

Commission Directive 2004/98/EC of 30 September 2004 amending Council Directive 76/769/EEC as regards restrictions on the marketing and use of pentabromodiphenyl ether in aircraft emergency evacuation systems for the purpose of adapting its Annex I to technical progress (Text with EEA relevance)

COMMISSION DIRECTIVE 2004/98/EC

of 30 September 2004

amending Council Directive 76/769/EEC as regards restrictions on the marketing and use of pentabromodiphenyl ether in aircraft emergency evacuation systems for the purpose of adapting its Annex I to technical progress

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and

Having regard to Council Directive 76/769/EEC of 27 July 1976 on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of dangerous substances and preparations⁽¹⁾, and in particular Article 2a thereof,

Whereas:

- (1) Pentabromodiphenyl ether (pentaBDE) is used as a brominated flame retardant in order to protect plastics, fabrics and other articles against fire.
- (2) On the basis of a risk assessment pursuant to Council Regulation (EEC) No 793/93 of 23 March 1993 on the evaluation and control of the risks of existing substances⁽²⁾ it was considered necessary to restrict the placing on the market and use of pentaBDE, and the substance was therefore added to Annex I to Directive 76/769/EEC.
- (3) Recently, new information has become available showing that pentaBDE is used in specific fabrics for aircraft evacuation slides and slide-rafts and cannot be replaced by suitable alternatives due to the extensive safety testing and regulatory requirements.
- (4) Emissions from such slides into the environment and exposure of humans cannot be expected, except in emergency cases for a few seconds, and only in the rare event that the material is burning.
- (5) Considering the limited application of pentaBDE in aircraft emergency evacuation systems and the negligible contribution to the overall risks posed by that article to health and the environment, it is justified to permit pentaBDE to be placed on the market and used for that specific purpose.
- (6) Given the complexity of the substitution process and the authorisation regulations for aircraft emergency systems, and the serious socio-economic implications, a time limited derogation is justified for articles essential for evacuation situations. Permitting the use

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of pentaBDE in aircraft emergency evacuation systems would maintain aircraft safety by preventing the use of older emergency systems.

- (7) Directive 76/769/EEC should therefore be amended accordingly.
- (8) This Directive should apply without prejudice to Community legislation laying down minimum requirements for the protection of workers, in particular Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work⁽³⁾, and Directive 2004/37/EC of the European Parliament and of the Council of 29 April 2004 on the protection of workers from the risks related to exposure to carcinogens or mutagens at work (Sixth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)⁽⁴⁾.
- (9) The measures provided for in this Directive are in accordance with the opinion of the Committee for the adaptation to technical progress of the Directives on the removal of technical barriers to trade in dangerous substances and preparations,

HAS ADOPTED THIS DIRECTIVE:

- (1) [OJ L 262, 27.9.1976, p. 201](#). Directive as last amended by Commission Directive 2004/96/EC ([OJ L 301, 28.9.2004, p. 51](#)).
- (2) [OJ L 84, 5.4.1993, p. 1](#). Regulation as amended by Regulation of the European Parliament and of the Council (EC) No 1882/2003 ([OJ L 284, 31.10.2003, p. 1](#)).
- (3) [OJ L 183, 29.6.1989, p. 1](#). Directive as amended by Regulation (EC) No 1882/2003.
- (4) [OJ L 158, 30.4.2004, p. 50](#).