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

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March 2, 2006, marked the highly anticipated release of China's Measures for the Administration of the Control of Pollution by Electronic Information Products (often referred to as "China RoHS"). China RoHS—like the EU RoHS Directive for the restriction of hazardous substances—is intended to enhance environmental protection by fostering the reduction or elimination of certain toxic and hazardous substances in electronic products. However, the scope and requirements of China RoHS go far beyond the European directive. As discussed in our January 2006 Briefing Series ["Environmental Regulation of Electrical Appliances and Information Products in China,"](#) China RoHS springs primarily from China's Law for the Promotion of Clean Production (1995, amended 2004) and Law on the Prevention and Control of Environmental Pollution by Solid Waste (2002). The new regulations become effective March 1, 2007.

Whether or not China RoHS applies to an individual product will be determined by a catalogue of products, an unofficial version of which was published March 16, 2006. The unofficial version appears to be an advanced draft of the official version (which has yet to be published and will be updated from time to time). A wide range of electrical and electronic equipment could be affected, as electronic information products covered by China RoHS (covered products) include: 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. Unlike the European RoHS Directive, China RoHS does not provide for specific derogations in, for example, certain industrial applications. China RoHS applies to electronic information products and parts produced, sold or imported in China. Equipment produced in China for export is not covered.

The new regulations will ban the same six toxic and hazardous substances covered by the EU RoHS Directive—lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls, and polybrominated diphenyl ether—as well as an open-ended category of "other toxic and hazardous substances or elements specified by the State." The Ministry of Information Industry (MII) will be the lead agency to establish the national and industry standards under China RoHS. MII has a reputation as a zealous protector of domestic industry. We anticipate that the open-ended category

likely will remain empty unless, or until, major export markets for Chinese producers designate additional substances or domestic producers can satisfy the regulatory requirements for additional substances. China RoHS provides for an annual review of the catalogue of covered products and substances; the EU RoHS Directive calls for a comparable review every four years.

China RoHS departs from the requirements of the EU RoHS Directive in several important ways. First, the new regulations impose four requirements for marking covered products. Generally, covered products must be marked with: (i) the name and level of toxic or hazardous substances contained in the product; (ii) the name and recyclability of parts containing toxic or hazardous substances; (iii) the product's "environmental protection use period"—during which the products will not leak or mutate; and (iv) the name of the packaging material. It is likely such information will be required to appear in Chinese, whether in factory markings or labels affixed afterwards, except for internationally recognized symbols. The rules will include exceptions for covered products with size and functional limitations.

In addition to marking requirements, China RoHS imposes packaging and purchasing requirements. Packaging materials must be nontoxic, nonhazardous, and readily degradable and recyclable. This requirement applies to producers and importers of covered products. Sellers of covered products are required to strictly regulate their purchase channels so that their goods satisfy national and industry standards. Imports also must conform to national and industry standards, and are subject to inspection and release by customs. MII has stated its intention to conform such standards to international standards; that focus will be on International Electrotechnical Commission (IEC) standards and the International Organization for Standardization (ISO) standards.

A number of key issues were not addressed by the new regulations. For example, MII has yet to promulgate national or industry standards for the control of toxic and hazardous substances or publish a "priority control" catalogue identifying products and substances that may be subject to additional requirements. MII has not set forth the styles and markings it will require for packaging or environmental protection use period designations, and because the new regulations invite relevant industry organizations to formulate advisory opinions on the environmental protection use period of covered products, those designations also are absent. And, although China RoHS refers to mandatory product certifications, it does not address how the Certification and Accreditation Administration will implement such certifications.

Although the penalties for noncompliance under the new regulations remain undefined, designers, manufacturers, sellers and importers of electronic information products should begin to develop a compliance strategy. Regulated parties should review their product inventories, determine responsibilities under the regulations, and look for opportunities to share those responsibilities with distributors and customers. Changes in design, materials, technologies, processes and purchasing practices may be necessary to ensure compliance with China RoHS, as well as the patchwork of other comparable directives that are quickly emerging in the global marketplace.

Regulated parties should monitor developments in the implementation of the new regulations.

To view an English translation of China RoHS, translated by WilmerHale's Beijing office, please [click here](#).

To view an English translation of the MII's statement on the timing, purpose and significance of the promulgation of China RoHS, translated by WilmerHale's Beijing office, please [click here](#).

To view an English translation of the MII's frequently asked questions on China RoHS, translated by WilmerHale's Beijing office, please [click here](#).

To view the MII's draft industry standards on labeling requirements under China RoHS, please [click here](#).

To view the MII's draft industry standards on concentration limits for hazardous substances under China RoHS, please [click here](#).

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