



ELC COMMENTS and INFORMATION SUPPLY to

THE REVIEW OF DIRECTIVE 2002/95/EC
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE
RESTRICTION OF THE USE OF CERTAIN HAZARDOUS SUBSTANCES IN
ELECTRICAL AND ELECTRONIC EQUIPMENT

The European Lamp Companies Federation (ELC), thanks the Commission for the opportunity to provide comments to be considered for the review of Directive 2002/95/EC.

Our response will address the following issues:

- substances covered in Article 6;
- technical changes to the scope of the Directive; and
- lamp definitions;
- comments to facilitate implementation.

Please note: Reference to the following two Directives will be the following:

- WEEE - Directive 2002/96/EC; and
- RoHS - Directive 2002/95/EC.

The ELC represents companies manufacturing 95% of all European lamps. The members of ELC are Aura, BLV, GE, NARVA, OSRAM, Philips and Sylvania.

SUBSTANCES COVERED [ARTICLE 6 OF ROHS]

The ELC appreciates substances covered in Article 4(1), is based on scientific facts, while taking the precautionary principle into account. However, we would like to emphasize the use of a life cycle approach for all industry sectors and not limit this approach when addressing electrical and electronic equipment. The ELC requests the Commission to employ the elements of Better Regulation and to link this Directive (2002/95/EC) with 76/769/EEC and in the future with 1907/2006/EC.

TECHNICAL CHANGES TO THE SCOPE OF THE DIRECTIVE

We are prepared to propose detailed changes to Annex 1B of Directive 2002/96/EC (WEEE), which also addresses Category 5 'lighting equipment'.

EDITORIAL CHANGES

We propose the following editorial changes, to be adopted in Directives 2002/96/EC (WEEE) and 2002/95/EC (RoHS).

<u>Dir.</u>	<u>Art.</u>	<u>Text in the CCP</u>	<u>Text proposed by ELC (appropriate product names)</u>
WEEE	12	filament bulbs	filament lamps
WEEE	Annex IB.5	pressure sodium lamps	high pressure sodium lamps
WEEE	Annex IB.5	filament bulbs	filament lamps
RoHS	2	electric light bulbs	filament lamps
RoHS	Annex .5	fluorescent tubes	fluorescent lamps
RoHS	Annex.-10	light bulbs	filament lamps

DEFINITIONS

We request the use of the following definitions in the Directive.

- Put on the market

The ELC supports the definition proposed by ORGALIME¹.

The lack of a clear definition of this term has resulted in considerable uncertainty and cost to the industry in 2006. This considerable financial cost was as a result of disposing of non-compliant products after July 1st 2006 and the associated loss of revenue.

The ELC supports the view that a product is 'placed on the Community market' and 'made available to its users and consumers' only when it meets **ALL** 5 criteria listed below.

1. Finished, and therefore has left the design and manufacturing phase.
2. Destined for distribution or direct sale in the Community market.
3. Physically within the EU, at a manufacturer's or his authorised representative's location or in the absence of these, at the importer's location.
4. Made available for the first time on the Community market.
5. Immediately available for delivery upon request.

- Homogenous materials

The ELC requests the Commission to seek a suitable definition or to initiate standardization with regards to "free of a certain substance" as described in the WEEE Directive. Neither the industry or market surveillance authorities are currently able to guarantee product compliance.

For example, in certain products a nanogram of a substance, may exceed compliance in a certain homogenous material; and in other products grams of the exact same substance will be compliant. In many cases it is difficult to differentiate homogenous materials in a product or to proof compliance by measurements. Some products contain several thousand different homogenous materials. Development of new products is normally an expensive and time intensive process. Manufacturers need legal certainty, from the legislator, when placing a new product on the EU market.

¹ "Principles for Placing a Product on the Community market" 24.07.2006

The current explanation provided in the published RoHS FAQ² has not resolved this issue.

- **Editing Errors in the Annex – Exemption 2**

The material 'triphosphate' as quoted in the current text is not applied in the fluorescent lamps business.

Therefore, we propose the following text to replace the current text in the Annex.

Current text:

"2. Mercury in straight fluorescent lamps for general purposes not exceeding	
- halophosphate	10 mg
- triphosphate with normal lifetime	5 mg
- triphosphate with long lifetime	8 mg "

to be replaced by the following, which is aligned with the text as phrased in Annex.1:

"2. Mercury in straight fluorescent lamps for general purposes not exceeding	
- 10 mg per lamp for lamps with halophosphate phosphors	
- 5 mg per lamp for lamps with triband phosphors and normal lifetime	
- 8 mg per lamp for lamps with triband phosphors and long lifetime"	

FACILITATING IMPLEMENTATION

The ELC requests further transparency in the timeframes, consultation and the evaluation of requested exemptions. Currently, this lengthy, delayed and unclear process is resulting in undue cost to the industry; which hinders European competitiveness.

We request the decision making process to use proportionality principles, where a new exemption should consider quantity of applications with respect to the quantity of products being placed on the market. Therefore, products used for very special applications, thereby a nominal quantity being placed on the market and low levels of substances; should be considered in the exemption decision-making process.

The ELC requests a minimum phase in period of 3 years, for existing exemptions. This allows manufacturers, to adapt their processes, materials, licences, etc; while being compliant and thereby contributing to European competitiveness.

The ELC is proactively working with Market Surveillance authorities in the Member States and recommends the Commission, to request an annual report by the Member States on their market surveillance activities on the RoHS Directive.

² Frequently Asked Questions on Directive 2002/95/EC on the Restriction of the Use of certain Hazardous Substances in Electrical and Electronic Equipment (RoHS) and Directive 2002/96/EC on Waste Electrical and Electronic Equipment (WEEE)