

Dear Stakeholders,

Thank you for your contribution to the consultation on hazardous substances that are not regulated by the RoHS Directive. We received quite a number of valuable information that we will consider in the ongoing evaluation. All contributions, both in form of specific comments to single substances and general statements, are published on the project website <http://hse-rohs.oeko.info>.

During the stakeholder consultation we received comments that the timeline for the stakeholder consultation was considered too short. Furthermore, the questions arose on the criteria that are applied to select high priority substances.

Öko-Institut e.V. started the stakeholder consultation to the RoHS hazardous substance project on 17 December 2007 by sending out a questionnaire to manufacturers and suppliers of EEE asking for information on other hazardous substances contained in typical components / subgroups of EEE, and to quantify the concentration ranges. Only limited information on the questions was received by manufacturers and suppliers. In order to be able to set up an inventory of hazardous substances used in EEE additional sources of information (i.e. existing studies, XRF-analyses and other information) were evaluated in addition to the questionnaire.

As a first result of these activities the hazardous substances were grouped in classes of different priority: Substances classified as CMR, PBT / vPvB or endocrine disruptors were allocated a high priority just as a number of other substances whose use in EEE and other consumer products is intensively discussed by national authorities or which are included in the Water Frame Work Directive, OSPAR, etc. The resulting list of high priority substances comprised 46 substances/materials. Due to the fact that only limited information had been provided on hazardous substances in EEE during the first part of the stakeholder consultation, the consultation was continued by circulating the list of high priority substances to ask for details on these substances:

- In which specific components are the hazardous substances contained
- Their concentration ranges
- Information on possible substitutes / alternatives

The same questions were part of the original questionnaires sent to manufacturers/suppliers, NGOs, research institutes, et al. The purpose of the second part of the consultation was thus to get more detailed information on the pre-selected hazardous substances to be able to judge whether or not these substances need a further in-depth evaluation.

The consultation ended on 28 March 2008. Thus, the total consultation period was approximately three months.

All information on technical issues that we received during the consultation (e.g. substances that are not anymore used in EEE; degree/nature of coverage by other EU legislation; presence of the substances in the final product etc..) will be considered in the further evaluation resulting in a much more condensed list of hazardous substances in EEE. Unfortunately, the manufacturers/supplier provided only very limited information on concentrations or quantity ranges of hazardous substances in electrical and electronic components. Therefore, it will be difficult to estimate the relevance of EEE for the total consumption of the substances.

The criteria applied to select the high priority substances in a first step and candidate substances for a possible inclusion into the scope of RoHS in a next step can be summarised as follows:

In order to identify substances which are of high relevance for inclusion into the RoHS Directive, the substances have been characterized according to the following criteria:

1. Substances of very high concern (SVHC) as defined by REACH. The classification as substances of very high concern is introduced by REACH. (The use and the marketing of these substances can become subject of authorisation under REACH, if the substances are included in the REACH Annex XIV). These substances can cause a high risk to humans and the environment and should be replaced by suitable alternative substances or technologies as soon as possible. The criteria defined in REACH for substances of very high concern refer to three different properties: toxicity, persistence and bioaccumulation. Substances of very high concern are:

(a) substances meeting the criteria for classification as carcinogenic category 1 or 2 in accordance with directive 76/548/EE;

(b) substances meeting the criteria for classification as mutagenic category 1 or 2 in accordance with directive 76/548/EE;

(c) substances meeting the criteria for classification as toxic for reproduction category 1 or 2 in accordance with directive 76/548/EE;

(d) substances which are persistent, bioaccumulative and toxic in accordance with the criteria set out in Annex XIII of this regulation;

(e) substances which are very persistent and very bioaccumulative in accordance with the criteria set out in Annex XIII of this regulation;

(f) substances – such as those having endocrine disrupting properties or those having persistent, bioaccumulative and toxic properties or very persistent and very bioaccumulative properties, which do not fulfil the criteria of points (d) or (e) – for which there is scientific evidence of probable serious effects to human health or the environment which give rise to an equivalent level of concern to those of other substances listed in points (a) to (e).

2. Substances which have been found in humans and biota. These substances not necessarily fulfil the strict criteria for bioaccumulation and persistency as given in Annex XIII. Nevertheless they have been identified in humans and biota and raise concern regarding long-term harmful effects. These properties are at present not expressed by the R-phrases of Dir 67/548 neither the categories of GHS.

3. Substances which can form hazardous substances during the collection and treatment of electrical and electronical equipment. A number of substances and materials used in EEE can cause formation of hazardous substances during recycling and/or during incineration. This property is not expressed by the classification of the substances resp. materials themselves. Therefore it is taken as an additional criterion in the selection process.

4. Substances classified as dangerous according to Annex I Dir 67/548, not fulfilling the REACH criteria for SVHC. A large number of hazardous substances contained in EEE are classified due to their physicochemical hazards (e.g. explosive substances) or due to environmental hazards. Others are classified due to human health hazards, but the effects are not as serious as in case of substances which are cancerogenic or mutagenic or which can damage the reproductive system (CMR substances as characterized under Point 1 above). These substances can cause harm to man and the environment, but are not considered as substances of very high concern.

5. Substances which are already excluded from electrical and electronical equipment by existing legislation. A large number of hazardous substances have already been regulated by European legislations. It has been checked whether this refers explicitly to the use in EEE.

Substances with a lower hazardous potential (criterion 4) and substances already excluded by existing legislation (criterion 5) have been documented, but are not further evaluated.

Substances which fulfil one of the criteria 1 – 3 have the potential to cause severe harm to humans and/or

the environment. Therefore they are given the highest priority in this study.

These substances of highest priority are further evaluated. At this, the exposure situation, the relevance of EEE for the total consumption of the substances and the availability of substitutes will be taken into account. Based on the results of this analysis, a recommendation will be made which of the highest priority substances constitute significant health and environmental risks due to their use in electrical and electronic equipment. These substances are discussed as "potential candidates for inclusion into RoHS".

The draft final report summarising the results of the study and containing the list of potential candidates for inclusion into RoHS will be submitted to the EU Commission by 18 April 2008 and will be published by the end of April 2008.

Best regards,

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