

UEAPME¹ Position

Commission proposal for revision of Directive 2004/37/EC on the protection of workers from the risks related to exposure to carcinogens or mutagens at work

The European Commission on 13 May 2016 published its proposal to revise the **Directive 2004/37/EC on the protection of workers from the risks related to exposure to carcinogens or mutagens at work (CMD)**.

Main messages

- UEAPME takes note of the proposal to revise the Carcinogens and Mutagens Directive which aims to update its Annex. Addressing real risks and providing a level playing field for companies and Member States through compliance benchmarks and clarity is an important matter.
- UEAPME agrees that **SMEs should respect the obligation to eliminate or reduce to a minimum the risks** caused by carcinogen and mutagen substances. This applies to all legislation on Occupational Health and Safety.
- UEAPME calls for legislation based on the ‘Think Small First’ principle, providing that the legislation avoids disproportionate burdens for SMEs making the implementation process a real challenge. Furthermore **compliance costs should be reduced to a minimum**.²
- With regard to the CMD, risk assessment and **procedures for decision making concerning the inclusion of further substances** in the Annex should be evidence-based, on a case-by-case basis, underpinned by a thorough impact assessment that takes account of sectoral differences, and an opinion of the Advisory Committee on Safety and Health.
- Contrary to the EU Commission’s statement, UEAPME points at the fact that changes to the limit values will have a **particular impact on SMEs and micro-companies**, especially with regard to increased burdens of measuring limit values, risk assessment, and replacement/reduction costs to comply with the requirements.
- In this regard, UEAPME points in several cases to the **disproportionality of measures in the EC proposal, due to too restrictive limit values** and refers to comments from the Employers Interest Group expressed in several opinions of the ACSH.

¹ UEAPME subscribes to the EC’s Register of Interest Representatives and to the related code of conduct as requested by the European Transparency Initiative. Our ID number is 55820581197-35

² See further: [UEAPME position on an EU Strategic Framework on Health and Safety at Work 2014-2020 \(2014\)](#)

- Moreover, **UEAPME argues that a number of the limit values cause heavy additional (financial) burdens for SMEs and should therefore be less restrictive.** Too restrictive limit values will lead to strong and excessive investment requirements which have a higher negative impact on SMEs and micro-enterprises than on large businesses. Such extreme measures might result in a real potential risk of non-compliance, without improving the protection of workers.
- **UEAPME disagrees with the EU Commission's assessment that the cost of investments would be minimal compared to potential long-term costs of non-compliance.**
- Investments concern substitution and/or adjustment of (new) machines and tools, tools to assist in reducing exposure to substances, and other burdens related to increased measuring and compliance requirements.

This applies in particular to the following four substances:

Hardwood dusts – 3 mg/m³

An Occupational Exposure Limit (OEL) of 3 mg/m³ requires **heavy investments for many SMEs and micro-enterprises throughout Europe**, in particular in the construction and woodwork sectors but not limited to those. UEAPME disagrees with the Commission assessment that these costs would be minimal compared to potential long-term costs of non-compliance.

It should be taken into account that in the majority of EU Member States, hardwood dust limits are higher than the EU Commission's proposal. Therefore, **the strictness of the proposed limit value is disproportionate with the objective of providing a level playing field.**

UEAPME requests less strict limit values on Hardwood Dusts. The treatment of fresh wood requires a general exemption as it emits less dust.

Respirable Crystalline Silica (RCS) – 0,1 mg/m³

The proposed binding OEL of 0,1 mg/m³ is in many cases a strong reduction of existing national limit values. As a natural raw material, essential for numerous products and production processes, such a strict limit value will require **heavy investments for SMEs and micro-enterprises in many industries.**

A clear distinction is needed between sectors working solely with RCS (e.g. mining) and others (e.g. construction) working only partly with RCS but where lowered limit values have a major impact on often very basic activities involving e.g. sand. **Risk assessment procedures should take these sectoral differences into account.**

Secondly, **UEAPME challenges the need to classify RCS as 'Carcinogenic' and its inclusion in the Annex.**

Scientific consensus on the question whether RCS is a direct carcinogen or only acts in a secondary stage on pre-existing silicosis lesions is lacking. Also, EC presumptions on the number of deaths to be avoided by such limit value are wrongly based on figures from years before further and far-going measures for protection of workers were implemented in the past decades. Many techniques applied and implemented since then have significantly reduced the risks.

Furthermore, there are **no clear guidelines for measurement, for concentrations, or for replacement of RCS**. This increases compliance problems for SMEs and micro-companies. Investments and other compliance measures are mainly related to the replacement and reduction costs, and concern workers (who will need to wear protective equipment), employers (investment in adjustment of machinery, suction, materials, tools, frequency of measuring as well as substitution of machinery and tools) and implementing authorities (additional costs of controls). Especially for SMEs and micro-enterprises, such investments will have a detrimental impact.

UEAPME requests that RCS be removed from the proposal. A more acceptable and pragmatic solution would be to address RCS in the Chemical Agents Directive (CAD), to be set up so that this essential material for many products can be maintained.

Chromium (VI) compounds – 0,025 mg/m³

In several Member States, lighter regimes exist at the moment for certain processes concerning e.g. manual welding of electric arcs, or solvable Cr (VI) compounds. Especially in the latter case, the impact of a limit value of 0,025 mg/m³ will have a massive impact on companies.

UEAPME asks that a subdivision in limit values be established in the proposal, allowing for lighter regimes for certain production processes.

1,3 - Butadiene – 2,2 mg/m³

In several Member States, current limit values are much higher than the proposed values. Lowering towards 2.2 mg/m³ represents a massive impact on many enterprises (in particular on loading and sampling).

UEAPME requests less strict limit values on 1,3-Butadiene.

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