Commission Directive (EU) 2019/1831 of 24 October 2019 establishing a fifth list of indicative occupational exposure limit values pursuant to Council Directive 98/24/EC and amending Commission Directive 2000/39/EC (Text with EEA relevance)

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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[(1)], and in particular Article 3(2) thereof,

Whereas:

(1) Principle 10 of the European Pillar of Social Rights[(2)], proclaimed at Gothenburg on 17 November 2017, states that every worker has the right to a healthy, safe and well-adapted work environment. The right to a high level of protection for health and safety at work, and to a working environment that is adapted to workers' professional needs and enables them to participate in the labour market for an extended period also includes protection from exposure to chemical agents at work.

(2) The Commission clearly emphasised the need to continue improving workers' protection from exposure to dangerous chemicals at work in its communication 'Safer and Healthier Work for All'.[(3)]

(3) Pursuant to Directive 98/24/EC, the Commission is to propose European Union (EU) objectives in the form of indicative occupational exposure limit values (IOELVs) to be set at EU level, to protect workers from risks arising from exposure to hazardous chemicals.

(4) Article 3(2) of Directive 98/24/EC empowers the Commission to establish or revise IOELVs, taking into account the availability of measurement techniques based on measures adopted in accordance with the procedure laid down in Article 17 of Council Directive 89/391/EEC[(4)].

(5) Article 3(1) of Directive 98/24/EC states that the Commission shall evaluate, through an independent scientific assessment of the latest available scientific data, the relationship between the health effects of hazardous chemical agents and the level of occupational exposure.

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(6) The Commission is assisted in this task by the Scientific Committee on Occupational Exposure Limits for Chemical Agents (SCOEL), set up by Commission Decision 2014/113/EU.[(5)]

(7) Under Directive 98/24/EC, 'occupational exposure limit value' means, unless otherwise specified, the limit of the time-weighted average of the concentration of a chemical agent in the air within a worker's breathing zone, in relation to a specified reference period.

(8) IOELVs are health-based occupational exposure limit values, derived from the most recent scientific data available and adopted by the Commission, taking into account the availability of measurement techniques. They are threshold levels of exposure below which, in general, no detrimental effects are expected for any given chemical agent after short-term or daily exposure over a working lifetime. They constitute EU objectives and are designed to help employers determine and assess risks and implement preventive and protective measures, in accordance with Directive 98/24/EC.

(9) In accordance with SCOEL recommendations, IOELVs are established in relation to a reference period of eight hours time-weighted average (long-term exposure limit values) and, for certain chemical agents, to shorter reference periods, in general 15 minutes time-weighted average (short-term exposure limit values), to take account of the effects arising from short-term exposure.

(10) For any chemical agent for which an IOELV has been set at EU level, Member States are required to establish a national occupational exposure limit value. In doing so, they are required to take into account the EU limit value, determining the nature of the national limit value in accordance with national legislation and practice.

(11) IOELVs are an important part of the general arrangements for protecting workers against the health risks arising from exposure to hazardous chemicals.

(12) In accordance with Article 3 of Directive 98/24/EC, SCOEL has assessed the relationship between the health effects of the chemical agents listed in the 10 entries in the Annex to this Directive and the level of occupational exposure. Similarly, for all these chemical agents it has recommended establishing IOELVs for the inhalation route of exposure in relation to a reference period of eight hours time-weighted average. It is therefore appropriate to lay down long-term exposure limit values for all these agents in the Annex to this Directive.

(13) For some of these chemical agents, i.e. aniline, trimethylamine, 2-phenylpropane (cumene), sec-butyl acetate, 4-aminotoluene, isobutyl acetate, isoamyl alcohol, n-butyl acetate and phosphoryl trichloride, SCOEL also recommended establishing short-term exposure limit values.

(14) For certain substances, it is necessary to take into account the possibility of penetration through the skin in order to ensure the best possible level of protection. Among the chemical agents listed in the entries in the Annex to this Directive, SCOEL identified the possibility of significant uptake through the skin for aniline, 2-phenylpropane (cumene) and 4-aminotoluene. It is therefore appropriate to include in the Annex to this Directive

notations indicating the possibility of significant uptake through the skin for these chemical agents, in addition to the IOELVs.

(15) One of the chemical agents, 2-phenylpropane (cumene), is currently listed in the Annex to Commission Directive 2000/39/EC[(6)]. SCOEL has recommended establishing a new IOELV for this substance. It is therefore appropriate to include a revised limit value for 2-phenylpropane (cumene) in the Annex to this Directive and to delete the corresponding entry from the Annex to Directive 2000/39/EC.

(16) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents[(7)], Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments.

(17) As regards this Directive, the Commission considers it justified to send such documents in the form of a table showing the correlation between the national measures and this Directive, given that for some agents national occupational exposure limit values already exist in national legislation, and given the variety and the technical nature of national legal instruments for establishing occupational exposure limit values.

(18) The Advisory Committee on Safety and Health at Work was consulted in accordance with Article 3(2) of Directive 98/24/EC and gave its opinions on 6 December 2017 and 31 May 2018. The Committee acknowledged that there were currently challenges as regards the availability of measurement methodologies that could be used to demonstrate compliance with the proposed limit values for phosphoryl trichloride and isoamyl alcohol, and that efforts should be made to ensure that suitable techniques were available by the end of the transposition period.

(19) The measures for which this Directive provides are in accordance with the opinion of the Technical Progress Committee established under Article 17 of Directive 89/391/EEC.

HAS ADOPTED THIS DIRECTIVE:

Article 1

A fifth list of EU indicative occupational exposure limit values is established for the chemical agents listed in the Annex.

Article 2

Member States shall establish national occupational exposure limit values for the chemical agents listed in the Annex, taking into account the EU limit values.

Article 3

In the Annex to Directive 2000/39/EC, the reference to cumene is deleted with effect from 20 May 2021.

Article 4

1 The Member States shall adopt and publish, by 20 May 2021 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive.