

Deliberation 2023-009 of January 26, 2023 National Commission for Computing and Liberties Nature of the deliberation:

Other authorization Legal status: In force Date of publication on Légifrance: Friday March 31, 2023 Deliberation n° 2023-009 of January 26, 2023 authorizing the National Agency of public health to implement automated processing of personal data for the purpose of a study on the epidemiological monitoring of workers exposed to the industrial fire that occurred on September 26, 2019 on the sites of the Lubrizol and NL logistics companies in Rouen (Request for authorization n° 922234) The National Commission for Computing and Liberties, Seizure by the National Public Health Agency of a request for authorization concerning the automated processing of personal data for the purpose of a study relating to on the epidemiological monitoring of workers exposed to the industrial fire that occurred on September 26, 2019 on the sites of the Lubrizol and NL logistics companies in Rouen; Having regard to Regulation (EU) 2016/679 of the European Parliament and of the Council of April 27, 2016 relating to the protection of individuals with regard to the processing of personal data and the free movement of such data, and repealing Directive 95/46/EC (general regulation on data protection); Having regard to Law No. 78 -17 of January 6, 1978 amended relating to data processing, files and freedoms, in particular its articles 66, 72 and following; Having regard to the favorable opinion of the Ethics and Scientific Committee for research, studies and evaluations in the field de la santé of July 12, 2022; Considering the file and its supplements; On the proposal of Mrs Valérie PEUGEOT, commissioner, and after having heard the observations of Mr Benjamin TOUZANNE, government commissioner, Makes the following observations: On the person responsible for processingThe data controller for this study is the National Public Health Agency (ANSP). On the subcontractors Several subcontractors will be involved in the implementation of this study, in particular the company IPSOS, the National Old Age Insurance Fund (CNAV) and the National Pension Fund for Local Authority Agents (CNRACL). The processing of data by subcontractors must be governed by a contract or a legal act in accordance with Article 28 of the General Data Protection Regulation (GDPR). On the categories of people concerned by the study Subject to the exercise of the right of opposition, this study will include: "workers exposed on site": employees of companies or public bodies working on the burned sites of the Lubrizol and NL logistics companies between September 26, 2019 and September 30, 2020 (corresponding to the end of the remediation work); "workers exposed off-site in the vicinity": employees exposed off-site, working in an establishment located near the burned sites and who worked between September 26, 2019 and October 7, 2019; "workers exposed off-site throughout the study area": employees who worked in an establishment located in the study area over the considered exposure period from September 26, 2019 to October 7, 2019 (end date of the smoldering fire).

Employees who do not belong to one of these three groups but who have similar characteristics will be drawn by lot by the CNAV and the CNRACL. Subject to the exercise of the right of opposition, these employees may be part of one of these three groups of referents: the group of "referents of workers on sites"; the group of "referents of employees off-site as a whole"; the group of "referents for nearby off-site employees" . Overall, this study will concern two hundred and ninety-three thousand five hundred people. On the purpose of the processing and its nature of public interest The purpose of the processing envisaged is the implementation of a study relating to the epidemiological monitoring of the workers exposed to the industrial fire which occurred on September 26, 2019 on the sites of the companies Lubrizol and NL logistics in Rouen. More specifically, this study is intended to: monitor and describe the state of health of workers exposed to the fire or its aftermath; compare it with that of reference workers to identify potential increases in the occurrence of health events and determine whether there is a significant variation in the various health indicators in order to allow, where appropriate, the implementation of medical care and prevention measures for the populations concerned. The Commission considers that the purpose of the processing is determined, explicit and legitimate, in accordance with Article 5.1.b of the GDPR and that this processing has a purpose of public interest, in accordance with Article 66 I of the Data Protection Act of 6 January 1978. the lawfulness of the processing and the conditions allowing the processing of data concerning health The processing implemented by the ANSP is necessary for the performance of the mission of public interest with which it is invested. This processing is, as such, lawful with regard to article 6.1.e of the GDPR. In addition, this processing, necessary for scientific research purposes, also fulfills the condition provided for in Article 9.2.j of the GDPR allowing the processing of data concerning health. This research project is subject to the provisions of Articles 44.3°, 66. III and 72 et seq. of the amended law of 6 January 1978, which provide, in the absence of compliance with a reference methodology, that processing for the purposes of research, study or evaluation in the field may only be implemented after authorization from the Commission. On the points of non-compliance with the reference methodology concerned The application file mentions that the treatment envisaged complies with the provisions of the reference methodology MR-004 , with the exception of the nature of the data processed (collection of the registration number in the national identification directory of natural persons (NIR) or information allowing it to be reconstituted for the purpose of matching the study data with the data from the National Health Data System (SNDS)) and the procedures for informing the persons concerned. Apart from these exceptions, this processing must comply with the framework provided for in the reference methodology MR-004. Reuse of data from existing databases The data reused within the framework of this study will come

from: employers' databases for the purpose of establishing the list of names of employees meeting the criteria for inclusion in the study and collecting information allowing reconstitute the NIR; the "SIRENE" database implemented by the National Institute of Statistics and Economic Studies; the "national identifier management system" (SNGI) implemented by the CNAV (decree no. 2018-390 of 24 May 2018); the "national career management system" (SNGC) implemented by the CNAV; the "nominative social declaration" (DSN) database of the CNRACL (decree no. 2018- 1048 of November 28, 2018). On the special categories of data processed Regarding the collection of personal data as well as postal and electronic contact details: The collection of surnames, first names as well as contact details (postal and electronic) is necessary to ensure the information of certain participants (" workers exposed on site" and "workers exposed off-site nearby") who are informed thereof. Directly identifying data must be processed and transmitted separately from health data and be recorded in a separate database. In addition, only a strictly limited number of authorized persons subject to professional secrecy will be able to access directly identifying data. reconciliation with data from the SNDS by using the NIR, sex and full date of birth of the participants. Matching can be carried out: either from the NIR when it is available, from the date of birth and gender of the participants; or from information allowing the NIR to be reconstituted. NIR by the CNAV. These data will be transmitted by each company to a third party, in this case the company IPSOS, allowing their centralization, before being transmitted to the CNAV. In the particular case of officials exposed off-site and their referents, the CNRACL will provide, at the request of the controller, the personal data, sex and full date of birth or directly the NIR to the CNAV for centralization. These consolidated data, containing the full NIR, sex and date of birth will then be transmitted to the Caisse National Health Insurance (CNAM), which will carry out the reconciliation with the data from the SNDS. The data must be encrypted and be transmitted to the third party in the form of encrypted files. Algorithms and key management procedures must comply with appendix B1 of the general security reference system. Reinforced security measures for the correspondence tables will have to be put in place. In this respect, mobile equipment must be subject to encryption measures in order to guarantee the confidentiality of the data they contain in the event of loss or theft of the equipment. data controller requests access to data from the national health insurance inter-scheme information system (SNIIRAM), the program for the medicalization of information systems (PMSI) and the epidemiology center on the medical causes of death (CépiDc) from the years 2016 to 2039, provided that they can be disseminated by the CNAM. The Commission considers that the data whose processing is envisaged are adequate, relevant and limited to what is necessary with regard to the purposes of the processing, in accordance to the provisions of Article 5.1.c of the GDPR. On the

application of the provisions relating to the SNDS Since the data of the SNIIRAM, the PMSI and the CépiDc are taken from the databases making up the SNDS, all the legislative and regulatory provisions relating to the SNDS are applicable in this case (articles L. 1461-1 to L. 1461-7 of the public health code), in particular the prohibition on using this data for the purposes described in article L. 1461-1 V of the public health code and the safety reference framework applicable to the SNDS provided for by the decree of 22 March 2017. On information and the rights of personsAs regards the methods of information:In a preliminary way, it is noted that no person will not be included in this study. For workers exposed on site and workers exposed off site nearby: For workers still on the job, an individual information note will be delivered by hand, electronically or by post by the employers. For workers who have changed position between the fire and the date of the study, an individual information note will be delivered by the employers electronically or by post to the last known address of the employee. In the event that the participant is subject to a protective measure, a dedicated information note will be given to the participant's legal representative and a specific information note is provided. For off-site employees outside the local area, those who are part of the referent groups as well as workers exposed on site and workers exposed off site nearby whose contact details are no longer up to date: Pursuant to Article 69 of the Data Protection Act and Article 14.5. b of the GDPR, the obligation to provide individual information to the data subject may be subject to exceptions, in particular in the event that the provision of such information proves impossible, requires disproportionate effort or seriously compromises the performance treatment goals. In such cases, the controller takes appropriate measures to protect the rights and freedoms, as well as the legitimate interests of the data subject, including by making the information publicly available. In this case, the controller specifies that the providing individual information to the participants mentioned above would require disproportionate efforts in view of the number of people concerned, the estimated cost of this information and the data available. With regard to the elements developed by the data controller, an exception will be made the principle of individual information for these participants. Appropriate measures will however be implemented by the data controller, in particular: posting on the data controller's website; news on the website of the Regional Directorate of Economy, Employment, Labor and Solidarity (DREETS) in Normandy; information for occupational physicians and members of the regional steering committee for working conditions (CROCT) through DREETS; dissemination by through the local media: a press release will be sent to the written and audiovisual press organs of Seine-Maritime (Paris Normandie, Actu76, France 3 Normandie, France Bleu, etc.); interviews with these media will be requested; inserts in Paris Normandie and Actu 76 will be published at the request of the ANSP. All information notices must

include all the information provided for in Article 14 of the GDPR. Furthermore, this processing will be recorded in the public directory available through the Health Data Platform. In addition, the results of the study will be communicated to the general public as they are produced, through a press release, a mailing to partners mentioned above and a dedicated page on the data controller's website. The Commission considers that these information methods are satisfactory with regard to the provisions of the GDPR and the Data Protection Act. With regard to the procedures for exercising rights: Data subjects will be able to exercise their rights with the data protection officer of the controller throughout the duration of the study. The Commission considers that these procedures for exercising rights are satisfactory with regard to the provisions of the GDPR and the Data Protection Act. On accessors and recipients Only the data controller and the persons authorized by him should have access to the data. The data controller will keep up-to-date documents indicating the competent person(s) within it to issue the authorization to access the data, the list of persons authorized to access this data, their respective access profiles and the procedures for allocation, management and control of authorizations. These categories of persons are subject to professional secrecy under the conditions defined by Articles 226-13 and 226-14 of the Criminal Code. The qualification of authorized persons and their access rights must be regularly reassessed, in accordance with the methods described in the authorization procedure established by the data controller. On data security and traceability of actions As a preliminary point, the application file mentions that the envisaged processing complies with the security measures provided for in MR-004 and that no data from the study will be hosted on the controller's internal servers. The controller has carried out and transmitted in support of the authorization request an impact analysis relating to the protection of data specific to the processing envisaged. The controller must ensure compliance with security requirements at all stages of processing. In this regard, written instructions should be given to participating organizations, recalling the need to protect the data collected for the study. In particular, spreadsheet files must be encrypted and destroyed after transmission. The secrets used, if any, must be robust and accessible only to duly authorized persons. Data exchanges will be carried out via encrypted communication channels and ensuring the authentication of the source and the recipient. The encryption algorithms used and the key management procedures must comply with appendix B1 of the general security reference system. SNDS data will be made available on the CNAM portal. Security measures, which must be operational during the implementation of the processing, must meet the requirements provided for by articles 5.1.f and 32 of the GDPR taking into account the risks identified by the data controller. It will be up to the latter to carry out a regular reassessment of the risks for the persons concerned and an update, if necessary, of these security

measures. On data transfers outside the European Union No transfer of data outside the European Union will be carried out as part of this study. On the duration of access and storage of data The personal data and contact details of the participants will not be kept after the sending of the information note. As regards the data processed for matching purposes: the data necessary for the reconstitution of the NIR by the CNAV will be destroyed once this reconstitution has been carried out; the participants' NIRs will be destroyed after the last SNDS data has been made available. The study data matched with the SNDS data will be accessible for five years from the last time the data is made available. The Commission considers that these data retention periods do not exceed the periods necessary for the purposes for which they are collected and processed, in accordance with the provisions of Article 5.1.e of the GDPR. Authorizes , in accordance with this deliberation, the National Public Health Agency to implement the aforementioned processing. The President Marie -Laure DENIS