites can only be a supplemental or ancillary method.

**Q22:** Article 13 of the Administration Measures provides that electronic information products "launched on the market" shall be marked correspondingly. What does "launched on the market" mean? Does it refer to products (new models) newly launched on the market or does it include single products of old products manufactured after March 1, 2007? If it refers to new models, old products sold after March 1, 2007, would not need to be revised. If it refers to single products, then inspections of old products launched on the market must be completed by March 1, 2007, with toxic substances marked in accordance with the Measures. Different interpretations mean totally different follow-up work for producers and the difference is enormous.

**A:** After the Administration Measures take effect on March 1, 2007, all electronic information products undergoing sales activities, including new models as well as old models and including retail, wholesale and maintenance products, shall be marked. "Launch on the market" refers to sales.

**Q23:** After the EU promulgated RoHS, it also promulgated a Commission resolution setting the maximum concentrations of toxic substances contained in electronic and electrical equipment. Are the standards restricting quantity more stringent than those of the EU?

**A:** The Commission resolution promulgated after the EU promulgated RoHS set the maximum allowable content of lead, mercury, hexavalent chromium, polybrominated biphenyls and polybrominated diphenylethers in homogeneous materials at 0.1%wt, and the maximum allowable content of cadmium at 0.01%wt. As the backbone of the Administration Measures, the control standards in formation have adopted the basic principles for provisions of maximum allowable concentrations of toxic and hazardous substances in conformance with international practice. Therefore, the concentration limits will basically be consistent with, and cannot be more stringent than, those of the EU.

**Q24:** Are batteries bound by the Administration Measures?

**A:** Although the EU RoHS directive does not include batteries, it has a specific directive on batteries. In China, batteries are electronic information products, so batteries are bound by the Administration Measures.

**Q25:** Do enterprises that process supplied materials and process purchased materials have to comply with the Administration Measures?

**A:** Broadly speaking, the processing of supplied materials and the assembling of supplied materials refers to the processing of raw materials and parts and the assembly of complete sets for export. Exported products and raw materials and parts imported for export are not bound by the Administration Measures.

The processing of purchased materials is different. Finished products or complete sets made by processing imported raw materials or by assembling imported parts, and raw materials and parts that are themselves imported, must comply with the provisions of the Administration Measures if sold on the domestic market.

**Q26:** Do prototypes and models for R&D and testing require markings of names and contents of toxic and hazardous substances, environmental protection use period and recyclability?

**A:** Test machines, prototypes and models for R&D, experiments and testing that are used merely for exhibition, trials and R&D and do not involve activities of sale or “launch on the market,” are not required to be marked with relevant environmental protection information.

**Q27:** How is the marking of recyclability to be done?

**A:** All electronic information products are recyclable to different degrees. Specific marking methods will be specified in the to-be-promulgated marking standards.

**Q28:** Do electronic information products included in the Catalogue for Priority Control of Pollution fall within electronic information products described and noted by category?

**A:** The notes by category of electronic information products are the explanations as to what are electronic information products. Products included in the Catalogue for Priority Control of Pollution by Electronic Information Products will definitely appear in the “notes by category of electronic information products,” while not all products listed in the “notes by category of electronic information products” will be included in the Catalogue for Priority Control of Pollution by Electronic Information Products.

**Q29:** How will the toxic and hazardous substances in a complete set be tested?

**A:** The testing methods and standards will require the break down of a complete set; once a complete set is broken down to homogeneous materials and test units, chemical analysis and testing may proceed.

**Q30:** Between national standards and industry standards, which is stricter?

**A:** In general, in terms of stringency of standard adoption, enterprise standards are generally more stringent than industry standards, and industry standards are generally more stringent than national standards. When industry standards are published before national standards, enterprises are allowed to use industry standards; but after national standards are published, industry standards will be automatically voided, and enterprises shall use national standards. When industry standards are published after national standards, the purpose generally is to make necessary supplements to the national standards. In this circumstance, enterprises may adopt national and industry standards at the same time.

**Q31:** Will product verification be mutually acknowledged by China and foreign countries?

**A:** As to compulsory verification, if a foreign government and the Chinese government have entered into an agreement under which [their] verification institutions mutually acknowledge verifications, the Chinese government will certainly acknowledge the verification by such country’s verification institution; otherwise it cannot so acknowledge.

**Q32:** Will penalty amounts and items and suspensions of production and sales be specified in Chapter III, Penalties for Violation of the Administration Measures?

**A:** Chapter III of the Administration Measures mainly specifies penalties for violations of relevant provisions of the Administration Measures on the control of pollution by electronic information products, and does not specify penalties. Targets of penalties include units, individuals and government departments. Enforcement bodies include such responsible departments as customs, administrations for industry and commerce, quality inspection, and environmental protection departments in charge at various levels. These enforcement departments will, within their respective spheres of responsibility, impose penalties in accordance with provisions on penalties of such departments on units and on individual and relevant personnel who have violated relevant provisions of the Administration Measures.

**Q33:** After the Administration Measures take effect on March 1, 2007, even if a complete set producer has a sound green management system, if products are found not to be in compliance with the Administration Measures because of factors in the supply chain, will the producer of the complete set or the supplier of components and parts be responsible?

**A:** If the complete set is found not in compliance with the provisions of the Administration Measures, the producer of the complete set shall be responsible; if components and parts sold separately as commodities are found not to be in compliance with the Administration Measures, the producer of the components and parts shall be responsible.

**Q34:** Before an electronic information product is included in the catalogue for priority control of pollution, relevant environmental protection information markings shall be added to show the name and contents of the toxic and hazardous substances and whether they are recyclable. Will the examination and testing report provided by some international testing laboratories for the purpose of addition of these markings be acceptable?

**A:** After the Administration Measures become effective on March 1, 2007, relevant environmental protection information shall be marked on all electronic information products to show the name and contents of toxic and hazardous substances; producers may or may not conduct examinations and testing of products in order to add markings. If the producer is clear about the toxic and hazardous substances contained in its products, the markings may be added without examination and testing; if unclear about the above, examination and testing are required. The markings and relevant environmental protection information shall be correct and consistent regardless of the place of examination and testing. The state's relevant departments in charge reserve the right to conduct market supervision and prosecution as to whether markings are added to the electronic information products and whether the markings are correct.

**Q35:** After the Administration Measures take effect on March 1, 2007, all electronic information products shall attach markings in accordance with the Markings and Requirements for the Control of Pollution by Electronic Information Products. Are markings required on both complete sets and on components and parts? If a certain product is included in the Catalogue for priority control, must the complete set and the components and parts attach the 3C marking?

**A:** After the Administration Measures take effect on March 1, 2007, all electronic information products shall disclose information on toxic and hazardous substances contained therein, environmental protection use period and recyclability. As to whether attaching markings shall be adopted and how the markings for complete sets and parts are coordinated, these questions have already been properly arranged for in the Markings and Requirements for the Control of Pollution by Electronic Information Products.

If a certain product is included in the Catalogue for priority control, its main parts must comply with the provisions of the Administration Measures and relevant standards. It has to be identified which one is included in the catalogue in order to decide whether the 3C marking shall be attached to the complete set or the components and parts therein. If the complete set is included in the catalogue, then the 3C marking shall only be attached to the complete set.

**Q36:** Is there an English translation of the Measures for the Administration of the Content of Pollution by Electronic Information Products?

**A:** The Measures for the Administration of the Content of Pollution by Electronic Information Products is a standard Chinese legal document. In accordance with general practice, an English translation will not be provided. There are now many English translations on the Internet, and some translations are quite good and can be referred to by readers who need an English translation. However, the Chinese version shall prevail in the event of an inconsistency between the English text and the Chinese.

FOR MORE INFORMATION ON THIS OR OTHER ENVIRONMENTAL MATTERS, PLEASE CONTACT:

**Beijing:** Lester Ross +86 10 8529 7588 lester.ross@wilmerhale.com  
**Berlin:** Jörg Karenfort +49 30 20 22 64 33 joerg.karenfort@wilmerhale.com  
Henning Grotelüschen +49 30 20 22 64 05 henning.grotelueschen@wilmerhale.com  
**Boston:** Mark Kalpin +1 617 526 6176 mark.kalpin@wilmerhale.com  
H. David Gold +1 617 526 6425 david.gold@wilmerhale.com  
**Brussels:** Christian Duvernoy +32 2 285 49 06 christian.duvernoy@wilmerhale.com  
Martin Goyette +32 2 285 49 50 martin.goyette@wilmerhale.com  
**Washington:** Jeffrey Davidson +1 202 942 8409 jeffrey.davidson@wilmerhale.com

---

WILMER CUTLER PICKERING HALE AND DORR LLP®

wilmerhale.com • Baltimore • Beijing • Berlin • Boston • Brussels • London • Munich • New York • Northern Virginia • Oxford • Palo Alto • Waltham • Washington

This publication is for general informational purposes only and does not represent our legal advice as to any particular set of facts; nor does this publication represent any undertaking to keep recipients advised of all relevant legal developments. Wilmer Cutler Pickering Hale and Dorr LLP is a Delaware limited liability partnership. Our United Kingdom offices are operated under a separate Delaware limited liability partnership of solicitors and registered foreign lawyers regulated by the Law Society of England and Wales. In Beijing, we are registered to operate as a Foreign Law Firm Representative Office. ©2006 Wilmer Cutler Pickering Hale and Dorr LLP.