



Notification Number: 2005/394/F

## Opinion issued to manufacturers, importers, distributors, notified bodies and users of respiratory protective equipment

Date received : 05/08/2005  
End of Standstill : 22/08/2005  
Invocation of the Emergency Procedure : Yes

### Message

Message 002

Communication from the Commission - SG(2005) D/51781  
Directive 98/34/EC  
Translation of the message 001  
Notification: 2005/0394/F

No abre el plazo - Nezaahajuje odklady - Fristerne indledes ikke - Kein Fristbeginn - Viivituste perioodi ei avata -  
Καμμία έναρξη προθεσμίας - Does not open the delays - N'ouvre pas de délais - Non fa decorrere la mora -  
Neietekmē atlikšanu - Atidējimai nepradedami - Nem nyitja meg a késések - Ma' jiftaħ il-perijodi ta' dawmien  
- Geen termijnbegin - Nie otwiera opóźnień - Nao inicia o prazo - Neotvorí oneskorenia - Ne uvaja zamud -  
Määräaika ei ala tästä - Inleder ingen frist.

(MSG: 200501781.EN)

#### 1. Structured Information Line

MSG 002 IND 2005 0394 F EN 05-08-2005 F NOTIF

#### 2. Member State

France

#### 3. Department Responsible

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#### 3. Originating Department

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#### **4. Notification Number**

2005/0394/F - I00

#### **5. Title**

Opinion issued to manufacturers, importers, distributors, notified bodies and users of respiratory protective equipment

#### **6. Products Concerned**

Respiratory protective equipment

#### **7. Notification Under Another Act**

d) Directive 89/686/EEC(Personal protective equipment)

#### **8. Main Content**

Opinion repealing a previous opinion published in the Official Gazette of the French Republic of 12 June 2004, which was not notified pursuant to Directive 98/34/EC. This draft opinion is intended to regulate the situation by laying down the same provisions while taking account of the procedure established by the said Directive. With this opinion, the French authorities informed manufacturers, importers and user of respiratory protective equipment that conformity with standards EN 143:2000, 13274-7:2003, EN 149:2001, EN 405:2002 and EN 1827:1999 was no longer sufficient to establish conformity with the essential health and safety requirements (EESS) of Directive 89/686/EEC (particularly for electrostatically filtering respiratory protective equipment, whose filtering performance is at best constant, but generally declines over time).

#### **9. Brief Statement of Grounds**

In their formal objection sent to the European Commission on 16 December 2004, the French authorities pointed out the failings of the standard and proposed to make tests longer than the 3 minutes laid down in the standards mentioned above, in order to guarantee the effectiveness of filtration over a working day. It is precisely non-compliance with the EESS that France is using as a basis to contest the standard. The test protocol described in the opinion published in the Official Gazette of the French Republic of 12 June 2004 was not notified to the Commission because it did not appear to correspond to a technical regulation, within the meaning of Directive 98/34/EC. The European Commission pointed out that it supported France in its measure (letter of 17 December 2004) and that this test protocol should be notified as a technical regulation. We note this position and we hereby notify this protocol, for the sake of reassurance and clarification.

#### **10. Reference Documents - Basic Texts**

Opinion published in the Official Gazette of the French Republic or 12 June 2004

a) Protocol for assessing the filtration of respiratory protective equipment (National Research and Safety Institute).

#### **11. Invocation of the Emergency Procedure**

Yes

#### **12. Grounds for the Emergency**

The Commission and the Member States examined the formal objection referred to in point 9, and deemed it



justified (March 2005). Since the opinion of 12 June is currently in force, France, considering the health and safety stakes for users, would like to avoid any legal lacuna that would be detrimental to users. This opinion refers to a protocol, drawn up by the notified body INRS on the basis of inter-laboratory tests, which will be adopted by all notified bodies as soon as the Commission has published the opinion partially withdrawing the presumption of conformity of standard EN 143:2000, following the CNRT's decision of March 2005.

**13. Confidentiality**

NO

**14. Fiscal measures**

a) NO

**15. Impact assessment**

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**16. TBT and SPS aspects**

TBT aspect (Agreement on technical barriers to trade)

a) Yes

SPS Aspect (Agreement on sanitary and phytosanitary measures)

a) NO

i) The draft is not a sanitary or phytosanitary measure pursuant to Annex A to the SPS Agreement.

David O'Sullivan  
General Secretary  
European Commission

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