COMMISSION

COMMISSION DECISION

of 18 November 2004

amending Decision 1999/815/EC concerning measures prohibiting the placing on the market of toys and childcare articles intended to be placed in the mouth by children under three years of age made of soft PVC containing certain phthalates

(notified under document number C(2004) 4403)

(Text with EEA relevance)

(2004/781/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety [1], and in particular Article 13(2) thereof,

Whereas:

(1) The Commission adopted, on 7 December 1999, Decision 1999/815/EC [2], based on Article 9 of Directive 92/59/EEC [3], requiring the Member States to prohibit the placing on the market of toys and childcare articles intended to be placed in the mouth by children under three years of age, made of soft PVC containing one or more of the substances di-iso-nonyl phthalate (DINP), di(2-ethylhexyl) phthalate (DEHP), dibutyl phthalate (DBP), di-iso-decyl phthalate (DIDP), di-n-octyl phthalate (DNOP), and butylbenzyl phthalate (BBP).

(2) The validity of Decision 1999/815/EC was limited to three months, in accordance with the provision of Article 11(2) of Directive 92/59/EEC. Therefore, the validity of the Decision was to expire on 8 March 2000.

(3) When adopting Decision 1999/815/EC it was envisaged to prolong its validity if necessary. The validity of the measures adopted under Decision 1999/815/EC was prolonged under several Decisions for additional periods of three months or six months each time, and last time for an additional period of three months, and is now to expire on 20 November 2004.

(4) Some relevant developments have taken place concerning the validation of phthalates migration test methods, the assessment of the safety of substitute substances and the comprehensive risk assessment of these phthalates under Council Regulation (EEC) No 793/93 of 23 March 1993 on the evaluation and control of the risks of existing substances [4].

(5) Pending the adoption by the Parliament and Council of the permanent measures, and the entry into force of the corresponding implementing measures in the Member States and in order to guarantee the objectives of Decision 1999/815/EC and its prolongations, it is necessary to maintain the prohibition of the placing on the market of the products considered.

(6) Certain Member States have implemented Decision 1999/815/EC by measures applicable until 20 November 2004. Therefore it is necessary to ensure that the validity of these measures is prolonged.

(7) It is therefore necessary to prolong the validity of Decision 1999/815/EC in order to ensure that all the Member States maintain the prohibition provided for by that Decision.

[1] OJ L 11, 15.1.2002, p. 4.
[2] OJ L 315, 9.12.1999, p. 46. Decision as last amended by Decision 2004/624/EC (OJ L 280, 31.8.2004, p. 34).
[3] OJ L 228, 11.8.1992, p. 24. Directive as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).
[4] OJ L 84, 5.4.1993, p. 1. Regulation as amended by Regulation (EC) NO 1882/2003.

(8) Article 13(2) of Directive 2001/95/EC, which has repealed and replaced Directive 92/59/EC from 15 January 2004, states that Commission decisions requiring Member States to take measures to prevent serious risks posed by certain products shall be valid for periods not exceeding one year and may be confirmed for additional periods none of which shall exceed one year. It is appropriate to prolong the validity of Decision 1999/815/EC for a period of 10 months, in order to allow sufficient time for the adoption and implementation of the permanent measures referred to in recital 5.

(9) The measures provided for in this Decision are in accordance with the opinion of the Committee established by Article 15 of Directive 2001/95/EC,

HAS ADOPTED THIS DECISION:

Article 1

In Article 5 of Decision 1999/815/EC the words '20 November 2004' are replaced by the words '20 September 2005'.

Article 2

Member States shall immediately take the necessary measures to comply with this Decision and publish those measures. They shall immediately inform the Commission thereof.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 18 November 2004.

For the Commission

David BYRNE

Member of the Commission