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(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 3 March 2004

amending Regulation (EC) No 2037/2000 of the European Parliament and of the Council with regard to the use of halon 2402

(notified under document number C(2004) 639)

(2004/232/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 2037/2000 of the European Parliament and of the Council on substances that deplete the ozone layer ⁽¹⁾, and in particular Article 4(4)(iv) thereof,

Whereas:

(1) The Commission has, during the course of the review provided for in Article 4(4)(iv) of Regulation (EC) No 2037/2000, and after consultation with Member States, government representatives of the States that will accede to the European Union on 1 May 2004 and stakeholders, come to the following findings with regard to the use of halon 2402.

(2) The manufacture of halon 2402 in developed countries ceased on 1 January 1994 when the parties to the Montreal Protocol agreed to halt production in developed countries. Since that time, any halon 2402 required has had to be obtained from specialised storage facilities which have stored halon that has been replaced by alternatives.

(3) Halon 2402 has wide-ranging application in the States that will accede to the European Union on 1 May 2004 for fire and explosion suppression in the military and non-military sectors where it is used, for example, in nuclear facilities as well as terrestrial, marine and air transportation.

(4) The replacement of halon fire-fighting equipment with alternative fire protection agents needs to take into account the availability of technically and economically feasible alternatives or technologies that are acceptable from the point of view of environment and health. Refit activities to install equipment that does not rely on halon for fire and explosion protection in military applications needs to be scheduled in a way that avoids unacceptably compromising the defense capability of the States that will accede to the European Union. Special budgetary consideration and a period of time to convert to an alternative are often needed to adapt alternative fire-protection agents to perform safely and effectively.

(5) Article 4(4)(v) of Regulation (EC) No 2037/2000 requires halon installed in equipment that is not listed as a critical use in Annex VII to have been decommissioned by 31 December 2003 and the halon recovered in accordance with Article 16. In order to qualify for a critical-use exemption that would allow the continued use of halon 2402 in the countries that will accede to the European Union after that date, Annex VII to Regulation (EC) No 2037/2000 should be amended to allow this fire-extinguishing agent to be used for a range of applications.

(6) Regulation (EC) No 2037/2000 should therefore be amended accordingly.

(7) The measures provided in this Decision are in accordance with the opinion of the Committee established by Article 18(1) of Regulation (EC) No 2037/2000,

⁽¹⁾ OJ L 244, 29.9.2000, p. 1. Regulation as last amended by Regulation (EC) No 1804/2003 (OJ L 265 16.10.2003, p. 1).

HAS ADOPTED THIS DECISION:

Article 1

Annex VII to Regulation (EC) No 2037/2000 is amended as set out in the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 3 March 2004.

For the Commission
Margot WALLSTRÖM
Member of the Commission

ANNEX

In Annex VII to Regulation (EC) No 2037/2000 the following is added:

'Use of halon 2402 only in Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia:

- in aircraft for the protection of crew compartments, engine nacelles, cargo bays and dry bays and fuel tank inerting,
 - in military land vehicles and naval vessels for the protection of spaces occupied by personnel and engine compartments,
 - for the making inert of occupied spaces where flammable liquid and/or gas release could occur in the military and oil, gas and petrochemical sectors, and in existing cargo ships,
 - for the making inert of existing manned communication and command centres of the armed forces or others, essential for national security,
 - for the making inert of spaces where there may be a risk of dispersion of radioactive matter,
 - in hand-held fire extinguishers and fixed extinguisher equipment for engines for use on board aircraft,
 - in fire extinguishers essential to personal safety used for initial extinguishing by fire brigades,
 - in military and police fire extinguishers for use on persons.'
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