

Axcelis Technologies, Inc.

Update on Restriction of Hazardous Substances (RoHS) Position

January 24, 2011

EU RoHS – Latest News – Semiconductor Manufacturing Equipment out of scope of EU RoHS recast!

On November 24, 2010, the European parliament voted to adopt the latest proposed amendments to the RoHS Directive. The text must be approved by the EU council and published in the Official Journal of the European Union, however the text approved by the parliament formalizes the scope exclusion and definition for large-scale stationary industrial tools. Section 4 of the adopted text states:

4. This Directive does not apply to:

(a) equipment which is necessary for the protection of the essential interests of the security of Member States, including arms, munitions and war material intended for specifically military purposes;

(b) equipment designed to be sent into space;

(c) equipment which is specifically designed and to be installed as part of another type of equipment that is excluded or does not fall within the scope of this Directive, which can fulfil its function only if it is part of that equipment, and which can be replaced only by the same specifically designed equipment ;

(d) large-scale stationary industrial tools; (emphasis added)

(e) large-scale fixed installations;

(f) means of transport for persons or goods, excluding electric two-wheel vehicles which are not type-approved;

(g) non-road mobile machinery made available exclusively for professional use;

(h) active implantable medical devices;

(i) photovoltaic panels intended to be used in a system that is designed, assembled and installed by professionals for permanent use at a defined location to produce energy from solar light for public, commercial, industrial and residential applications;

(j) equipment specifically designed solely for the purposes of research and development only made available on a business-to-business basis.

The adopted definition of 'large-scale stationary industrial tools' reads "large-scale stationary industrial tools' means a large size assembly of machines, equipment, and/or components, functioning together for a specific application, permanently installed and de-

installed by professionals at a given place, and used and maintained by professionals in an industrial manufacturing facility or research and development facility;

This definition was largely drafted and lobbied for by SEMI.

Below, please find Axcelis previous position on the applicability of the European RoHS Directive excerpted from Axcelis document # 880000259. This document will be updated to reflect the information above following formal adoption by the EU Council of the RoHS recast.

Axcelis Technologies, Inc. (“Axcelis”) has assessed the applicability of the ROHS Directives to Axcelis’ equipment and has determined that the ROHS Directives do not apply to Axcelis’ equipment. Annex IA of EU Directive 2002/96/EC on Waste Electrical and Electronic Equipment (“WEEE”), lists the categories of electrical and electronic equipment covered by the WEEE and ROHS Directives. Category no. 6 from Annex IA exempts “large-scale stationary industrial tools” from the WEEE and ROHS Directives. Though “large-scale stationary industrial tools” are not defined in the WEEE or ROHS Directives, a European Community (“EC”) FAQ from May, 2005 describes “large-scale stationary industrial tools” as “...machines or systems, consisting of a combination of equipment, systems, finished products and/or components, each of which is designed to be used in industry only, permanently fixed and installed by professionals at a given place in an industrial machinery or in an industrial building to perform a specific task...Not intended to be placed on the market as a single, functional or commercial unit.”

Based on this description provided in the May, 2005 EC FAQ, the Semiconductor Equipment and Materials Institute (“SEMI”) has taken the position that semiconductor capital equipment, such as the type manufactured by Axcelis, would fall within the “large-scale stationary industrial tools” exemption. According to SEMI, this description of large-scale stationary industrial tools “...clearly...is intended to be for combinations of products that in total are large and have a function of performing a specific task, such as fabrication of something, production of materials...” In SEMI’s opinion, a semiconductor manufacturing facility and any equipment which comprises an integral component of such a facility, such as the equipment manufactured by Axcelis, would be components of large-scale stationary industrial tools, and thus exempt from the WEEE and ROHS Directives.

At present, Axcelis is following SEMI’s guidance regarding the applicability of the WEEE and ROHS Directives to semiconductor capital equipment. Axcelis will continue to monitor guidance provided by SEMI. Additionally, Axcelis continues to monitor regulations and other guidance provided by EU countries in connection with their adoption of the WEEE and ROHS Directives into law. If guidance from SEMI and EU countries establishes that the semiconductor capital equipment manufactured by Axcelis does not fall within the “large scale industrial tools” exemption and that the ROHS Directives as adopted by EU countries require compliance by manufacturers of semiconductor equipment, Axcelis will establish a roadmap for compliance which Axcelis shall promptly provide upon request.