Together ahead. RUAG

Statement
REACh / Ban of lead in gunshot in wetlands

Dear recipient, Committee of Environment,

We would like to draw your attention to the following developments:

On 17th August 2018, the European Commission (EU) received the opinion of the European Chemicals Agency (ECHA) on the restriction of lead shot over wetlands.

On 2nd June 2020, the EU presented its modified proposal for the REACH Regulation.

In past meetings the EU REACH Committee have already discussed former proposals on this subject.

Member States will discuss the new EU proposal at the meeting of the EU REACH Committee on 23th June 2020.

1. General preliminary remarks

In 2017, the European Chemicals Agency (ECHA) of the European Commission submitted a dossier to restrict the introduction of lead shot projectiles into wetlands. According to the dossier, the presence of lead in such wetlands poses a serious threat to wildlife.

The ECHA has harmonised the definition of these areas with the RAMSAR Convention, which defines wetlands as habitats for waders and waterfowl of international importance. In wording: “Wetlands are areas of marsh, fen, peatland or water, whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six metres.”

However, the ECHA would also like to designate the adjoining areas of these wetlands as “no use zones” (a 400-metre buffer zone) for lead shot in the planned regulation, as there is a possibility that lead shot ammunition fired there may land in the adjoining wetlands.

REACH was adopted to improve the protection of human health and the environment from risks posed by chemicals. REACh stands for “Registration, Evaluation, Authorisation and Restriction of Chemicals”.

For some years now, lead shot ammunition has already banned from use in Germany, when hunting beside, on and in the immediate vicinity of watercourses. The use of lead shots is already been forbidden since 1996 in watercourses in Finland, too.

The planned EU regulation is seeking to extend a ban on the use of ammunition containing lead in these areas to include huntable furred game (100-meter buffer zone/refer to Point 6).

It cannot be contested that this will lead to a number of legal problems for European hunters and shooters. There are also legal problems regarding the scope of the restriction, which goes beyond the original EU request to the ECHA. Given the new points added to the EU proposal (which have not been adequately taken into account in the opinion of the European Chemicals Agency (ECHA)), we believe that the EU proposal now requires a new risk assessment and socio-economic analysis.

RUAG Ammotec expresses its serious concerns on the following topics and offers solutions, as appropriate.

We ask you to raise these concerns at the forthcoming meeting of the EU REACH Committee and to call for a new risk assessment and socio-economic analysis of the proposal.

2. Definition of a wetland area

The clear definition of a "wetland area" is a key factor for the feasibility and enforceability of the proposed restriction.
In this regulation, the EU adopts the full definition of the Ramsar Convention for wetlands, which we believe is inappropriate.

Justification:

- From a legal perspective, the Ramsar definition covers all water, including a small puddle or a ditch carrying water on the edge of a field.

- The inclusion of floodplains makes the restriction unclear and uncontrollable for hunters and shooters as well as for law enforcement officers.

- 24 out of 28 EU Member States already have national laws on the use of lead shot over wetlands, but no Member State applies the full Ramsar definition because of the problems involved.

- This extension (of areas designated according to the Ramsar definition) is to take place although there is no significant evidence of the risks associated with the uptake of lead by waterfowl that feed outside wetlands in a traditional sense.

- In this context, the ECHA's SEAC Committee itself has already pointed out that use of the Ramsar definition makes it almost impossible to enforce and comply with restrictions in certain types of wetlands (e.g. difference between floodplains, marshes, fens etc. and expanses of land with many smaller, temporary areas of water and/or more or less dry floodplains).

<u>Approach:</u>

In order to make this regulation practicable, proportionate and comprehensible to hunters and law enforcement officers, wetlands should be defined in future as wetlands with visible water.
In order to ensure legal certainty, Member States should set uniform minimum sizes of water areas that are worthy of protection.

3. The 100-metre buffer zones

The ECHA discussed buffer zones but concluded that they were not suitable for this restriction.

The ECHA's Socio-economic Analysis Committee (SEAC) did not have sufficient information to assess the socio-economic impact of these buffer zones. Therefore, the SEAC has not drawn any conclusions on the impact of the buffer zones in terms of proportionality. The main reason why a buffer zone was not included in the ECHA's opinion was the practical applicability mentioned above.

The fact is that the EU ignored the ECHA's proposal to ban the use of lead shot only in wetlands and called for the additional introduction of 100-metre buffer zones.
This proposal by the EU Commission disproportionately widens the scope of the regulation. In most cases, the shot is not fired in the direction of the wetlands within the said buffer zone, nor does it possess a range of 100 metres.
The EU Commission's proposal significantly enlarged the prohibition zone compared to the original ECHA proposal, as all discharges of lead shot (regardless of their purpose and direction) will be banned in these zones. This extension of the EU restriction will therefore require a new risk assessment by the RAC and a socio-economic analysis by the SEAC.
Buffer zones, in the sense of total prohibition zones, are used only in very few Member States where narrow bans have been introduced in well-defined wetlands with clear (mapped) boundaries.
The overwhelming majority of the current restrictions place responsibility on the shooters to ensure that the lead shot does not end up in wetlands. The formulation “shooting beside, on or in the immediate vicinity of expanses of water” therefore possesses a binding legal effect compared to a 100-metre buffer zone, which is not comprehensibly defined.

In this context, the ECHA (as submitter of the dossier) argued that, based on their expertise and local knowledge, it is the hunter/protector's responsibility to ensure that no lead shot is introduced into wetlands when firing a shotgun.

The EU proposal also does not take account of the fact that almost every shooting range in the EU, many of which are SMEs (small and medium-sized enterprises), is located within the 100-metre buffer zone. Switching to alternative shot materials in shooting ranges also requires extensive infrastructural work and higher disposal costs, which endangers the company's existence. To date, no information is available on the number of shooters and the number/locations of shooting ranges situated in the newly defined wetlands of the various Member States. Were this data to be obtained, it could possibly be used to assess the economic impact of the EU proposal.
These additional costs have not yet been assessed either by the ECHA or by the EU. This requires a new risk assessment and socio-economic analysis.

<u>Solution</u>

- Buffer zones should be deleted from the EU proposal.
- As a matter of principle, shooting ranges should not be considered in this context, as they are subject to a separate approval procedure anyway.

4. Possession / intended use of shotgun ammunition containing lead

Due to the unclear situation regarding the wetlands to be designated in the future, questions also arise regarding the handling of lead shot ammunition and its control in the areas in question.
The EU evidently does not grasp that the implementation of this demand is impractical and virtually uncontrollable. According to the SEAC, there are serious uncertainties in the interpretation of possession of lead shot ammunition in this context, which still need to be clarified with regard to its intended use.
It can be assumed that hunters will also have to cross areas that could be defined as wetlands in the future (Ramsar definition with additional 100-metre buffer zones). Under no circumstances may this regulation result in these hunters being prosecuted for possession of lead shot ammunition within the newly defined wetlands. The circumstance of being in possession of lead shot ammunition is recognised in principle by the ECHA. In the context of hunting, this new provision means that the ban on the use of lead shot is, in practice,

extended far beyond actual wetlands, without justification or proportionality being taken into account.

Approach:

- In order to find a legally binding and practical solution, a clear definition of the intended purpose (of the lead shot ammunition carried by the shooter) is required for use within the newly defined wetlands.
In practical terms, legally binding checks would only be possible at the moment of discharging the firearm (*in flagrante*).

5. System compatibility, safety factors and costs in the interaction between ammunition and firearm

System compatibility, i.e. the interaction between the ammunition and the immediately adjacent components of the firearm (barrel), must be viewed critically due to the greater hardness of all substitutes in contrast to lead. The greater hardness of the substitutes leads to an increased strain on the barrels and the locking of the firearm systems. The higher mechanical stress leads to faster material fatigue and wear on the firearm barrels.

The greater degree of hardness presented by alternative ammunition materials also poses a significantly elevated safety risk in terms of projectile trajectory and possible rebound in the meaning of a secondary threat. This could result in endangering the shooter as well as uninvolved third parties.

In this context, it should also be noted that some EU Member States, including Germany, are also members of the C.I.P. (Permanent International Commission for the Proof of Small Arms and Ammunition).

Members of the C.I.P. have committed themselves, through international treaties, to the mutual recognition of test marks and the binding observance of a common set of rules. This means that no civil firearms and ammunition, which do not comply with these regulations may be placed on the market in or from the jurisdiction of the C.I.P. countries.

The EU proposal (Point 12) states that the cost of the proposed restriction would be borne mainly by hunters and sports shooters and that the cost increase would be reasonable for them. The EU is mistaken in claiming that almost all EU Member States have an “infrastructure for testing cartridges”. This betrays a complete lack of understanding of the problem: it is the shotguns that need to be tested for use with alternative materials for ammunition, not the ammunition itself. Furthermore, the question still has to be raised: which Member States have the necessary infrastructure to test shotguns?
By using the Ramsar definition with additional 100-metre buffer zones, a much larger proportion of hunters and sports shooters are included in the scope of the restriction. The scale and impact on millions of European legal firearms owners have therefore not been adequately taken into account by the ECHA or the EU.
Does the European Commission know how many hunters and sports shooters will be affected and how many shotguns will have to be modified or replaced?
The EU even proposes that Member States with more than 20% wetlands impose a blanket ban on lead shot. However, this is not sufficiently explained and justified in terms of the impact and scope of the EU proposal.

Approach:

- Since this ban *de facto* leads to the unserviceability of millions of shotguns and thus to a quasi-expropriation, this situation requires a new risk assessment and socio-economic analysis.

6. Practical suitability for hunting / animal protection and ecosystem compatibility in comparison to alternative materials

The leaded materials for hunting ammunition, which have been tried, tested and optimised for decades, ensure a humane killing effect in hunting practice. Other metals have proven to be less effective and problematic in the interaction between firearms and ammunition.

RUAG Ammotec therefore believes that the current situation does not adequately cover the requirements of a killing effect –without suffering- in hunting practice with unleaded ammunition.

This demand for killing effect without suffering is enshrined in the law of many European countries (e.g. Germany / Basic Law ...).

The long-standing discussion about replacing lead in hunting ammunition has led to numerous technical studies.

Comparative studies by the Technical University of Munich (TUM) have shown, however, that the alternative shotgun and ball ammunition available on the market have, from the perspective of ecotoxicity, significantly more questionable effects than metallic lead, especially in wetlands. A toxicity test was carried out on the key organism for these wetlands, the large water flea (*Daphnia magna*). In these habitats, the large water flea holds an important key position in the food chain of the relevant ecosystems. The studies revealed that the zinc and copper ions released by the alternative ammunition materials have a highly toxic effect on this organism, and mortality rates of up to 100 percent were measured in comparison to the control group. In the solutions contaminated with lead shot, on the other hand, there was no mortality rate significantly different from that of the control group.

RUAG Ammotec is therefore critical of a blanket ban on hunting ammunition containing lead. Especially since current research has not yet sufficiently demonstrated the effects of alternative materials and their alloys on the environment.

Approach:

- As long as there are no at least equivalent solutions, metallic lead should continue to be used as a material for ammunition.

In addition, the consequences of a blanket ban on lead are not foreseeable and might develop into very serious challenges that jeopardise important aspects of hunting, animal welfare, species protection and environmental protection.

RUAG Ammotec, the largest European ammunition manufacturer, is therefore working on an approach that covers all aspects of hunting in bodies of water and wetlands. For instance, the use of tin-coated lead shot would be a possible variant, since metallic tin, as a surface coating, is harmless to human health and ecotoxicology – even in larger quantities – and the advantages of metallic lead in terms of killing effect, system compatibility and secondary risk could continue to be exploited without change. In terms of ecotoxicology, tin is much safer than copper, zinc or nickel- /chromium- and plastic-coated soft iron, for example.

Initiated by RUAG Ammotec the preparations for additional scientific investigations of tin-coated lead shot regarding the tolerance to water birds are made at LMU (Ludwig-

Maximilian-University Munich). The objective is to identify the non-lethal effect of tin-coated lead shot to water birds.

7. Conclusion:

It must continue to be possible to benefit from the positive properties of lead as a material for hunting ammunition. From a technical point of view, a complete ban, in the sense of the relative merits of different products, would currently not serve any purpose. This result is corroborated by various investigations and scientific studies.

In addition, there are still many unanswered questions regarding the alternatives:

1. Is the effectiveness of alternatives from the perspective of animal welfare and applicable animal protection laws also ensured within the states that are members of the C.I.P. (killing effect)?
2. Does the use of alternatives comply with applicable legal principles in all countries (e.g. C.I.P.)?
3. Is the safe use of alternative ammunition in existing firearms ensured (system compatibility)?
4. Are there concerns about increased risk potentials due to the use of alternative materials (e.g. rebounds)?
5. Is consumer protection adequately ensured for the consumption of animals shot by alternative ammunition and for the quality of game (food quality, toxicology)?
6. Which direct or indirect toxicological effects do alternatives available on the market have on the environment (animal, plant and species protection)?
7. Are there studies on the ecotoxicity of alternatives?
8. What are the criteria for assessing any alternative materials?

We strongly believe that this opinion should follow the EU principles of “better regulation” in order to ensure that it is proportionate to the level risk and comprehensible for hunters, shooters and law enforcement officers.

Quite evidently, the EU Commission has simply ignored all of the above facts up to now!

Yours sincerely
Ruag Ammotec Finland Oy
Thomas Storås
General Manager

RUAG Ammotec / LEAD Team, 8th June 2020