



EUROPEAN COMMISSION

Brussels, XXX  
[...] (2011) XXX draft

**COMMISSION IMPLEMENTING DECISION**

**of XXX**

**extending the validity of Decision 2009/251/EC requiring Member States to ensure that products containing the biocide dimethylfumarate are not placed or made available on the market**

(Text with EEA relevance)

EN

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety<sup>1</sup>, and in particular Article 13 thereof,

Whereas:

- (1) Commission Decision 2009/251/EC<sup>2</sup> requires Member States to ensure that products containing the biocide dimethylfumarate (DMF) are not placed or made available on the market.
- (2) Decision 2009/251/EC was adopted in accordance with the provisions of Article 13 of Directive 2001/95/EC, which restricts the validity of the Decision to a period not exceeding 1 year, but allows it to be confirmed for additional periods none of which shall exceed 1 year.
- (3) The validity of Decision 2009/251/EC was extended by Commission Decisions 2010/153/EU<sup>3</sup> and 2011/135/EU<sup>4</sup> for additional periods of 1 year each. A permanent restriction on DMF in articles is currently being considered to be incorporated in Regulation (EC) No 1907/2006 of the European Parliament and of the Council<sup>5</sup>. As that measure will address the same concerns as Decision 2009/251/EC, for legal certainty, Decision 2009/251/EC should apply until the permanent restriction under Regulation (EC) No 1907/2006 enters into force.

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<sup>1</sup> OJ L 11, 15.1.2002, p. 4.  
<sup>2</sup> OJ L 74, 20.3.2009, p. 32.  
<sup>3</sup> OJ L 63, 12.3.2010, p. 21.  
<sup>4</sup> OJ L 57, 2.3.2011, p. 43.  
<sup>5</sup> OJ L 396, 30.12.2006, p. 1.

- (4) In the light of the experience acquired so far and the absence of a permanent measure addressing consumer products containing DMF, it is necessary to extend the validity of Decision 2009/251/EC for a further 12 months.
- (5) Decision 2009/251/EC should be amended accordingly.
- (6) 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*

Article 4 of Decision 2009/251/EC is replaced by the following:

*'Article 4*

**Period of application**

This Decision shall apply until entry into force of the Commission Regulation amending Annex XVII to Regulation (EC) No 1907/2006 concerning DMF or 15 March 2013, whichever is the earlier.'

*Article 2*

Member States shall take the necessary measures to comply with this Decision by 15 March 2012 at the latest and shall publish those measures. They shall forthwith inform the Commission thereof.

*Article 3*

This Decision is addressed to the Member States.

Done at Brussels,

*For the Commission  
John DALLI  
Member of the Commission*