



Ramblin' RoHS

Nigel Burt – Environmental Advisor
IABM

It's hard to believe that we have been living with the RoHS Directive for three years, since it became enforced in the EU on July 1st 2006. Whether we like it or not, this regulation has spread globally: China and Korea now have national laws that draw heavily from RoHS, Thailand has a voluntary code based on RoHS, and Japan has product marking legislation that specifically targets the same restricted substances.

Given that the EU now encompasses 27 member states with a combined population of around half a billion people, only surpassed by China and India, a law affecting this market, that has such a significant impact on product manufacturing, cannot avoid having a worldwide effect.

The USA is different however!

The USA has so far resisted implementing similar national legislation, although individual states have introduced limited regulations that share many similarities with the EU law. For example, in January 2007 California introduced Senate Bill SB20 (later amended by SB50) to target video display products, such as CRTs and LCDs used in TVs, PCs and laptops and restrict four of the substances named in RoHS, excepting only the two poly-brominated chemicals used in flame retardants.

An attempt to bring in a Californian state law that would be more comprehensively in line with the RoHS Directive had passed through many of the necessary approval stages, but the bill, AB48, was vetoed by Governor Schwarzenegger in October 2007.

Another bill, AB218, was proposed in 2008 by the same State Assembly Member, Lori Saldana, but stalled at the Senate committee stage. This was in fact her third attempt to introduce such legislation, as another similarly worded bill, AB2202, was stalled at the same committee stage in 2006. Her team drawing up the legislation claimed they had support not just from environmental pressure groups, but also from local manufacturers of electronic products, who the team argued, had pleaded for consistent regulation of their market, instead of one set of rules in Europe, one set in California, and others elsewhere in America.

Towards US national legislation?

This sensible request for consistency had already been voiced by others. Some commentators suggested that this would eventually have to lead to a US Federal law implementing RoHS-like regulations nationwide in the USA, particularly once the new administration under President Obama had formed. It was perhaps not a surprise then that, on May 14 2009, a bill (HR2420) called the "Environmental Design of Electrical Equipment (EDEE) Act" was introduced for consideration in the U.S. House of Representatives by Congressman Michael Burgess, who is a Republican politician from Texas, which in itself some might find ironic.

This has been welcomed by NEMA, a US trade association for the electrical manufacturing industry, who issued a "Call to Action" in November 2006 recommending RoHS-like federal regulation be in place by July 2010. They state the goal of the EDEE Act is "... to enact uniform federal standards for the six

substances as contained in electro-industry products, eliminating or limiting their use for products sold in the United States. These uniform federal thresholds will create a level playing field across the various states and treat all products - those produced domestically and imports alike - equally." They are urging their membership to lobby their own Representatives to co-sponsor the bill and wish to help bring companion legislation before the US Senate too.

Whatever one might privately think about this, a wry smile might well play across our lips when we remember that the EU are in the process of amending and altering the RoHS Directive, even as the USA finally looks to be on course to implement the existing requirements for its own market.

The EU "rambles" on....

In December 2008, the EU issued texts of proposed alterations to both the RoHS and WEEE Directives. For those hoping to see some pragmatic relaxation of the rules, there will be disappointment. The recast RoHS Directive (or "RoHS2" as it's been named by some) would, for example, bring monitoring and control instruments within scope, which may affect some IABM members' products.

Whilst there are no additional restricted substances proposed, four are named which will be assessed in line with the REACH regulations with a view of a possible ban in the future. It's also proposed that the "CE" label will now encompass compliance with the RoHS Directive. These are all simply proposals but the

amendments are based upon stakeholder consultations and commissioned expert studies. So it is reasonable to assume that RoHS will indeed evolve along these lines in the near future.

Orgalime, a European engineering industry trade body has already raised concerns about the recast directives and argues that whilst industry is pleading for reduced financial and administrative burden, the EU has ignored its own published Better Regulation policies. It says: *"European manufacturers need the EU institutions, during this particularly difficult economic period, to urgently identify the shortcomings in the proposals and remind the European Commission of its obligations."*

Given that much of the electrical and electronics industry reacted too late to the original proposals for a RoHS Directive, this is a warning that we would do well to heed! 