

## California Adopts Emergency Regulations To Restrict Hazardous Substances (Rohs) In Electronic Products

**California, USA:** The California Department of Toxic Substances Control (DTSC) issued emergency regulations on December 22, 2006 to restrict allowable concentrations of lead, mercury, cadmium, and hexavalent chromium in eight categories of video display electronics devices.

A California law enacted in 2003 (SB20; Cal. Health and Safety Code § 25214.10) had directed DTSC to issue regulations that mirror similar, but not identical, prohibitions on sale of electronics in the European Union (EU) under directive 2002/95/EC. (The EU's directive is usually referenced as the restriction on the use of certain hazardous substances in electrical and electronic equipment or "RoHS" for short.) Under California law, devices containing the substances in excess of allowable maximum concentration values (MCVs) may not be sold or offered for sale in the State if the EU would prohibit those transactions.

To implement California's requirements in light of the recent finalization of the RoHS directive, DTSC took up particulars of the effective dates and potential exemptions in its rules.

By design, California's requirements differ somewhat from those addressed in the EU's directive. For example, the EU RoHS directive regulates the content of a much wider range of electronic products than does California. In California, only certain video display products with screens greater than 4 inches measured diagonally are subject to DTSC's regulations.

The EU directive restricts two additional substances used as flame retardants, which are not covered under California's requirements. However, notwithstanding those differences, in many respects, California and the EU's requirements are similar.

DTSC's regulations establish MCVs at 0.1% by weight for lead, mercury, and hexavalent

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chromium and at 0.01% for cadmium. Under the EU RoHS, several special exemptions to the MCV restrictions are allowed.

To help facilitate compliance in a global marketplace, California's law and DTSC's new emergency rules implementing it automatically adopt relevant European exemptions. Thus, for example, EU exemptions for lead in CRT glass or in some plasma display panels will be carried over to California.

Perhaps of greatest interest under DTSC's new rules for California is the setting of the effective date for the prohibitions. DTSC previously vetted three alternatives in this regard, but ultimately accommodated practical business considerations by allowing the prohibition to apply only to covered products manufactured after January 1, 2007. Thus video display products on the shelf or in retail inventory, already made and purchased but not yet shipped or received, or which are otherwise made and in pipelines of international commerce will not be subject to California's emergency rules.

This consideration grants distributors, suppliers, and retailers an additional opportunity to secure guarantees of compliance with MCVs for lead, mercury, hexavalent chromium, and cadmium regarding products that will come into their hands in the future. Companies will also have flexibility to use and sell products made before the effective date but that require refurbishment or repair.

During 2007, DTSC intends to perfect and round out the California regulatory scheme in more detail. Those actions may expand the ways in which products are regulated or further clarify the adoption of EU RoHS exemptions.

The emergency rules also coincide with promulgation of several other regulations from the EU, U.S. EPA, and California agencies focused on electronic products recycling designed to minimize or prohibit "E-waste" generation and disposal.

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