

Management Methods for Controlling Pollution by Electronic Information Products

(Ministry of Information Industry Order #39)

Jointly promulgated by Ministry of Information Industry, National Development and Reform Commission, Ministry of Commerce, General Administration of Customs, General Administration of Industry and Commerce, General Administration of Quality Supervision, Inspection and Quarantine, and State Environmental Protection Administration on February 28, 2006, and effective on March 1, 2007

Chapter 1

General Provisions

Article 1

These Methods are hereby developed to control and reduce pollution to the environment caused after disposal of electronic information products, promote production and sale of low-pollution electronic information products, and safeguard the environment and human health, according to the “Law of the People’s Republic of China for the Promotion of Clean Production”, the “Law of the People’s Republic of China on the Prevention and Control of Environmental Pollution by Solid Wastes,” and other statutes and administrative regulations.

Article 2

These Methods shall apply control and reduction of pollution and other public hazards to the environment caused during the production, sale, and import of electronic information products in the People’s Republic of China. However, these Methods shall not apply to the production of products destined for export.

Article 3

As used herein, these terms have the following meanings:

- (1) Electronic information products refers to products such as electronic radar products, electronic communications products, radio and television products, computer products, home electronic products, electronic instrument measuring products, specialized electronic products, electronic components and parts, electronic applications, electronic materials, and accessories.

- (2) Pollution by electronic information products refers to the destruction, damage, waste, or other negative effects caused by electronic products to the environment, resources, human bodies, life and health, and the safety of properties as the result of toxic and hazardous substances or elements contained in electronic information products or due to the fact that toxic and hazardous substances or elements contained in electronic information products exceed State standards or industry standards.
- (3) The control of pollution by electronic information products shall mean the following measures undertaken to reduce or eliminate toxic and hazardous substances or elements contained in electronic information products:
1. During the design and production processes, technical measures, such as changing research and design proposals, adjusting the technological processes, replacing the materials used, and using innovative manufacturing methods, etc.;
 2. During the design, production, importation, and sales processes, measures such as identifying the names of toxic and hazardous substances and elements and their content levels, and the terms for environmental use of electronic information products, etc.;¹
 3. During the sales processes, the strict control of purchase channels, restraint from selling electronic information products that contain toxic and hazardous substances and elements or electronic information products whose toxic and hazardous substances and elements fail to meet State standards or industry standards for the control of pollution by electronic information products, etc.;
 4. To ban the importation of electronic information products that fail to meet State standards or industry standards for the control of toxic and hazardous substances or elements in electronic information products; and
 5. Other pollution control measures specified by these Methods.
- (4) Toxic and hazardous substances or elements shall 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 diphenyl ether (PBDE); and
 7. Other toxic and hazardous substances or elements as specified by the State.

¹ This reflects the replacement of the "Safe" use term with "environmental" use. As discussed, significant China RoHS Committee advocacy will need to be focused on this over the near term while implementing measures are being developed.

(5) The term for the environmental use of electronic information products shall refer to the term during which toxic and hazardous substances or elements contained in electronic information products will not leak out or mutate,² thus eliminating the possibility of serious environmental pollution resulting from the use by users of electronic information products or serious harm to their persons and properties resulting from such use.

Article 4

The Ministry of Information Industry of the People's Republic of China (hereinafter the "Ministry of Information Industry"), the National Development and Reform Commission of the People's Republic of China (hereinafter the "Development and Reform Commission"), the Ministry of Commerce of the People's Republic of China (hereinafter referred to as the "Ministry of Commerce"), the General Administration of Customs of the People's Republic of China (hereinafter referred to as the "General Administration of Customs"), the State Administration of Industry and Commerce, the State Administration for Quality Supervision, Inspection and Quarantine, and the State Environmental Protection Administration, shall carry out administration and supervision of control of pollution caused by electronic information products, within the scope of their respective duties. When necessary, a work coordination mechanism shall be set up to resolve significant matters and problems involving the control of pollution caused by electronic information products.³

Article 5

The Ministry of Information Industry shall, in consultation with the competent authorities: develop measures favorable to the control of pollution caused by electronic information products.

The Ministry of Information Industry and the competent authorities of the State Council shall, within the scope of their respective duties, promote technologies for the control of pollution caused by electronic information products and the comprehensive use of resources, encourage and support scientific research, technological development, and

² Editors' note: The use of the term "mutate" here is potentially confusing. MII has described this to reflect the sense of "change" in the substances that may result in pollution, including changes that may result in combustion of the substances involved or erosion of the materials containing the substances.

³ Editors' Note: Such coordination is obviously important, though rarely evident, in government regulatory efforts directed at particular industry segments. This will be an important effort to monitor and encourage. Note such language regarding inter-agency coordination only rarely appears in the Chinese laws.

international cooperation on the control of pollution caused by electronic information products, and carry out the provisions applicable to the control of pollution caused by electronic information products.

Article 6

The Ministry of Information Industry may provide certain support for organizations and individuals that are actively engaged in research on and development of new types of environmentally friendly electronic information products.

Article 7

Authorities in charge of management of the information industry, development and reforms, commerce, customs, environmental protection, industry and commerce, and quality inspection, etc.,⁴ at the level of provinces, autonomous regions, and municipalities under the direct jurisdiction of the central government⁵ shall, within the scope of their respective duties, conduct supervision and administration of the control of pollution resulting from the production, import, and sales of electronic information products. When necessary, the aforementioned authorities shall set up regional coordination work mechanisms for the control of pollution caused by electronic information, which shall perform central coordination, assume responsibility for the division of work.

Article 8

Authorities in charge of the information industry at the level of provinces autonomous regions, and municipalities under the direct jurisdiction of the central government may give recognition and incentives 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 2

The Prevention and Control of Pollution by Electronic Information Products

Article 9

⁴ Editors' Note: This is an ambiguous, but common, means to refer to specific Chinese agencies. In particular, these authorities include the provincial and other-designated levels of agencies under the national agencies listed in Article 4.

⁵ Editors' Note: Municipalities under the direct jurisdiction of the central government include: Beijing, Chongqing, Shanghai, and Tianjin.

When designing electronic information products, designers of electronic information products shall use nontoxic, nonhazardous, or low toxic, low hazard, degradable, and recyclable [materials], according to State standards or industry standards for the control of toxic and hazardous substances or elements in electronic information products, subject to technological requirements.

Article 10

When producing or manufacturing electronic information products, producers of electronic information products shall comply with State Standards or industry standards for the control of toxic and hazardous substances or elements in electronic information products, and use materials, technologies, and processes [reflecting] a high utilization of resources that are recyclable and environmentally friendly.

Article 11

The producers or importers of electronic information products shall determine themselves the term of environmental use of [their] electronic information products. The producers and importers of electronic information products shall mark the term of environmental use on the electronic information products produced or imported thereby. In the event that it is difficult to make such markings due to size and functional limitations, [the required information] shall be placed in the product instructions.

The styles and methods prescribed in the preceding clause for marking the term of environmental use shall be centrally specified by the Ministry of Information Industry in consultation with competent State authorities. The styles and methods shall meet State standards or industry standards for the control of toxic and hazardous substances or elements in electronic information products.

Relevant industry organizations⁶ may develop advisory opinions on the term of environmental use of electronic information products according to the level of technological development.

Article 12

The Ministry of Information Industry shall encourage relevant industry organizations and enterprises to submit advisory opinions on the development of the term of safe use of electronic information products to the Ministry of Information Industry.

⁶ Editors' Note: This term reportedly refers to Chinese electronics industry associations, although it does not necessarily rule out coordination between Chinese and other industry groups.

Article 13

The producers and importers of electronic information products shall indicate the toxic and hazardous substances or elements contained in electronic information products [that the producers and importers] place on the market, by identifying the names and content levels of the toxic and hazardous substances or elements, the parts which contain [the toxic and hazardous substances or elements] and recyclability of such electronic information products. In the event that it is impossible to make such direct markings due to size and functional limitations, such information shall be placed in the product instructions.

The styles and methods of such [information disclosures] prescribed in the proceeding clause shall be developed by the Ministry of Information Industry in consultation with competent authorities of the State Council. The styles and methods shall meet State standards or industry standards for the control of toxic and hazardous substances or elements in electronic information products.

Article 14

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

The producers and importers of electronic information products shall mark the names of packaging materials on the packaging of electronic information products; in the event that it is impossible to make such marking due to limitations in size and external surface [area], [such information] shall be placed in the product instructions.

The styles and methods of such [information disclosures] prescribed in the preceding clause shall be developed by the Ministry of Information Industry in consultation with competent authorities of the State Council. The styles and methods shall meet State standards or industry standards for the control of the toxic and hazardous substances or elements in electronic information products.

Article 15

Sellers of electronic information products shall strictly control their purchase channels

and shall not sell electronic information products that fail to meet State standards or industry standards for the control of toxic and hazardous substances or elements in electronic information products.

Article 16

Imported electronic information products shall meet State standards or industry standards for the control of toxic and hazardous substances or elements of electronic information products.

Article 17

The Ministry of Information Industry shall, in consultation with the State Environmental Protection Administration, set forth industry standards for the control of toxic and hazardous substances or elements in electronic information products.

The Ministry of Information Industry shall, in consultation with the State Standardization Administration, draft State standards for the control of toxic and hazardous substances or elements in electronic information products..

Article 18

The Ministry of Information Industry shall prepare and revise the Catalogue for priority control of pollution by electronic information products in consultation with the Development and Reform Commission, the Ministry of Commerce, the General Administration of Customs, the State Administration of Industry and Commerce, the State Administration for Quality Supervision, Inspection and Quarantine, and the State Environmental Protection Administration.

The Catalogue for priority control of pollution by electronic information products shall consist of categories of electronic information products, the category of toxic and hazardous substances or elements restricted for use, and the timeline for the restriction.⁷ The Catalogue shall be amended annually according to actual conditions and the demands made by levels of technological development.⁸

⁷ Editors' Note: These are just examples of the categories of information that MII indicates will be included in the Catalogue.

⁸ Editors' Note: This provision (annual amendment of Catalogue) addresses MII's intention to revisit the Catalogue each year, not necessarily focusing on product additions, but also other provisions (exclusions, etc.). Note that MII also includes the caveat: "according to actual conditions and the demands made by levels of technological development." This caveat indicates that MII may not actually undertake

Article 19

The National Certification and Accreditation Administration shall, based on the relevant laws, carry out compulsory certification administration of the electronic information products incorporated into the Catalogue for priority control of pollution by electronic information products.⁹

Imported electronic information products are subject to port authentication and arrival inspections by the port inspection and quarantine authorities based on the relevant laws.¹⁰ Customs authorities will release imported products [into China] based on the Release of Goods Certificate issued by the port inspection and quarantine authorities.

Article 20

In addition to needing to satisfy the requirements for the control of pollution by electronic information products in these Methods, electronic information products incorporated into the Catalogue for priority control of pollution by electronic information products must also meet the priority control of pollution requirements indicated in the Catalogue for priority control of pollution by electronic information products.

Electronic information products not incorporated into the Catalogue for priority control of pollution by electronic information products shall meet other requirements for the control of pollution by electronic information products in these Methods.

Article 21

Based on the actual situation of [electronic information] industry development, the Ministry of Information Industry shall, in consultation with the Development and Reform Commission, the Ministry of Commerce, the General Administration of Customs, the State Administration of Industry and Commerce, the State Administration for Quality Supervision, Inspection and Quarantine, and the State Environmental Protection Administration announce the implementation timeline for the ban of toxic substances in

amendment each year.

⁹ Editors' Note: CNCA is the administrative authority, under the Administration for Quality Supervision, Inspection and Quarantine (AQSIQ), also responsible for China's "CCC mark" certifications, and other certification management issues. This Article serves as the legal basis for the pre-market certification requirements proposed for China RoHS.

¹⁰ Editors' Note: These authorities would be AQSIQ and affiliates at sub-national levels.

the electronic information products listed in the Catalogue.¹¹

Chapter 3

Provisions for Penalties

Article 22

In [the event that] violation of these Methods occurs [via] one of the following circumstances, the customs, industry and commerce, quality inspection, and environmental protection, etc., authorities shall impose penalties within the scope of their respective duties:

- (1) Producers of electronic information products violate the provisions of Article 10 of these Methods and the materials, technologies, and processes used thereby fail to meet State standards or industry standards for the control of pollution by electronic information products;
- (2) Producers and importers of electronic information products violate Clause 1, Article 14 of these Methods and the electronic information product packaging materials made or used thereby fail to meet State standards or industry standards for the control of pollution by electronic information products;
- (3) Sellers of electronic information products violate the provisions of Article 15 of these Methods and the electronic information products sold thereby fail to meet State standards or industry standards for the control of toxic and hazardous substances or elements in electronic information products;
- (4) Importers of electronic information products violate the provisions of Article 16 of these Methods and the electronic information products imported thereby fail to meet State standards or industry standards for the control of toxic and hazardous substances or elements in electronic information products;
- (5) Producers, importers, and sellers of electronic information products violate Article 21 of these Methods, and from the commencement of the implementation timeline for the ban of toxic and hazardous substances or elements in electronic information products listed in the Catalogue for priority control of pollution by electronic information products, the electronic information products produced, sold or imported [contain] toxic and hazardous substances or elements in excess of State standards or industry standards for the control of toxic and hazardous substances or elements in electronic information products; and

¹¹ Editors' Note: This provision reflects MII's reluctance to include in the Methods a specific time for the implementation of the ban on the toxic substances set forth in Article 3(4) from items listed in the first batch of the Catalogue. MII will now indicate this time in the Catalogue.

- (6) Importers of electronic information products import electronic information products in violation of these Methods.

Article 23

In [the event that] violation of these Methods occurs [via] one of the following circumstances, the customs, industry and commerce, quality inspection, and environmental protection, etc., authorities shall impose penalties within the scope of their respective duties:

- (1) Producers and importers of electronic information products violate the provisions of Article 11 of these Methods and fail to clearly indicate the term of environmental use of electronic information products;
- (2) Producers and importers of electronic information products violate the provisions of Article 13 of these Methods and fail to make clear markings regarding the names and content levels of toxic and hazardous substances or elements in electronic information products, the parts which contain [the toxic and hazardous substances or elements] and the recyclability of such electronic information products; and
- (3) Producers and importers of electronic information products violate the provisions of Clause 2, Article 14 of these Methods and fail to make clear markings regarding the ingredients of the packaging materials of electronic information products.

Article 24

In the event that government workers abuse their power, practice graft for personal gain, connive and shield their actions in violation of the provisions of these Methods, or assist parties in violation of the provisions of these Methods to escape disciplinary actions, [the government workers shall face] administrative penalties.

Chapter 4

Supplementary Provisions

Article 25

Any organization or individual shall have the right to report to the Ministry of Information Industry and authorities in the provinces, autonomous regions and municipalities under the direct jurisdiction of the central government in charge of the information industry regarding designers, producers, importers and sellers who cause electronic information product pollution.

Article 26

Annotated Unofficial English Translation

AeA China RoHS Steering Committee Version - For Reference Purposes Only

Translator Edits for Clarification Indicated in Bracketed Text and Do Not Comprise Official Text

Editors' Notes Indicated for Interpretation and Background and Do Not Comprise Official Text

The Ministry of Information Industry shall, in consultation with the Development and Reform Commission, the Ministry of Commerce, the General Administration of Customs, the State Administration for Industry and Commerce, the State Administration for Quality Supervision, Inspection and Quarantine, and the State Environmental Protection Administration, interpret these Methods.

Article 27

These Methods shall be effective as of March 1, 2007.