



How to Ensure Your Products Meet Environmental Requirements in Asia

A White Paper Developed for
Electronics Companies

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Produced by EIATRACK and the Telecommunications Industry Association (TIA)

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Asia Pacific governments have promoted a surge in product-focused environmental laws and technical standards over the past two years. Many of these laws and standards affect the electronics industry. Factors behind this uptick in regulatory activity include environmental policy initiatives in the region's key export markets, such as the European Community. Conversely, there are domestic concerns related to the quality of products manufactured in the region. These trends are expected to continue over the next several years.

For jurisdictions such as China, the trends will include a tendency to "adjust" foreign laws and policies to fit Chinese lawmakers' perceptions of their country's unique situation. This document contains samples of some recent key developments in Asia that directly affect electronic products being sold in these countries. The largest push towards product-oriented regulations in the region is evident in the giants of China, India and South Korea. All three countries are tracked on [EIATRACK](#), an online service

developed to quickly and cost-effectively navigate the maze of environmental regulations and legislation worldwide.

Of greatest concern is the apparent move of China towards developing similar or more stringent requirements than the RoHSⁱ and WEEEⁱⁱ regulations currently in place in the EU and Europe generally. As the world's largest producing country and one of the largest consuming countries, China has become the region's bellwether jurisdiction for changes in product-oriented regulations.

India is next on the list, followed closely by South Korea. India's more than 1.15 billion population is moving rapidly into the technological era, and the country is now mobilizing efforts to create product-oriented voluntary measurements. South Korea has been focused on regulating electronics for some time. Since 2003, EIATRACK has been monitoring the evolution of product regulations in the country.

These regulations may limit restricting products containing standards also may create energy efficiency standards or that are being adopted by entire

MANUFACTURERS WILL BE REQUIRED TO PAY A FEE TO THE CHINA WEEE MANAGEMENT FUND AND DISCLOSE COVERED WEEE TOXIC OR HAZARDOUS SUBSTANCE CONTENT AND HANDLING/USE RESTRICTIONS TO FACILITATE RECYCLING.

market access by banning or certain materials. Industry incentives for compliance with green procurement programs governments at a time.

Lacking compliance with these a worst-case scenario, a regulations and standards, in manufacturer's products may be banned for consumer distribution. Read on to gain an overview of the challenging environment in the region that electronics companies must operate within as they strategize for, design, market and distribute their products.

China

China WEEE

Chinese Premier Wen Jiabao signed into law the Regulations for the Management of the Disposal of Waste Electrical and Electronic Products ("China WEEE" or "Regulations") on February 25, 2009. The Regulations were released to the public on March 4, 2009. Work is now underway to finalize measures to implement the Regulations. The Regulations will enter into effect on January 1, 2011.

These measures will provide details needed to establish a national regulatory "baseline" to

minimize local government variations in WEEE regulation. The Regulations, described in detail on EIATRACK, succinctly lay out the respective WEEE oversight responsibilities and regulatory roles for a number of national agencies, all of which are expected to be issuing implementing regulations or otherwise participating in regulatory developments for China WEEE over the next 18 months. Some of the key aspects of China WEEE that will likely be the focus of regulatory activity during the remainder of 2009 and in 2010 are indicated below. EIATRACK's Holland and Knight China team is able to fast-track information dissemination on the mobilization of the Chinese Government in further promulgating China WEEE.

China WEEE Catalogue

China WEEE was issued as a "framework regulation" without an appended list of covered products. The list of covered products, or "WEEE Catalogue," as it is sometimes called, will be separately promulgated. Nonetheless, it is understood and anticipated that five product categories of electronics products from the white goods and IT sectors will be the starting place for WEEE-Catalogue candidates as the relevant law drafters work on finalizing the first batch of the WEEE Catalogue.

As a framework regulation, China WEEE unfortunately leaves out many other important details of interest to importers, manufacturers and other stakeholders. Many of these details will be addressed in implementing rules and standards that are now beginning to be developed.

Manufacturer Responsibility

Manufacturers will be required to pay a fee to the WEEE Management Fund and disclose covered WEEE toxic or hazardous substance content and handling/use restrictions to facilitate recycling. The methods of calculating and computing the manufacturer fee, including any exceptions or exemptions for manufacturers who undertake their own programs for end-of-life recycling of their brand products, are yet to be specified but are likely to be subject to rulemakings that may culminate in final rules in 2010.

Marking of WEEE

China WEEE sets forth in very general terms marking and information disclosure requirements related to toxic or hazardous material content and recycling information. As with other measures in these "framework" Regulations, details such as marking specifications are not included. EIATRACK has extensive experience with the relevant law drafters' efforts aimed at WEEE marking and other issues, and provides guidance for the forthcoming WEEE marking and information disclosure implementing measures.

Disposal of WEEE

China WEEE establishes a system of recycler/disposal organization certification for recycling and disposal of WEEE. Credentialed disposal enterprises will be required to establish digital information management systems for WEEE products for reporting and data retention purposes.

Enforcement

China WEEE enforcement and inspection activities will be handled at the local level as well as through relevant State Council agencies. China WEEE sets out the liabilities associated with non-compliance, focusing on penalties and fines, and clarifies that any unit or individual may report China WEEE violations.

China RoHS

EIATRACK members are kept abreast of China's progress toward full implementation of the "Management Methods for Controlling Pollution by Electronic Information Products" ("China RoHS" or "Management Methods").

China RoHS is a regulatory measure that establishes two somewhat distinct, regulatory programs or "phases". The first phase involves information disclosure, including labeling requirements applicable to certain electronic information products ("EIP"). The second

phase involves the application of materials restrictions and pre-market certification requirements to a separately promulgated Catalogue, comprising periodically updated lists (or "batches") of EIP.

The currently effective China RoHS phase involves information disclosure, including labeling requirements, for covered EIP. As described in detail on EIATRACK, work is underway on the second China RoHS phase. The Ministry of Industry and Information Technology (MIIT) recently promulgated the "Development Procedures for the Priority Management Catalog for Pollution Control and Management of Electronic Information Products" ("Procedures"). The Procedures set forth the general criteria that the Chinese government will employ to select EIP for inclusion in the

SPECULATION HAS IT THAT WHEN THE SECOND-PHASE REQUIREMENTS ARE RELEASED, CHINA RoHS WILL BE EVEN MORE STRINGENT THAN THE CURRENT REQUIREMENTS IN PLACE IN THE EUROPEAN UNION.

Catalogue, as well as the procedures that the Chinese government will follow in vetting and finalizing consecutive batches of the Catalogue. EIP included on this Catalogue will be subject to the materials restrictions and mandatory, pre-market certification and testing procedures outlined in the Management Methods.

MIIT hopes to have the first batch of the Catalogue issued by the end of 2009. However, this date may not be realistic given the vetting measures for the Catalogue, which are described in the Procedures document referenced above, including inter-agency and public comment and WTO/TBT notification.

Speculation has it that when the second-phase requirements are released, China RoHS will be even more stringent than the current requirements in place in the EU. This concern has led the EIATRACK monitoring team to pay special attention to these regulatory developments. New updates to the EIATRACK China substance restriction materials, and all other China subject sections, are being prepared and posted in 2009.

India

India has seen an increase over the last few years in the awareness and sensitivity towards product-related environmental issues. This has resulted in more reporting and enforcement of commercial environmental violations. India has also been the target of several environmental non-governmental organization campaigns focused on local environmental problems. These campaigns have fueled greater legislative activity concerning environmental issues.

Recent focus issues include climate change, amendments to the Hazardous Material (Management, Handling, and Transboundary Movement) Rules ("Hazmat Rules"), and Electronic Waste Recycling Guidelines (E-Waste Guidelines). There is growing producer concern over regulatory developments in India. EIATRACK employs the services of the Environment Desk of the leading Indian law firm of Kochhar and Company to track the changes

and updates in both of these regulations along with the development of further product stewardship regulations. EIATRACK maintains continuous information on India's regulations.

India E-Waste Guidelines

India's E-Waste Guidelines, issued in March 2008, identify various sources of electrical and electronic equipment (e-waste) covered by the Guidelines and set out procedures for safe and environmentally sound handling of these e-wastes.

The Guidelines serve as best practice benchmarks for all those who handle e-waste, from generators and collectors to transporters, dismantlers, and recyclers, irrespective of the size of the business.

Government authorities, in the absence of specific mandatory measures applicable to e-waste, also look to these Guidelines as indicators of baseline expectations for e-

waste handlers. Minimum recycling standards and procedures for recycling facilities are outlined under the Guidelines. These standards include a recommendation that proper handling, treatment and recycling of e-waste be provided with the product at time of sale. The Guidelines also indicate that manufacturers should facilitate pick-up services for used e-waste.

Among other interesting provisions, the E-Waste Guidelines set forth the threshold limits for the use of certain hazardous substances in designing their products, such as lead, cadmium, mercury, polychlorinated biphenyls (PCBs) and other toxic and hazardous substances for which safe substitutes have been found. There is reportedly growing pressure among governmental and non-governmental stakeholders for making these thresholds mandatory.

South Korea

EIATRACK first began monitoring the Korean market in 2003, working with the environmental team of one of Korea's top law firms – Yulchon – as its primary content provider.

TEN PRODUCT CATEGORIES OF WIDELY USED HOME AND OFFICE ELECTRONICS PRODUCTS ARE COVERED IN KOREA'S ACT FOR RESOURCE RECYCLING OF ELECTRICAL/ELECTRONIC PRODUCTS AND AUTOMOBILES.

On January 1, 2008, Korea's Act for Resource Recycling of Electrical/Electronic Products and Automobiles (the "Resource Recycling Act" or "Act") entered into force. The Act requires manufacturers and importers of covered electrical and electronic products to confirm or evaluate voluntarily the product's hazardous material standard level or adherence to the recyclability ratio. In this respect, the Act incorporates both "RoHS" and "WEEE" components in one piece of legislation and associated implementing measures.

Ten product categories of widely used home and office electronics products are currently covered in the Act: televisions; refrigerators; washing machines; air conditioners; personal computers; audio equipment; mobile phones; printers; photocopiers; and facsimile machines.

Korea RoHS

The hazardous material standard levels are somewhat similar to those set forth under the EU RoHS Directive. Although Korea's Resource Recycling Act entered into force in January of 2008, the subsequent implementing measures and administrative agency interpretations clarified a number of "grace periods" applicable to the ten product categories covered by the Act, depending on the date of the product's "launch" in the Korean market.

Korea WEEE

Importers and manufacturers of covered products are subject to recycling obligations, and they must submit Plans for Execution of Recycling Obligations, including information on the: (1) type and capacity of the recycling facility; (2) recovery, transportation plans for electrical/electronic product subject to recycling obligations; and (3) certification proving authenticity of recycling operations.

Manufacturers and importers of covered products must also provide or make available information regarding the proper recycling procedure for their products, including the safe handling and removal of hazardous materials, and answer questions from recyclers.

A separate statute, the Act on the Promotion of Saving and Recycling of Resources, outlines requirements for various stakeholders, including a requirement that retailers serve as a collection point for used products. Under this law, producers and importers of covered products must place certain markings on new products, provide recycling reports and pay dues when recycling ratios are not met.

EIATRACK

Enabling You to Stay Current with Legislation and Regulation Affecting Your Company's Products

Where does all this leave the manufacturer? From the early stages of planning and design, a product manufacturer must ensure that all components and materials being used to create the product, and the packaging and labeling of the product, specifically adhere to the applicable regulations in each country in which the product may be marketed and sold.

It can be bewildering and challenging to comply with the varied approaches taken by the fast developing Asian nations. The emergence of product stewardship

regulations in the region highlights the need for a service to pay attention to regulatory changes in what is quickly becoming the largest technology customer market in the world.

EIATRACK presents an excellent tool to help manufacturers, retailers, distributors, and recyclers of electronics products identify important proposed laws and keep up with newly-enacted product stewardship requirements in Asia.

Within a company, those that must be familiar with these requirements include sales, marketing, legal, engineering, design and environmental stewardship and products regulations departments.

EIATRACK was created with the assistance of electronics companies to help their personnel meet the challenges. With the law firms of

IT CAN BE BEWILDERING AND CHALLENGING TO COMPLY WITH THE VARIED APPROACHES TAKEN BY THE FAST DEVELOPING ASIAN NATIONS.

Holland Knight in China, Kochhar and Company in India, and Yulchon in South Korea, EIATRACK provides insights on changes in laws that may affect the way your product is made or what markets it can enter, and enables unique access to experts that are in day-to-day discussions with the regulatory authorities that develop these laws.

EIATRACK is the leader in monitoring regulations in the Asia region. Jurisdictions now

covered include Australia, China, Hong Kong, India, Japan, South Korea and Taiwan. Within this fast-developing region, it is expected that more jurisdictions will roll out similar product-oriented regulations. EIATRACK will be there to monitor those changes as well.

Full information and free trials and demos are available by contacting EIATRACK at efarmer@eiatrack.org or +1.703.907.7582.

EIATRACK

EIATRACK is the global benchmark in environmental intelligence and product-oriented regulatory tracking, is owned by the Telecommunications Industry Association (TIA). www.eiatrack.org.

About TIA

The Telecommunications Industry Association (TIA) represents the global information and communications technology (ICT) industry through standards development, advocacy, tradeshow, business opportunities, market intelligence and world-wide environmental regulatory analysis. With roots dating back to 1924, TIA enhances the business environment for broadband, mobile wireless, information technology, networks, cable, satellite and unified communications. Members' products and services empower communications in every industry and market, including healthcare, education, security, public safety, transportation, government, the military, the environment and entertainment. TIA co-owns the [SUPERCOMM](#)® tradeshow and is accredited by the [American National Standards Institute](#) (ANSI).

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ⁱ **RoHS** stands for Restriction of Hazardous Substances. The Directive on the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment 2002/95/EC, commonly referred to as the Restriction of Hazardous Substances Directive or RoHS, was adopted in February 2003 by the European Union. The RoHS directive took effect on 1 July 2006, and is enforced in each member state. The directive restricts market access for products containing more than agreed-upon levels of lead, cadmium, mercury, hexavalent chromium, or polybrominated flame retardants.

ⁱⁱ WEEE stands for Waste of Electronic and Electrical Equipment. First regulated in Europe, it has spread globally. EIATRACK covers existing and newly emerging WEEE legislation and regulatory changes. The WEEE Directive is the European Community directive 2002/96/EC on waste electrical and electronic equipment (WEEE) which, together with the RoHS Directive 2002/95/EC, became European Law in February 2003, setting collection, recycling and recovery targets for all types of electrical goods.