



2017/0004(COD)

8.11.2017

*****I**

DRAFT REPORT

on the proposal for a directive of the European Parliament and of the Council amending Directive 2004/37/EC on the protection of workers from the risks related to exposure to carcinogens or mutagens at work (COM(2017)0011 – C8-0010/2017 – 2017/0004(COD))

Committee on Employment and Social Affairs

Rapporteur: Claude Rolin

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a directive of the European Parliament and of the Council amending Directive 2004/37/EC on the protection of workers from the risks related to exposure to carcinogens or mutagens at work (COM(2017)0011 – C8-0010/2017 – 2017/0004(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2017)0011),
 - having regard to Article 294(2) and Article 153 (2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0010/2017),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 31 May 2017¹,
 - after consulting the Committee of the Regions,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Employment and Social Affairs (A8-0000/2017),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a directive

Recital 1

Text proposed by the Commission

Amendment

(1) Directive 2004/37/EC aims to protect workers against risks to their health

(1) Directive 2004/37/EC aims to protect workers against risks to their health

¹ OJ C 288, 31.8.2017, p. 56.

and safety from exposure to carcinogens or mutagens at the workplace and lays down minimum requirements to that effect including limit values, on the basis of the available scientific and technical data.

and safety from exposure to carcinogens or mutagens at the workplace and lays down minimum requirements to that effect including ***binding occupational exposure*** limit values ***which must not be exceeded***, on the basis of the available scientific and technical data.

Or. en

Amendment 2

Proposal for a directive Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) Compliance with the limit values is without prejudice to other obligations on employers pursuant to that Directive, in particular the reduction of use of carcinogens and mutagens at the workplace, the prevention or reduction of workers' exposure to carcinogens or mutagens, and the measures which are to be implemented to that effect. Those measures should include, in so far as technically possible, the replacement of the carcinogen or mutagen by a substance, mixture or process which is not dangerous, or which is less dangerous, to workers' health, the use of a closed system or other measures aiming to reduce the level of workers' exposure.

Or. en

Amendment 3

Proposal for a directive Recital 1 b (new)

Text proposed by the Commission

Amendment

(1b) The requirements laid down in

Directive 2004/37/EC aim to protect workers from carcinogens and mutagens at Union level and have to be considered as minimum requirements. More stringent limit values and protective measures can be set by Member States.

Or. en

Amendment 4

Proposal for a directive

Recital 3

Text proposed by the Commission

(3) The Scientific Committee on Occupational Exposure Limits (***‘the Committee’***)⁵⁵ ***assists*** the Commission, in particular, in evaluating the latest available scientific data and in proposing occupational exposure limit values for the protection of workers from chemical risks, to be set at Union level pursuant to Council Directive 98/24/EC⁵⁶ and Directive 2004/37/EC. Other sources of scientific information, adequately robust and in the public domain were also considered.

⁵⁵ Commission Decision 2014/113/EU of 3 March 2014 on setting up a Scientific Committee on Occupational Exposure Limits for Chemical Agents and repealing Decision 95/320/EC (OJ L 62, 4.3.2014, p. 18).

⁵⁶ Council Directive 98/24/EC of 7 April 1998 on the protection of the health and safety of workers from the risks related to chemical agents at work (fourteenth

Amendment

(3) The Scientific Committee on Occupational Exposure Limits (***SCOEL***)⁵⁵ ***and the Advisory Committee on Safety and Health at Work (ACSH)***^{55a} ***assist*** the Commission, in particular, in evaluating the latest available scientific ***and technical*** data and in proposing occupational exposure limit values for the protection of workers from chemical risks, to be set at Union level pursuant to Council Directive 98/24/EC⁵⁶ and Directive 2004/37/EC. Other sources of scientific information, adequately robust and in the public domain were also considered.

⁵⁵ Commission Decision 2014/113/EU of 3 March 2014 on setting up a Scientific Committee on Occupational Exposure Limits for Chemical Agents and repealing Decision 95/320/EC (OJ L 62, 4.3.2014, p. 18).

^{55a} ***Council Decision of 22 July 2003 on setting up an Advisory Committee on Safety and Health at Work (2003/C 218/01) (OJ L 218, 13.9.2003, p. 1).***

⁵⁶ Council Directive 98/24/EC of 7 April 1998 on the protection of the health and safety of workers from the risks related to chemical agents at work (fourteenth

individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) (OJ L 131, 05.05.1998, p. 11).

individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) (OJ L 131, 05.05.1998, p. 11).

Or. en

Amendment 5

Proposal for a directive Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) Directive 2004/37/EC should be reviewed on an ongoing basis and revised when necessary in the light of scientific and technical data, including residual risk data, after consulting the SCOEL and the ACSH for the purpose of keeping better protecting workers. Limit values should be established for all carcinogens and mutagens for which the available information makes this possible.

Or. en

Amendment 6

Proposal for a directive Recital 4

Text proposed by the Commission

Amendment

(4) In accordance with the recommendations of the ***Committee***, where available, skin notations and/or limit values for the inhalation route of exposure are established in relation to a reference period of eight-hours time-weighted average (long-term exposure limit values) and, for certain carcinogens or mutagens, to shorter reference periods, in general fifteen minutes time-weighted average (short-term exposure limit values), to take account of the effects arising from short-term

(4) In accordance with the recommendations of the ***SCOEL and the ACSH***, where available, skin notations and/or limit values for the inhalation route of exposure are established in relation to a reference period of eight-hours time-weighted average (long-term exposure limit values) and, for certain carcinogens or mutagens, to shorter reference periods, in general fifteen minutes time-weighted average (short-term exposure limit values), to take account of the effects arising from

exposure.

short-term exposure.

Or. en

Amendment 7

Proposal for a directive Recital 5

Text proposed by the Commission

(5) There is sufficient evidence of the carcinogenicity of oils that have been used before in internal combustion engines to lubricate and cool the moving parts within the engine. These used engine oils are process-generated and therefore they are not subject to classification in accordance with Regulation (EC) No 1272/2008 of the European Parliament and of the Council⁵⁷. **The Committee** identified the possibility of significant uptake through the skin for these oils, assessed that occupational exposure occurs through the dermal route and strongly recommended the establishment of a skin notation. It is therefore appropriate to include work involving exposure to oils that have been used before in internal combustion engines to lubricate and cool the moving parts within the engine in Annex I to Directive 2004/37/EC and to set out a skin notation in Part B of Annex III to Directive 2004/37/EC indicating the possibility of significant dermal uptake.

⁵⁷ Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures (OJ L 353, 31.12.2008, p. 1).

Amendment

(5) There is sufficient evidence of the carcinogenicity of oils that have been used before in internal combustion engines to lubricate and cool the moving parts within the engine. These used engine oils are process-generated and therefore they are not subject to classification in accordance with Regulation (EC) No 1272/2008 of the European Parliament and of the Council⁵⁷. **The SCOEL** identified the possibility of significant uptake through the skin for these oils, assessed that occupational exposure occurs through the dermal route and strongly recommended the establishment of a skin notation. **The ACSH has agreed on an entry of used engine oils in Annex I to Directive 2004/37/EC while agreeing that the route of exposure of concern is the skin.** It is therefore appropriate to include work involving exposure to oils that have been used before in internal combustion engines to lubricate and cool the moving parts within the engine in Annex I to Directive 2004/37/EC and to set out a skin notation in Part B of Annex III to Directive 2004/37/EC indicating the possibility of significant dermal uptake.

⁵⁷ Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures (OJ L 353, 31.12.2008, p. 1).

Amendment 8**Proposal for a directive****Recital 5 a (new)***Text proposed by the Commission**Amendment*

(5a) There is sufficient evidence of the carcinogenicity of diesel engine exhaust emissions arising from the combustion of diesel fuel in compression ignition engines. Diesel engine exhaust emissions are process-generated and therefore not subject to classification in accordance with Regulation (EC) No 1272/2008 of the European Parliament and of the Council^{1a}. The ACSH has agreed on an entry of exposure to traditional diesel engine exhaust emissions in Annex I to Directive 2004/37/EC and has requested further investigations on the scientific and technical aspects for newer types of engines. Diesel engine exhaust has been classified by the International Agency for Research on Cancer (IARC) as carcinogenic to humans (IARC category 1) and IARC specifies that while the amount of particulates and chemicals are reduced with newer types of diesel engines, it is not yet clear how the quantitative and qualitative changes may translate into altered health effect. IARC also specifies that it is common to use elemental carbon, which makes up significant fraction of these emissions, as a marker of exposure. It is therefore appropriate to include work involving exposure to diesel engine exhaust emissions in Annex I to Directive 2004/37/EC and to establish a limit value in Part A of Annex III for diesel engine exhaust emissions calculated on elemental carbon.

^{1a} Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ L 353, 31.12.2008, p. 1).

Or. en

Amendment 9

Proposal for a directive Recital 6

Text proposed by the Commission

(6) Certain polycyclic aromatic hydrocarbons (PAHs) mixtures containing benzo[a]pyrene meet the criteria for classification as carcinogenic (category 1A or 1B) in accordance with Regulation (EC) No 1272/2008 and therefore are carcinogens as defined in Directive 2004/37/EC. The **Committee** identified the possibility of significant uptake through the skin for these mixtures. It is therefore appropriate to set out a skin notation in Part B of Annex III to Directive 2004/37/EC indicating the possibility of significant dermal uptake.

Amendment

(6) Certain polycyclic aromatic hydrocarbons (PAHs) mixtures, ***including those*** containing benzo[a]pyrene, meet the criteria for classification as carcinogenic (category 1A or 1B) in accordance with Regulation (EC) No 1272/2008 and therefore are carcinogens as defined in Directive 2004/37/EC. The ***SCOEL*** identified the possibility of significant uptake through the skin for these mixtures. ***The ACSH has agreed on the importance of introducing an occupational exposure limit value for PAHs and has recommended to carry out the work to evaluate the scientific aspects with the view to proposing an occupational exposure limit value at some time in the future.*** It is therefore appropriate to set out a skin notation in Part B of Annex III to Directive 2004/37/EC indicating the possibility of significant dermal uptake ***and to carry out further investigations to set a limit value for benzo[a]pyrene in order better to protect workers from polycyclic aromatic hydrocarbons mixtures.***

Or. en

Amendment 10

Proposal for a directive Recital 7

Text proposed by the Commission

(7) Trichloroethylene meets the criteria for classification as carcinogenic (category 1B) in accordance with Regulation (EC) No 1272/2008 and therefore is a carcinogen as defined in Directive 2004/37/EC. It is possible, on the basis of available information, including scientific and technical data, to set limit values for trichloroethylene in relation to a reference period of eight hours (long-term limit value) and to a shorter reference period (15 minutes). The **Committee** identified for this carcinogen the possibility of significant uptake through the skin. It is therefore appropriate to establish long- and short-term exposure limit values for trichloroethylene in Part A of Annex III and to set out a skin notation in Part B of Annex III to Directive 2004/37/EC indicating the possibility of significant dermal uptake. In light of evolving scientific evidence, the limit values for this substance will be kept under particularly close review.

Amendment

(7) Trichloroethylene meets the criteria for classification as carcinogenic (category 1B) in accordance with Regulation (EC) No 1272/2008 and therefore is a carcinogen as defined in Directive 2004/37/EC. It is possible, on the basis of available information, including scientific and technical data, to set limit values for trichloroethylene in relation to a reference period of eight hours (long-term limit value) and to a shorter reference period (15 minutes). The **SCOEL** identified for this carcinogen the possibility of significant uptake through the skin. **The ACSH has agreed on a practical limit value on the basis of the available information, including scientific and technical data.** It is therefore appropriate to establish long- and short-term exposure limit values for trichloroethylene in Part A of Annex III and to set out a skin notation in Part B of Annex III to Directive 2004/37/EC indicating the possibility of significant dermal uptake. In light of evolving scientific evidence **and technical evolution**, the limit values for this substance will be kept under particularly close review.

Or. en

Amendment 11

Proposal for a directive Recital 8

Text proposed by the Commission

(8) 4,4'-Methylenedianiline (MDA) meets the criteria for classification as

Amendment

(8) 4,4'-Methylenedianiline (MDA) meets the criteria for classification as

carcinogenic (category 1B) in accordance with Regulation (EC) No 1272/2008 and therefore is a carcinogen as defined in Directive 2004/37/EC. It is possible, on the basis of available information, including scientific and technical data, to set a limit value for 4,4'-Methylenedianiline. The *Committee* identified for this carcinogen the possibility of significant uptake through the skin. It is therefore appropriate to establish a limit value in Part A of Annex III for 4,4'-Methylenedianiline and to set out a skin notation in Part B of Annex III to Directive 2004/37/EC indicating the possibility of significant dermal uptake.

carcinogenic (category 1B) in accordance with Regulation (EC) No 1272/2008 and therefore is a carcinogen as defined in Directive 2004/37/EC. It is possible, on the basis of available information, including scientific and technical data, to set a limit value for 4,4'-Methylenedianiline. The *Scientific Committee* identified for this carcinogen the possibility of significant uptake through the skin. ***The SCOEL has agreed on a practical limit value, on the basis of the available information, including scientific and technical data.*** It is therefore appropriate to establish a limit value in Part A of Annex III for 4,4'-Methylenedianiline and to set out a skin notation in Part B of Annex III to Directive 2004/37/EC indicating the possibility of significant dermal uptake.

Or. en

Amendment 12

Proposal for a directive Recital 9

Text proposed by the Commission

(9) Epichlorohydrine (1-chloro-2,3-epoxypropane) meets the criteria for classification as carcinogenic (category 1B) in accordance with Regulation (EC) No 1272/2008 and therefore is a carcinogen as defined in Directive 2004/37/EC. The Committee concluded that that is not possible to derive a health-based exposure limit value for this non-threshold carcinogen and has recommended avoiding occupational exposure. The *Committee* identified for epichlorohydrine the possibility of significant uptake through the skin. The ***Advisory Committee on Safety and Health at Work ('ACSH')*** has agreed on a practical limit value, on the basis of the available information, including scientific

Amendment

(9) Epichlorohydrine (1-chloro-2,3-epoxypropane) meets the criteria for classification as carcinogenic (category 1B) in accordance with Regulation (EC) No 1272/2008 and therefore is a carcinogen as defined in Directive 2004/37/EC. The ***Scientific Committee*** concluded that that is not possible to derive a health-based exposure limit value for this non-threshold carcinogen and has recommended avoiding occupational exposure. The ***Scientific Committee*** identified for epichlorohydrine the possibility of significant uptake through the skin. The ACSH has agreed on a practical limit value, on the basis of the available information, including scientific and technical data. It is therefore appropriate to

and technical data. It is therefore appropriate to establish a limit value for epichlorohydrine in Part A of Annex III and to set out a skin notation in Part B of Annex III to Directive 2004/37/EC indicating the possibility of significant dermal uptake.

establish a limit value for epichlorohydrine in Part A of Annex III and to set out a skin notation in Part B of Annex III to Directive 2004/37/EC indicating the possibility of significant dermal uptake.

Or. en

Amendment 13

Proposal for a directive Recital 10

Text proposed by the Commission

(10) Ethylene dibromide (1,2-dibromoethane, EDB) meets the criteria for classification as carcinogenic (category 1B) in accordance with Regulation (EC) No 1272/2008 and therefore is a carcinogen as defined in Directive 2004/37/EC. The Committee concluded that that is not possible to derive a health-based exposure limit value for this non-threshold carcinogen and has recommended avoiding occupational exposure. The *Committee* identified for ethylene dibromide the possibility of significant uptake through the skin. The *Advisory Committee on Safety and Health at Work* ('ACSH') has agreed on a practical limit value, on the basis of the available information, including scientific and technical data. It is therefore appropriate to establish a limit value for ethylene dibromide in Part A of Annex III and to set out a skin notation in Part B of Annex III to Directive 2004/37/EC indicating the possibility of significant dermal uptake.

Amendment

(10) Ethylene dibromide (1,2-dibromoethane, EDB) meets the criteria for classification as carcinogenic (category 1B) in accordance with Regulation (EC) No 1272/2008 and therefore is a carcinogen as defined in Directive 2004/37/EC. The *Scientific* Committee concluded that that is not possible to derive a health-based exposure limit value for this non-threshold carcinogen and has recommended avoiding occupational exposure. The *SCOEL* identified for ethylene dibromide the possibility of significant uptake through the skin. The *ACSH* has agreed on a practical limit value, on the basis of the available information, including scientific and technical data. It is therefore appropriate to establish a limit value for ethylene dibromide in Part A of Annex III and to set out a skin notation in Part B of Annex III to Directive 2004/37/EC indicating the possibility of significant dermal uptake.

Or. en

Amendment 14

Proposal for a directive Recital 11

Text proposed by the Commission

(11) Ethylene dichloride (1,2-dichloroethane, EDC) meets the criteria for classification as carcinogenic (category 1B) in accordance with Regulation (EC) No 1272/2008 and therefore is a carcinogen as defined in Directive 2004/37/EC. It is possible, on the basis of the available information, including scientific and technical data, to set a limit value for ethylene dichloride. The **Committee** identified for ethylene dichloride the possibility of significant uptake through the skin. It is therefore appropriate to establish a limit value for ethylene dichloride in Part A of Annex III and to set out a skin notation in Part B of Annex III to Directive 2004/37/EC indicating the possibility of significant dermal uptake.

Amendment

(11) Ethylene dichloride (1,2-dichloroethane, EDC) meets the criteria for classification as carcinogenic (category 1B) in accordance with Regulation (EC) No 1272/2008 and therefore is a carcinogen as defined in Directive 2004/37/EC. It is possible, on the basis of the available information, including scientific and technical data, to set a limit value for ethylene dichloride. The **SCOEL** identified for ethylene dichloride the possibility of significant uptake through the skin. **The ACSH has agreed on a practical limit value, on the basis of the available information, including scientific and technical data, while stressing the lack of robust and up-to-date scientific data, especially concerning the mode of action.** It is therefore appropriate to establish a limit value for ethylene dichloride in Part A of Annex III and to set out a skin notation in Part B of Annex III to Directive 2004/37/EC indicating the possibility of significant dermal uptake.

Or. en

Amendment 15

Proposal for a directive Recital 13

Text proposed by the Commission

(13) The Commission consulted the **Advisory Committee on Safety and Health at Work, set up by Council Decision of 22 July 2003. It also** carried out a two-stage consultation of the European social partners in accordance with Article 154 of

Amendment

(13) The Commission consulted the **ACSH and** carried out a two-stage consultation of the European social partners in accordance with Article 154 of the TFEU.

Amendment 16

Proposal for a directive Recital 15

Text proposed by the Commission

(15) The limit values established in this Directive will be kept under review in the light of the implementation of Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC⁵⁸ and of the opinions of the ECHA Risk Assessment Committee (RAC) and Socio-economic Analysis Committee (SEAC), in particular to take account of the interaction between limit values established in Directive 2004/37/EC and dose-response relations, actual exposure information, and, where available, DNELs (Derived No Effect Levels) derived for hazardous chemicals in accordance with that Regulation.

⁵⁸ OJ L 396, 30.12.2006, p. 1.

Amendment

(15) The limit values established in this Directive will be kept under review in the light of the implementation of Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC⁵⁸ and of the opinions of the ECHA Risk Assessment Committee (RAC) and Socio-economic Analysis Committee (SEAC), in particular to take account of the interaction between limit values established in Directive 2004/37/EC and dose-response relations, actual exposure information, and, where available, DNELs (Derived No Effect Levels) derived for hazardous chemicals in accordance with that Regulation ***in order to protect workers effectively.***

⁵⁸ OJ L 396, 30.12.2006, p. 1.

Amendment 17

Proposal for a directive Recital 16

Text proposed by the Commission

(16) Since the objectives of this Directive, which are to improve living and working conditions and to protect the health of workers from the specific risks arising from exposure to carcinogens, cannot be sufficiently achieved by the Member States, but can be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5(3) of the Treaty on European Union. In accordance with the principle of proportionality, as set out in Article 5(4) of the TEU, this Directive does not go beyond what is necessary in order to achieve those objectives.

Amendment

(16) Since the objectives of this Directive, which are to improve living and working conditions and to protect the health of workers from the specific risks arising from exposure to carcinogens **and mutagens**, cannot be sufficiently achieved by the Member States, but can be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5(3) of the Treaty on European Union. In accordance with the principle of proportionality, as set out in Article 5(4) of the TEU, this Directive does not go beyond what is necessary in order to achieve those objectives.

Or. en

Amendment 18

Proposal for a directive Recital 16 a (new)

Text proposed by the Commission

Amendment

(16a) The precautionary principle should be applied in the protection of workers' health.

Or. en

Amendment 19

Proposal for a directive Article 1 – paragraph 1 – point -1 (new) Directive 2004/37/EC Article 18a – paragraph 2 a (new)

Text proposed by the Commission

Amendment

(-1) In Article 18a, the following paragraph is added:

“The Commission shall, as part of the next evaluation of the implementation of this Directive in the context of the evaluation referred to in Article 17a of Directive 89/391/EEC, also assess the possibility to set a limit value for benzo[a]pyrene in order to better protect workers from polycyclic aromatic hydrocarbons mixtures. The Commission shall propose, where appropriate, necessary amendments and modifications related to that substance.

Or. en

Amendment 20

Proposal for a directive

Article 1 – paragraph 1 – point 1

Directive 2004/37/EC

Annex I – point 6 a (new)

Text proposed by the Commission

Amendment

6a. Work involving exposure to diesel engine exhaust emissions

Or. en

Amendment 21

Proposal for a directive

Annex – table 1

Directive 2004/37/EC

Annex III – Part A – row 5 a (new)

Text proposed by the Commission

Amendment

<i>Diesel engine exhaust emissions</i>	<i>0,05^{7a}</i>	–	–	–	–	–
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^{7a}*measured as elemental carbon*

Or. en

Amendment 22

Proposal for a directive

Annex – table 2

Directive 2004/37/EC

Annex III – Part B – column 3 – row 1

Text proposed by the Commission

–	–	Polycyclic aromatic hydrocarbons mixtures containing benzo[a]pyrene, which are carcinogens within the meaning of the Directive	skin
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Amendment

–	–	Polycyclic aromatic hydrocarbons mixtures, <i>including those</i> containing benzo[a]pyrene, which are carcinogens within the meaning of the Directive	skin
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Or. en

EXPLANATORY STATEMENT

Preamble

On 10 January 2017, the Commission published its proposal for a directive amending Directive 2004/37/EC on the protection of workers from the risks related to exposure to carcinogens or mutagens at work. Its aim is to improve and clarify the current legal environment in order to enhance the protection of workers' health by reducing occupational exposure to chemical carcinogens or mutagens in the workplace, while promoting a more level playing field for economic operators.

The rapporteur would recall that cancer is the number one cause of work-related deaths in the EU. According to a report by the Netherlands National Institute for Public Health and the Environment (RIVM)¹, between 91 500 and 150 500 new cases of cancer due to exposure to harmful substances at work were diagnosed in Europe in 2012. According to the Commission's figures², seven to twelve people die of work-related cancer every hour in the European Union.

This second proposal for revision could make it possible to improve protection for at least 4 million workers and improve clarity for employers and enforcers. Overall, the first two proposals³ for revising Directive 2004/37/EC should make it possible to prevent more than 100 000 deaths caused by occupational cancer.

Regular and continuous process of revision

While the rapporteur welcomes this proposal for revision of Directive 2004/37/EC and welcomes the decision of the European Commission to propose a third revision of that Directive, he also encourages it to continue in this direction by introducing regular and continuous reviews, in close cooperation with the Scientific Committee on Occupational Exposure Limits for Chemical Agents⁴ ('the Scientific Committee') and the Advisory Committee on Safety and Health at Work⁵ ('the Advisory Committee'). Future revisions must, in particular, make it possible to review the existing limit values, if necessary, set limit values for new substances, and extend the scope of Directive 2004/37/EC to reprotoxic agents, as supported by the European Parliament.

Scientific and Advisory Committees' recommendations

The rapporteur welcomes the consultation process conducted by the Commission in advance of each proposal for revision of Directive 2004/37/EC, as set out in its impact assessment⁶.

¹ 'Work-related cancer in the European Union: Size, impact and options for further prevention', publication on the RIVM's website, p.11

² COM(2017) 11 final

³ First proposal for revision: COM(2016) 248 final

⁴ Commission Decision 2014/113/EU of 3 March 2014 on setting up a Scientific Committee on Occupational Exposure Limits for Chemical Agents and repealing Decision 95/320/EC (OJ L 62, 4.3.2014, p. 18).

⁵ Council Decision 2003/C 218/01 setting up an Advisory Committee on Safety and Health at Work (OJ C 2018, 13.9.2003, p. 1-4).

⁶ SWD(2017) 7 final

The recommendations made by the Scientific and Advisory Committees provide the Commission with scientific and technical data as a basis for proposing or revising occupational exposure limit values.

These recommendations, as well as other scientific information from reliable sources in the public domain, also help the European Parliament and the Council to assess the proposals put forward by the Commission and to make amendments where appropriate. It is on this basis that the rapporteur is submitting this draft report, which combines protection for workers and technical feasibility for businesses.

Diesel engine exhaust fumes

The rapporteur takes note of the reasons given by the Commission in its Impact Assessment for choosing not to include exhaust gases from diesel engines in Annex I to Directive 2004/37/EC and not to impose any corresponding exposure limit value in Annex III.

However, it is necessary to recall that, according to the Institute of Occupational Medicine¹, 3.6 million workers in the EU are potentially exposed to diesel engine exhaust above background levels and that the geometric average of the estimated exposure is 13µg/m³ (or 0.013 mg/m³). Likewise according to the Institute, 4 556 people died from cancer related to occupational exposure to diesel engine exhaust in 2010.

Therefore the rapporteur considers it necessary and urgent to act at European level in order to reduce workers' exposure to diesel engine exhaust by including in Annex I work involving exposure to such exhaust gases and setting an occupational exposure limit value in Annex III of 50µg/m³ (0.05 mg/m³) calculated on the basis of elemental carbon². This marker, which is widely endorsed by the scientific community, is in particular used by Austria and could be used by other Member States, such as Germany and the Netherlands, to determine their limit values for emissions of diesel engine exhaust.

While the Advisory Committee recommends distinguishing between old and new diesel engines, in 2012 the International Agency for Research on Cancer, which is part of the World Health Organisation, classified diesel engine exhaust as carcinogenic to humans. According to the International Agency, changes were required in fuel

‘such as marked decreases in sulphur content, changes in engine design to burn diesel fuel more efficiently and reductions in emissions through exhaust control technology’. The Agency added that ‘while the amount[s] of particulates and chemicals are reduced with these changes, it is not yet clear how the quantitative and qualitative changes may translate into altered health effects’³.

Therefore, and on the basis of Recital 14 of Directive 2004/37/EC stating that the precautionary principle should be applied to the protection of workers' health, the rapporteur

¹ IOM Research Project P937/13, May 2011 – Health, socio-economic and environmental aspects of possible amendments to the EU Directive on the protection of workers from the risks related to exposure to carcinogens and mutagens at work – Diesel engine exhaust emissions.

² Exhaust from diesel engines, produced by combustion of diesel fuel, is a complex mixture of harmful substances, including elemental carbon. Elemental carbon, which constitutes a significant part of diesel engine exhaust gases, is frequently used as a marker of exposures.

³ IARC press release, 12 June 2012 - IARC: Diesel engine exhaust carcinogenic

recommends considering emissions from all diesel engines, without distinguishing between them.

Polycyclic aromatic hydrocarbons

The rapporteur takes note of the opinion of the Advisory Committee¹ on benzo[a]pyrene, as an occupational exposure limit value for polycyclic aromatic hydrocarbons (PAHs) is important. Therefore the rapporteur proposes to table an amendment calling on the Commission to continue its work in order to propose an exposure limit value for PAHs calculated on the basis of benzo[a]pyrene.

While the establishment of a skin notation in Annex III, part B, for mixtures of PAHs containing benzo[a]pyrene represents an important step forward in the protection of workers, the rapporteur wishes to point out that other mixtures of PAHs that do not contain benzo[a]pyrene also meet the criteria for classification as carcinogenic category 1A or 1B in accordance with Regulation (EC) No 1272/2008 and can be absorbed through the skin. The rapporteur therefore proposes to extend the ‘skin notation’ to all mixtures of PAHs, as advocated in the Council’s general approach.

Prevention and inspections

Directive 2004/37/EC permits better protection of workers against carcinogens and mutagens in the workplace. The rapporteur would also like to highlight the importance of sectoral or multisectoral agreements negotiated by the social partners. These agreements supplement the provisions of the Directive by listing best practices, enabling business to take precautions to reduce workers’ exposure to one or more carcinogens or mutagens. For that reason, the rapporteur welcomes the NEPSI² agreement on ‘workers’ health protection through the good handling of crystalline silica and products containing it’, which, complementing Directive 2004/37/EC, seeks to provide greater protection to workers in the workplace.

The rapporteur also wishes to stress the importance of inspections carried out at the workplace in order to verify that the provisions of Directive 2004/37/EC are correctly applied within companies. The rapporteur encourages the Member States to ensure that the actions of national inspection bodies are not limited to imposing penalties on companies that fail to comply with the aforementioned Directive. Identifying the causes and presenting possible solutions to the undertakings concerned would make it possible to increase the effectiveness of this Directive, in particular in small and medium-sized enterprises.

¹ CCSS, Doc. 727/13

² NEPSI is the acronym for the *European Network for Silica* formed by the Employee and Employer European sectoral associations having signed the Social Dialogue ‘Agreement on Workers’ Health Protection Through the Good Handling and Use of Crystalline Silica and Products Containing it’ on 25 April 2006.