

Committee for Risk Assessment (RAC)
Committee for Socio-economic Analysis (SEAC)

Opinion

on an Annex XV dossier proposing
AMENDMENT TO A RESTRICTION ON
CADMIUM AND ITS COMPOUNDS - Paints

ECHA/RAC/RES-O-0000005619-64-01/F

ECHA/SEAC/RES-O-0000005619-64-02/F

**Compiled version prepared by the ECHA Secretariat of RAC's opinion
(adopted 9 September 2014) and SEAC's opinion (adopted 25
November 2014)**

9 September 2014

ECHA/RAC/RES-O-000005619-64-01/F

25 November 2014

ECHA/SEAC/RES-O-000005619-64-02/F

Opinion of the Committee for Risk Assessment

And

Opinion of the Committee for Socio-economic Analysis

on an Annex XV dossier proposing restrictions of the manufacture, placing on the market or use of a substance within the EU

Having regard to Regulation (EC) No 1907/2006 of the European Parliament and of the Council 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (the REACH Regulation), and in particular the definition of a restriction in Article 3(31) and Title VIII thereof, the Committee for Risk Assessment (RAC) has adopted an opinion in accordance with Article 70 of the REACH Regulation and the Committee for Socio-economic Analysis (SEAC) has adopted an opinion in accordance with Article 71 of the REACH Regulation on the proposal for restriction of

Chemical name(s): **CADMIUM AND ITS COMPOUNDS**

EC No.: 231-152-8 (Cadmium)

CAS No.: 7440-43-9 (Cadmium)

This document presents the opinions adopted by RAC and SEAC. The Background Document (BD), as a supportive document to both RAC and SEAC opinions, gives the detailed grounds for the opinions.

PROCESS FOR ADOPTION OF THE OPINION

ECHA at the request of the Commission has submitted a proposal for a restriction together with the justification and background information documented in an Annex XV dossier. The Annex XV report conforming to the requirements of Annex XV of the REACH Regulation was made publicly available at <http://echa.europa.eu/web/guest/restrictions-under-consideration> on **17 December 2013**. Interested parties were invited to submit comments and contributions by **17 June 2014**.

ADOPTION OF THE OPINION OF RAC:

Rapporteur, appointed by RAC: **Frank JENSEN**

Co-rapporteur, appointed by RAC: **Urs SCHLÜTER**

The RAC opinion as to whether the suggested restrictions are appropriate in reducing the

risk to human health and/or the environment has been reached in accordance with Article 70 of the REACH Regulation on 9 September 2014.

The opinion takes into account the comments of interested parties provided in accordance with Article 69(6) of the REACH Regulation.

The RAC opinion was adopted **by consensus** of all members having the right to vote.

ADOPTION OF THE OPINION OF SEAC

Rapporteur, appointed by SEAC: **Franz-Georg SIMON**

Co-rapporteur, appointed by SEAC: **Robert CSERGŐ**

The draft opinion of SEAC

The draft opinion of SEAC on the suggested restriction has been agreed in accordance with Article 71(1) of the REACH Regulation on 9 September 2014.

The draft opinion takes into account the comments of and contributions from the interested parties provided in accordance with Article 69(6) of the REACH Regulation.

The draft opinion was published at <http://echa.europa.eu/web/guest/restrictions-under-consideration> on **16 September 2014**. Interested parties were invited to submit comments on the draft opinion by **14 November 2014**.

The opinion of SEAC

The opinion of SEAC on the suggested restriction was adopted in accordance with Article 71(1) and (2) of the REACH Regulation on **25 November 2014**.

The opinion takes into account the comments of interested parties provided in accordance with Articles 69(6) and 71(1) of the REACH Regulation.

The opinion of SEAC was adopted **by consensus** of all members having the right to vote.

OPINION

THE OPINION OF RAC

RAC has formulated its opinion on the proposed restriction based on information related to the identified risk and to the identified options to reduce the risk as documented in the Annex XV report and submitted by interested parties as well as other available information as recorded in the Background Document. RAC considers that the proposed restriction on **cadmium and its compounds in paints** is the most appropriate EU wide measure to address the identified risks in terms of the effectiveness in reducing those risks.

The proposed restriction is as follows:

The Entry 23 Paragraph 2 of Annex XVII in the REACH Regulation should be modified to read as follows (text to be deleted is struck out and new text is underlined):

Cadmium

CAS No 7440-43-9, EC No 231-152-8 and its compounds.

~~2. Shall not be used in paints [3208] [3209].~~

Shall not be used, or placed on the market, in paints [3208] [3209], if the concentration of cadmium (expressed as Cd metal) is greater than 0.01% by weight.

For paints with a zinc content exceeding 10% by weight of the paint, the concentration of cadmium (expressed as Cd metal) shall not be equal to or greater than 0.1% by weight.

Painted articles shall not be placed on the market if the concentration of cadmium (expressed as Cd metal) is equal to or greater than 0.1% by weight of the paint on the painted article.

It is proposed that the existing derogation for zinc-based paint and the restriction on painted articles will be retained without revision.

THE OPINION OF SEAC

SEAC has formulated its opinion on the proposed restriction based on information related to socio-economic benefits and costs documented in the Annex XV report and submitted by interested parties as well as other available information as recorded in the Background Document. SEAC considers that the proposed restriction on **Cadmium and its compounds**¹ is the most appropriate EU wide measure to address the identified risks in terms of the proportionality of its socio-economic benefits to its socio-economic costs².

The proposed restriction is as follows:

Paragraph 2 as described in the opinion of RAC.

¹ Where the name of the substance is too long or complicated, the name can be replaced by 'the substance'.

JUSTIFICATION FOR THE OPINION OF RAC AND SEAC

IDENTIFIED HAZARD AND RISK

Justification for the opinion of RAC

The dossier refers in particular to the EU Risk Assessment Report, where the risks related to Cd are well documented. Concerning the proposed amendment, the dossier states clearly that this does not make a major additional contribution to reduce the risk as such. Currently, the risks are already controlled due to the existing restriction. However, the proposed amendment prevents potential exposure in the future and thereby intends to ensure that the level of protection is maintained.

The risk caused by Cd does not need to be re-evaluated by the RAC, as the EU has already earlier decided that the risk needs to be controlled. The minor amendment proposed in the dossier, does not require RAC to re-open the risk assessment.

The proposed modification relates only to Entry 23 Paragraph 2 of REACH Annex XVII. The need to extend its scope was identified in order to also cover the placing on the market of paints which contain cadmium as an impurity or are imported (containing cadmium). In practice, this means that the main focus is on anti-fouling paints for ships and other marine equipment, which can contain cadmium as an impurity. There is no evidence that other paints in the Taric codes in question in the EU would contain cadmium as an impurity.

JUSTIFICATION THAT ACTION IS REQUIRED ON AN EU WIDE BASIS

Justification for the opinion of RAC

The reason for the proposed revision of the restriction is primarily administrative (enforcement) and the existing Entry 23 Paragraph 2 of REACH Annex XVII applies across the EU. There is no information available suggesting reconsideration of the EU-wide basis. Therefore, any modifications to the entry clearly need to be made on a Union-wide basis.

Justification for the opinion of SEAC

SEAC shares the opinion of RAC: the existing Entry 23 Paragraph 2 of REACH Annex XVII applies across the EU. Therefore, any modifications to the entry clearly need to be made on a Union-wide basis.

JUSTIFICATION THAT THE SUGGESTED RESTRICTION IS THE MOST APPROPRIATE EU WIDE MEASURE

Justification for the opinion of RAC

The proposed amendment mainly affects enforcement as mentioned above. There is no information suggesting that the proposed restriction is not the most appropriate EU wide measure. Furthermore, as there is no information available which would suggest that the EU-wide basis needs reconsidering, any modifications to the entry also need to be made on a Union-wide basis. Therefore, as the proposed amendment is to improve the practicality of the current entry by explicitly covering also placing on the market, it appears to be the most appropriate measure.

Justification for the opinion of SEAC

The proposed Entry 23 Paragraph 2 in REACH Annex XVII covers also the importation of paints ("placed on the market"). In its current form, Entry 23 does not explicitly restrict the importation of Cd-containing paints. Paints which might contain cadmium as an impurity would now be identifiable as falling within the scope of the restriction.

The proposal further ensures that potential risks from cadmium impurities in recycled copper used as raw material for paints are covered. Paint formulators inside and outside of the EU are treated equally under the proposed modified entry. Based on information available, no direct benefits (except avoiding the potential risk of increasing Cd impurities in the feedstock in the future) are expected. The reported levels of cadmium in paints, and in anti-fouling paints in particular, are currently well below the proposed limit. Therefore no negative impacts on industry and neither on the consumers are expected.

The addition of a specific limit value for its own part enables enforcement in a clear and cost-effective manner.

Effectiveness in reducing the identified risks, proportionality to the risks

Justification for the opinion of RAC

The risk reduction capacity of the proposed amendment does not need to be quantified, as risk is already controlled given the existing restriction and the proposed amendment would merely improve the practicality of that restriction. The proposed modification of the existing legal obligations prevents cadmium content to increase in the future and thereby intends to ensure that the level of protection remains.

The main benefits to be expected from this amendment according to the dossier submitter are improvements of practicality and monitorability for enforcement.

Justification for the opinion of SEAC

The proposed modification transparently includes importation and sets a limit value, making regulation more predictable and better enforceable. This reduces ambiguity and is the major benefit of the proposed modification. Given that the anti-fouling paints placed on the market and used in the EU currently contain less than 0.01% of cadmium, the change in Entry 23 will not cause any compliance costs to manufacturers or importers, or to consumers of copper based anti-fouling paints in the EU.

The amendment of the present Entry 23 by an Annex XV restriction report appears to be a feasible action, and causes apparently no additional costs. In sum, given basically no costs and some (indirect) benefits the change in Entry 23 as proposed in Option 1 is considered proportionate.

Practicality, incl. enforceability

Justification for the opinion of RAC

The limit value is the same one used e.g. for plastics and brazing fillers in the same entry of Annex XVII. This clarifies and supports enforcement of the entry.

Justification for the opinion of SEAC

SEAC shares the opinion of RAC: The limit value is the same one used e.g. for plastics and brazing fillers in the same entry. This clarifies and supports enforcement of the entry.

Monitorability

Justification for the opinion of RAC

Since this is an amendment adding a limit value to the existing restriction which has been in place and enforced for several years, it should be possible to continue monitoring also after the amendment.

Justification for the opinion of SEAC

The specific concentration limit for the paints clarifies and supports monitoring.

BASIS FOR THE OPINION

Justification for the opinion of RAC

The Background Document, provided as a supportive document, gives the detailed grounds for the opinion.

No changes were made in this opinion compared to the restrictions proposed in the Annex XV restriction dossier submitted by ECHA on a request from the Commission.

Justification for the opinion of SEAC

The Background Document, provided as a supportive document, gives the detailed grounds for the opinion.

No changes were made in this opinion compared to the restrictions proposed in the Annex XV restriction dossier submitted by ECHA on a request from the Commission.