

Advisory Committee on Toxic Substances Paper		ACTS/22/2006
Meeting date: 30 November 2006		Open Govt. Status: Fully open
Type of paper: Substantive		Paper File Ref: PG/355/1000/06
Exemptions:		

ADVISORY COMMITTEE ON TOXIC SUBSTANCES

IMPLEMENTATION OF EUROPEAN DIRECTIVE 2006/15/EC, THE SECOND LIST OF INDICATIVE OCCUPATIONAL EXPOSURE LIMIT VALUES

A Paper by Richard Pedersen

Cleared by Robin Foster on 10 November 2006

Issue

1. ACTS agreement to the implementation of the European Commission's 2nd Directive on Indicative Occupational Exposure Limit Values (IOELVs), Directive No. 2006/15/EC. A report back from consultation.

Timing

2. Routine. Subject to ACTS agreement, it is intended to seek Health and Safety Commission approval of new and revised Workplace Exposure Limits (WELs). It is then planned to publish the WELs on the Common Commencement Date of 6 April 2007, and for them to come into force on 1 September 2007, the date required by the Directive.

Recommendation

3. That ACTS agrees that the new and revised WELs be put to the Health and Safety Commission for their approval. The draft Commission paper is attached.

Background

4. Directive 2006/15/EC was adopted by the European Commission on 7 February 2006 and was published in the Official Journal of the European Union two days later. Implementation by Member States is required by 1 September 2007.
5. The Annex to the Directive contains a list of 33 substances with Indicative Occupational Exposure Limit Values (IOELVs). Member States are required to introduce

occupational exposure limits for the substances listed in the Annex and these limits must take account of the IOELV.

6. Directive 2006/15/EC is a Commission Directive made under the Chemical Agents Directive (CAD) (98/24/EC). CAD is implemented in Great Britain through COSHH. Because WELs are approved under COSHH, there is no requirement for additional legislation in order to implement 2006/15/EC.
7. ACTS agreed the content of the Consultative Document in advance of the formal adoption of the Directive, at its meeting on 30 June 2005 (ACTS/24/2005).

Argument

8. Details of the proposed changes to the list of WELs are set out in the attached HSC paper. In summary these changes are:
 - addition of six new entries to EH40 Workplace Exposure Limits:
2(2-Butoxyethoxy) ethanol, Isopentane, 2-(2-Methoxyethoxy) ethanol, Neopentane, Pentane, Pyrethrum (purified of sensitising lactones)
 - removal of one complete entry from EH40 2005:
Pyrethrins
 - revision of the EH40 2005 entries for the following substances:
2-Aminoethanol (8-hour TWA and STEL)
Chlorine (STEL)
Cyanamide (8-hour TWA)
Diethylamine (8-hour TWA and STEL)
Diphosphorus pentoxide (8-hour TWA)
Morpholine (8-hour TWA and STEL)
Nitric acid (STEL)
Nitrobenzene (8-hour TWA)
Phosphine (8-hour TWA and STEL)
Toluene (STEL)
 - removal of the following limits from EH40 2005
Chlorine (8-hour TWA)
Nitric acid (8-hour TWA)

Nitrobenzene (STEL)

- addition of “Skin” notations to the EH40 entries for the following substances

2-Aminoethanol, Cyanamide, Resorcinol

9. Additionally, although not specifically required in order to implement the Directive, HSE plans to revise the existing STELs for bromine and diphosphorus pentasulphide, and to introduce a new STEL for phosphorus pentachloride. In the case of the two phosphorus compounds, this is commensurate with the views of WATCH and will introduce standardised limits for all such compounds. No adverse comments were received on these proposals in consultation.
10. More generally, and in response to the CD as a whole, the TUC commented that it would be preferable to make minor cosmetic amendments to the EH40 table in certain cases where the IOELV, as expressed as mg.m^{-3} , differed slightly from the existing WEL. In all cases the limit expressed as parts per million remained the same. After consideration of this issue, HSE plans to make no changes to the EH40 table to avoid possible confusion among users.
11. Three comments received during consultation concerned the “Skin” notation for acetonitrile, required by the Directive. These comments were from the Chemical Industries Association, BASF and INEOS. There are questions over the appropriateness of a “Skin” notation for this substance and all three consultees requested that this notation should not be implemented by the UK. The matter had been brought to HSE’s attention prior to consultation, but after the adoption of the Directive. HSE nevertheless decided to include this particular notation in its consultation.
12. HSE is not convinced, on scientific grounds, of the need for a “Skin” notation for this substance. Last February we sent the European Commission HSE’s assessment of the latest research on the dermal absorption of acetonitrile, and INEOS have also sent their documentation to the Commission requesting further consideration of the question by the Scientific Committee on Occupational Exposure Limits. The latest correspondence from the European Commission indicated that Commission officials stood by the correctness of the “Skin” notation.
13. HSE has two options and is seeking ACTS’ opinion on the best way forward.
 - i) To add the “Skin” notation for acetonitrile in our list of WELs; or
 - ii) To not include the “Skin” notation in EH40 on the basis of our understanding of the science.
14. Subject to ACTS’ views, we are inclined to go with option (ii). In taking this line we are conscious that:
 - Although the results from early acute dermal toxicity studies are inconsistent, a more recent study conducted to OECD guidelines supports the view that acetonitrile has low dermal toxicity.

- No formal SCOEL summary document is available for acetonitrile, and the European Commission has been unable to provide copies of documentation to support a formal decision by SCOEL on the “Skin” notation.
- HSE’s toxicologists are confident that no “Skin” notation is necessary.
- In setting our national limit we are required to “take account” of the IOELV, but this is only indicative. There is some flexibility to adopt a different standard.
- We already have a WEL for acetonitrile, set at the same value as the IOELV, but without a “Skin” notation.

Link to HSC Strategy

15. Implementation of the 2nd IOELV Directive falls under the category of Mandatory Activities related to European and International work. It is not directly related to the Disease Reduction Programme.

Communication Plan

16. The new and revised Workplace Exposure Limits, once approved by the Health and Safety Commission, will be published on the HSE website from the Common Commencement Date of 6 April 2007. They will not formally come into force until 1 September, the latest date required by the Directive. The additions and revisions will be publicised by means of a Press Release and by inclusion in the Regulation Update prepared by the DTI’s Small Business Service.

Evaluation Plan

17. Not relevant

Relevant Control Systems

18. Not relevant.

Consultation

19. CD 208, containing the implementation proposals, was published on 5 July, for a twelve-week consultation period. A total of 22 comments were received most of which expressed full agreement with the proposals. The issues raised by the TUC, CIA, BASF and INEOS are referred to in paragraphs 10 to 14 above.

Costs and Benefits

20. Costs and benefits of the proposed implementation were set out in a Regulatory Impact Assessment, which was included in the Consultative Document. This RIA has now been amended following consultation and is attached to the draft HSC paper.

Financial/Resource Implications for HSE

21. None, other than the cost of producing an Amendment Sheet to EH40 2005.

Environmental implications

22. None.

European implications

23. None directly, but we may be asked to justify why Great Britain has not adopted in full the IOELV for acetonitrile, and comparisons may be made with other Member States who have adopted the "Skin" notation. There may be a question of infraction arising from the non-implementation of the "Skin" notation for acetonitrile.

Devolution

24. There are no devolution issues. The Health and Safety Executive for Northern Ireland has issued a Consultative Document which replicates CD 208 and to which comments are requested by 15 December. We will inform HSENI of ACTS' and HSC's deliberations, and the WELs that HSC approves.

Other implications

25. None.

Action

26. i) To consider whether or not the "Skin" notation for acetonitrile should be put forward for approval by the Health and Safety Commission (see paragraph 13).

ii) To agree that the attached draft HSC paper, modified as necessary, should be presented to the Health and Safety Commission at its meeting in January.

Contact

Richard Pedersen
International Chemicals Unit
Health and Safety Executive
Rose Court
2 Southwark Bridge
London SE1 9HS.

Tel: 020 7717 6216

Email: richard.pedersen@hse.gsi.gov.uk