

MINORITY POSITION TO THE RAC OPINION
on the suggested restriction on Lead and its compounds in consumer articles
by Yvonne Mullooly, December 2013

(Please note, the text in *italics* represents the alternate text to the RAC opinion)

Conditions of the minority opinion

The minority opinion considers that the proposed restriction on Lead and its compounds in articles intended for consumer use is the most appropriate Community wide measure to address the identified risks in terms of the effectiveness in reducing such risks, provided that the conditions of the restriction should consider the following elements:

Lead and its compounds

1. Shall not be placed on the market or used in *the following types of* articles, or accessible parts of articles, which are supplied to the general public and which can be placed in the mouth by children if the concentration of lead (expressed as metal) in that article, or part of article, is equal to or greater than 0.05% by weight.
 - I. *Household articles primarily intended for indoor use*
 - II. *Clothing & Accessories*
 - III. *Ornaments & Stationary*
 - IV. *Leisure and sports equipment*
 - V. *Garden hoses and garden ornaments*
2. For the purposes of paragraph 1, an article or part of article can be placed in the mouth by children if it is smaller than 5 cm in one dimension or has detachable or protruding parts of that size.
3. Paragraph 1 does not apply if an article, or a part of an article, is not accessible by children during normal or reasonably foreseeable conditions of use.

European Standard EN71-1, as adopted by the European Committee for Standardisation (CEN), shall be used, where appropriate, as the method to determine "accessible parts" of articles.
4. Paragraph 1 does not apply when it can be demonstrated that the rate of lead release from an article or any part of an article, whether coated or not coated^[1], does not exceed 0.05 µg/cm² per hr (0.05 µg/g per hr).

[1] The coating should be sufficient to ensure the rate of lead migration from any mouthed parts will not exceed the relevant limit for a period of at least 2 years of normal or reasonably foreseeable conditions of use of the article.

5. By way of derogation, paragraph 1 shall not apply to^[2]:
- (i) crystal glass as defined in Annex I (categories 1, 2, 3 and 4) to Council Directive 69/493/EEC^[3]
 - (ii) non-synthetic or reconstructed precious and semi-precious stones (CN code 7103 as established by Regulation (EEC) No 2658/87^[4]), unless they have been treated with lead or its compound or mixtures containing these substances;
 - (iii) enamels, defined as having vitrifiable mixtures resulting from the fusion, vitrification or sintering of mineral melted at a temperature of at least 500°C;
 - (iv) keys and locks, including padlocks, and musical instruments^[5];
 - (v) articles comprising brass alloys if the concentration of lead in the brass alloy does not exceed 0.5% by weight of lead (expressed as metal);
 - (vi) the tip of writing instruments;
 - (vii) articles covered by European Union legislation specifically regulating lead content or migration.
6. By way of derogation paragraph 1 shall not apply to articles placed on the market for the first time before ... (12 months after entry into force)⁵

Lead and its compounds, CAS No 7439-92-1, EC No 231-100-4

[2] Subsection (i), (ii) and (iii) are taken from the entry 63 in REACH, Annex XVII, since RAC considers there are reasons to exempt them from articles covered by this proposal, even though it is recognised that articles containing these materials may pose a risk (see pg 17 of the Justification).

[3] Council Directive 69/493/EEC of 15 December 1969 on the approximation of the laws of the Member States relating to crystal glass OJ L 326 29.12.1969, p 36.

[4] Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff. OJ L 256, 7.9.1987, p 1-675.

[5] Keys and padlocks, some musical instruments and second hand articles are considered by RAC to pose a risk; however the DS chose to propose an exemption for these articles in their original proposal.