

Nickel and EU regulatory issues of potential interest to the surface treatment sector

Workplace legislation: development of EU binding OELV for Nickel compounds

Preparatory activities by the European Commission to propose EU binding Occupational Exposure Limit Values (BOELVs) for classified inorganic nickel compounds are progressing. The current outlook is that BOELVs for nickel compounds (as well as for benzene and acrylonitrile) will be proposed under the 4th upcoming revision of the EU Carcinogens and Mutagens at work Directive.

After having consulted ECHA's Risk Assessment Committee (RAC) in 2018, the Commission consulted the tripartite EU Advisory Committee on Safety and Health (ACSH), composed by representatives of social partners and governments. In June 2019, the ACSH adopted its recommendation. With regard to nickel compounds, the ACSH recommended the following values and transitional periods:

- 0,01 mg Ni/m³ (respirable fraction): OELV to apply from 17 January 2025.
- 0,05 mg Ni/m³ (inhalable fraction): OELV to apply from 17 January 2025. Until then, an OELV of 0,1 mg Ni/m³ shall apply.

The Nickel Institute (NI) welcomes the ACSH opinion as a positive step towards the establishment of scientifically sound, health protective and workable OELVs in Europe. The OELVs recommended by the ACSH are in line with the existing Derived No-Effect Levels (DNELs) derived under REACH (by NiPERA). (The NI notes that compliance with OELVs at the level recommended by the ACSH is not directly comparable to compliance with DNELs under REACH. For compliance with DNELs under REACH it is sufficient that a RCR of lower than 1 is demonstrated. Compliance rules for OELVs require that measured exposure is well below the OELVs (level depending on the number of measurements). Therefore, compliance with the ACSH values will be difficult in some sectors. Although compliance will be challenging, the NI considers the ACSH values appropriate and supports setting the OELVs at this level).

Following its consultation with the ACSH, the Commission is now completing the latest stages of its internal preparatory process. This includes finalization of an Impact Assessment Report which will accompany the EC legislative proposal, which is expected in October 2020 (tbc). Once issued, the EC proposal will be submitted in parallel to the European Parliament (EP) and the Council of EU, the two co-legislators, which will have to jointly examine and adopt the legislation. Legislative work is expected to last at least until the first half 2021. The NI will continue to follow closely the various stages of the legislative process and keep affected sectors informed.

Review of RoHS Directive list of restricted substances in electric and electronic equipment

The EU RoHS Directive restricts the use (i.e. concentration) of hazardous substances in electric and electronic equipment. The list (Annex II) of restricted substances, which is periodically updated by the Commission, currently includes some flame retardants, phthalates and some metals (lead, mercury,

cadmium, and hexavalent chromium). In 2018, the European Commission launched a new review cycle of the RoHS list (2018-20). **Nickel sulfate** and **nickel sulfamate** were in a group of seven substances assessed as possible candidates for restriction in a preparatory study conducted by the Öko-Institut (Germany) on behalf of the Commission.

In Q4 2019, the Öko-Institut published its draft report on the two nickel salts. Importantly, the recommendation is to **not** restrict nickel sulfate and nickel sulphamate, as it is acknowledged that these substances are “process” chemicals used in surface treatment and are not present in the final EEE. However, the draft report also mentioned that a future assessment of “nickel metal and nickel compounds” under RoHS would be recommended. NI submitted comments on Öko-Institut’s draft report and substance prioritisation and, in addition, met with the Commission. The publication of the Öko-Institut final report is still awaited and it is expected to be presented at a stakeholder webinar planned for 27 April. NI will continue to follow the issue closely.

OBS!
OBS!

Potential review of Ni water Environmental Quality Standard (EQS)

During the period 2014-17, the European Commission launched preparatory activities for a revision of the EQS Directive. Some Member States (Denmark and the Netherlands) called on the Commission to review the existing freshwater Nickel EQS. (i.e. an EQS of 4 µg Ni/L bioavailable). Some preliminary work was undertaken by the EC Joint Research Centre (JRC) in Oct. 2017. The process was however put on hold by the Commission due to other priorities.

At a meeting of the Chemicals WG in January 2020, the Commission indicated its intention to resume preparatory work on Priority Substances (PS) under the EQS Directive. The Nickel EQS is on a list of existing PS that could undergo a review. **NI-NiPERA’s position is that a review of the Ni EQS (i.e. 4 µg Ni/L bioavailable) should not be a priority and the focus should be on the correct implementation of the existing Ni EQS.**

Work has not resumed yet and the timeline is still unclear, but the next steps would include a technical review, consultation of an EU scientific committee (SCHEER) and drafting of an Impact Assessment. A legislative proposal by the Commission to revise the EQS Directive is not expected before end 2021 / beginning 2022 (tbc).

Revision of Drinking Water Directive

In 2018, the EU launched a revision of the EU Drinking Water Directive, which sets Drinking Water Quality (DWQ) standards for a number of chemical parameters, including nickel (i.e. 20 µg/L).

In February 2020, the European Parliament and the EU Council (Member States) reached an agreement on the revision of the Directive. Importantly, there are no changes to the Ni DWQ standard. A key aspect of the revised Directive is that the European Chemicals Agency is requested to develop by 2024 (tbc) a European positive list of substances / materials allowed in contact with drinking (including conditions for their use and migration limits). The revised Directive has not been formally adopted yet and its publication on the EU Official Journal is expected in the coming months. NI will continue to monitor the process closely and engage as needed.
