



**Mr. Stefan OLSSON**  
Director, DG EMPL

CC.

Ms. Charlotte GREVFORS ERNOULT  
Head of Unit Health and Safety, DG EMPL

Mr. Peter HANDLEY  
Head of Unit Raw Materials, DG GROW

Brussels, 9 April 2021

Dear Mr. Olsson,

**Subject: 4<sup>th</sup> Revision of Carcinogens and Mutagens Directive and Occupational Exposure Limits for Nickel Compounds – EP EMPL Committee Report – Future Interinstitutional Negotiations**

We are writing to you on behalf of the Nickel Institute<sup>1</sup> and the above-mentioned associations concerning the ongoing legislative work to update the Carcinogens and Mutagens Directive (CMD4) and set EU binding Occupational Limit Values (BOELVs) for nickel compounds. Occupational health and safety are a top priority for our sectors, and we welcomed the Commission's proposal. We have been following the legislative process and we would like to share our perspective with you, in view of the upcoming interinstitutional negotiations.

We are concerned with compromise amendment N°7 adopted by the EP Employment (EMPL) Committee on 25 March. The third part of this amendment suggests adding a review clause (to Art. 1) indicating that, by January 2028, the Commission shall evaluate the feasibility of a further reduction of the BOELVs for nickel compounds and, where appropriate, present the necessary amendments by 2030. We do not agree with this approach for the following reasons:

**Consistency with the ACSH consensual Opinion on nickel compounds:**

The Commission's proposal is based on the consensual agreement reached by governments and social partners in the tripartite Advisory Committee on Safety and Health (ACSH). The outcome of this thorough process, which took into account science, technical feasibility and socio-economic aspects, should be respected. Importantly, a review of the OELVs for nickel compounds was not recommended by the ACSH. On this point, the situation of benzene and nickel compounds differs.

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<sup>1</sup> Nickel Institute represents primary nickel producers at European and international level. Through our science division, NiPERA, we also undertake leading edge scientific research relevant to human health and the environment. Nickel Institute is the centre of excellence for information on nickel and nickel-containing materials. Nickel Institute's identification number in the EU Transparency Register is 77947983421-21.

**Regulatory uncertainty for businesses:**

Adding a review clause for a possible revision / reduction of the BOEL values will create regulatory uncertainty and concerns in different European value chains and industries that rely on nickel compounds (e.g. metals, batteries, catalysts, pigments and frits, surface treatment). Furthermore, it would create regulatory uncertainty at a time when the EU and Member States want to encourage and promote investments in strategic “green technologies” in Europe (such as batteries production), for which the use of nickel compounds is essential.

**Regulatory efficiency:**

Adding a review clause is not necessary because amendment 10 already requires that all the OELVs set under the CMD4 shall be kept under permanent scrutiny and revised, if necessary. Furthermore, a future reassessment would require additional time and resources by the Commission, diverting them from the objective, proposed by other EP amendments, of setting OELVs for additional carcinogenic substances for which there can be greater health benefits and a more urgent need.

**The proposed limit values are robust:**

The proposed EU BOELVs are stringent and compliance will be challenging, particularly for some sectors and SMEs, as noted in the Impact Assessment Report and acknowledged by the ACSH. The proposed limits are a significant tightening compared to the OELVs currently in place in most countries in Europe. They are also significantly more stringent than existing legally binding limits in non-EU countries (e.g. Australia, Canada, China, Japan, South Korea, USA).

**Conclusions:**

Preparatory work to set the proposed EU OELVs for nickel compounds took many years of effort and resulted in limit values agreed upon by the tripartite ACSH. These OELVs should only be reconsidered when new scientific, economic or technical feasibility data warrants it, and not in a predefined and relatively short timeframe.

For all these reasons, we do not agree with the third part of amendment 7 and we support the Commission’s legislative proposal.

We hope that a pragmatic solution can be found in the upcoming informal triilogue negotiations, to ensure the swift approval of the legislation, which is the interest of both workers and businesses.

Yours sincerely,



Dr. Veronique Steukers  
Director, H&E Public Policy, Nickel Institute

This letter is written on behalf of the following associations:

- Catalyst Europe – European Catalyst Manufacturers Association
- Ceemet – European Tech & Industry Employers
- CETS - The European Committee for Surface Treatment
- EUROBAT – Association of European Automotive and Industrial Battery Manufacturers
- EUROFER – The European Steel Association
- Eurometaux – European Association of Metals
- Frit Consortium and Inorganic Pigment Consortium
- Nickel Institute
- RECHARGE - Advanced Rechargeable and Lithium Batteries Association