Wirtschaftsverband Stahl- und Metallverarbeitung e.V.
Düsseldorf • Hagen

COMMENTS ON
Öko-Institut´s draft "Substance Prioritisation" in the context of the "Study to support the review of the list of restricted substances and to assess a new exemption request under RoHS 2"

WSM Wirtschaftsverband Stahl- und Metallverarbeitung e.V. (German Steel and Metal Processing Industry Association), representing the German steel and metal processing industry towards politics and economy, would like to take this opportunity to express serious concerns regarding the prioritisation of
nickel
EC Number: 231-111-4
CAS number: 7440-02-0
in the prioritised shortlist in the framework of the "Study to support the review of the list of restricted substances and to assess a new exemption request under RoHS 2".

Overall, it seems more than questionable why nickel is included in the prioritized shortlist:

- First of all, we would like to point out that nickel metal is not classified as a CMR Cat. 1A-1B under the CLP Regulation[1]. It should be acknowledged that nickel metal has a different and lower hazard classification than nickel compounds.
- Nickel has already been extensively evaluated and is heavily regulated by substance-specific EU as well as national legislation. Furthermore, comprehensive assessments by public authorities such as the Danish EPA "Survey of nickel metal" (2015) and the EU Risk Assessment Report (2008) did not identify any concern that would require EU regulatory action on nickel metal under RoHS.
- In particular, the Danish EPA "Survey of nickel metal" (2015)[2] underlines that direct consumer contact with metallic nickel is *"specifically regulated under REACH, which restricts the release of nickel ions in jewellery and other objects with intended skin contact. Apart from REACH, specific provisions on nickel and nickel compounds apply in the work environment, the water environment, drinking water, air quality and waste incineration as well as content in toys and cosmetics etc."*
  The study also states that *"Nickel in stainless steel is generally not a concern, and nickel used for plating can be replaced only where there are no specific technical requirements regarding corrosion, or wear resistance. In functional plating in the car and aerospace industry no alternatives seem to be suitable from a technical perspective and replacement is only possible where less stringent requirements are specified."*

[1] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02008R1272-20191201&from=EN, see page 563
[2] https://www2.mst.dk/Udgiv/publications/2015/06/978-87-93352-36-0.pdf

- Moreover, it should be noted that exposure to nickel in the work environment is in Germany regulated by a national German OEL for nickel at 0.030 mg Ni/m^3 (respirable fraction) and 0.006 Ni/m^3 (alveolar fraction) under the German Technical Regulation for Hazardous Substances (TRGS) 900 “Occupational Exposure Limits”[3].
- At EU level, ECHA's Committee for Risk Assessment (RAC) issued an "Opinion"[4] on "Nickel and its compounds" in March 2018. RAC recommends a rounded value of 0.005 mg Ni/m^3 as an OEL for the respirable fraction of nickel metal. It can be assumed that this "Opinion" will be taken into account in the further legal procedure. Therefore, in future a harmonised OEL will be established at European level.
- In Germany, the OEL must already be complied with today. This also affects jobs related to EEE waste management operations. Consequently, no unacceptable exposure of workers involved in the waste EEE collection or treatment processes is to be assumed.

All these points listed above show that nickel is highly regulated through EU as well as national legislation. In addition, the important area of EU-wide occupational health and safety legislation - especially with regard to the establishment of an OEL for nickel - will see important developments in the future. Therefore, we consider that nickel should not be listed as priority substance.

We thank you for your kind consideration.

Düsseldorf, 30th January 2020

WSM Wirtschaftsverband Stahl- und Metallverarbeitung e.V. (German Steel and Metal Processing Industry Association)

WSM represents the economic policy interests of the steel and metal processing industry and is one of the largest business associations in Germany. The German steel and metal processing industry are approximately 5,000 mainly medium-sized industrial companies with a turnover of about 80 billion euros a year and an average number of employees of around 500,000. The companies employ on average 100 employees and are important customers of the steel producers. They process around 18 million tons of steel a year - around 40 percent of the German steel production.
The industry is characterized by high specialization and intense competition. The companies manufacture for the international markets of the automotive, electrical, construction and engineering industry and for the trade sector.
WSM is a member of the Federation of German Industries e.V. (BDI). Political advocacy in Europe takes place through ORGALIME, the European association of the mechanical, electrical, electronic and metal articles industries. WSM comprises 15 member associations. More about our member associations at http://www.wsm-net.de/ueber-uns/mitglieder/.

[3] https://www.baua.de/DE/Angebote/Rechtstexte-und-Technische-Regeln/Regelwerk/TRGS/TRGS-900.html

[4] https://echa.europa.eu/documents/10162/13641/nickel_opinion_en.pdf/9e050da5-b45c-c8e5-9e5e-a1a2ce908335