

**COMMISSION DECISION****of 21 April 2005****on the safety requirements to be met by the European standards for floating leisure articles for use on or in the water pursuant to Directive 2001/95/EC of the European Parliament and of the Council***(notified under document number C(2005) 1209)***(Text with EEA relevance)****(2005/323/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<sup>(1)</sup>, and in particular Article 4(1)(a),

Whereas:

- (1) Directive 2001/95/EC lays down an obligation for producers to place only safe products on the market.
- (2) According to that Directive a product is to be presumed safe as far as the risks and risk categories covered by relevant national standards are concerned when it conforms to voluntary national standards transposing European standards.
- (3) According to Directive 2001/95/EC, European standards should be established by European standardisation bodies. Such standards should ensure that products satisfy the general safety requirement of the Directive.
- (4) The Member States and the Commission, in close cooperation with the European standardisation bodies and after consultation of stakeholders, have identified floating leisure articles for use on or in the water as a group of products for which European standards should be drawn up on the basis of a mandate to be given by the Commission pursuant to Directive 2001/95/EC. The floating leisure articles identified exclude those floating articles covered by Council Directive 88/378/EEC<sup>(2)</sup> concerning the safety of toys, by Council Directive 89/686/EEC<sup>(3)</sup> relating to personal protective equipment and by Directive 94/25/EC of the European Parliament and of the Council<sup>(4)</sup> relating to recreational craft.

(5) Safety requirements for those products should be drawn up in the light of those consultations and discussions with Member States authorities.

(6) The measures provided for in this Decision are in accordance with the opinion of the Committee set up under Directive 2001/95/EC,

HAS ADOPTED THIS DECISION:

*Article 1***Products and product definition**

This Decision applies to the floating leisure articles for use on or in the water set out in Part I of the Annex, which are not covered by any product-specific EU legislation. In particular, floating leisure articles covered by Directive 88/378/EEC, by Directive 89/686/EEC and by Directive 94/25/EC are excluded from this Decision.

*Article 2***Safety requirements**

The safety requirements for the products referred to in Article 1 are set out in Part II of the Annex.

*Article 3***Addressees**

This Decision is addressed to the Member States.

Done at Brussels, 21 April 2005.

*For the Commission*

Markos KYPRIANOU

*Member of the Commission*

<sup>(1)</sup> OJ L 11, 15.1.2002, p. 4.

<sup>(2)</sup> OJ L 187, 16.7.1988, p. 1. Directive as last amended by Directive 93/68/EEC (OJ L 220, 30.8.1993, p. 1).

<sup>(3)</sup> OJ L 399, 30.12.1989, p. 18. Directive as last amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

<sup>(4)</sup> OJ L 164, 30.6.1994, p. 15. Directive as last amended by Regulation (EC) No 1882/2003.

## ANNEX

**Safety requirements for floating leisure products for use on or in the water**

## PART I

**Product definition**

The floating articles covered by this Decision are leisure articles for use on or in the water whose floatation is ensured by buoyancy through inflation or inherent buoyant materials. These articles are not covered by any product-specific EU legislation, which are used on and in the water for leisure activities such as playing in the water, water sports, boating, diving and learning to swim, beyond the most typical and traditional products in that sector. Some of those products have been established on the European market for years whereas others are new, with new products appearing constantly.

Most of these products are in part modified traditional core products or derived from them and further developed. Increasingly, often land-based playground equipment is being adapted for use on the water.

These new products aim at increasing pleasure and entertainment but also to increase speed or to enhance action and thrill with new adventurous activities such as 'tubing' and 'white water rafting'.

Floating leisure articles covered by Directive 88/378/EEC concerning the safety of toys, by Directive 89/686/EEC relating to personal protective equipment and by Directive 94/25/EC relating to recreational craft are excluded from this Decision.

Floating articles covered by this Decision must be classified by their intended use, means of propulsion and design, in the following classes:

**Class A:** Floating articles intended for static positional use on or in the water. Position of user upon the buoyant structure. Intended for both single and collective use, mainly passive. Normally no mechanical means of propulsion. Devices may be designed in a way which provides floating stability, or may have to be balanced by the user.

Articles designed for protective functions, covered by Directive 89/686/EEC, are excluded. The same way, articles designed or clearly intended for individual use in play by children in shallow water, covered by Directive 88/378/EEC, are excluded.

**Class B:** Floating articles which are intended for static use. Position of the user is inside a buoyant structure which develops around the user's body (relatively tight fit). Devices may provide a body-holding system or the user may be expected to hold himself by the arms and hands. Body-holding system might be an integrated seat, straps or other means of holding regardless of the body posture (sitting, standing, lying, kneeling, etc.). User's body is more or less immersed. Normally the upper part (chest upwards) is out of the water. Intended for both single and collective use. Normally no mechanical means of propulsion.

Articles designed for protective functions, covered by Directive 89/686/EEC, are excluded. The same way, articles designed or clearly intended for individual use in play by children in shallow water, covered by Directive 88/378/EEC, are excluded.

**Class C:** Floating articles for dynamic use, i.e. application at high speed. Position of user is upon or inside the buoyant structure. There may be a cockpit or seat or other means to give hold to the user. The device is towed behind external means of propulsion. User is required to manage floating stability and safe course behind the towing devices.

**Class D:** Floating articles for active use i.e. climbing, jumping and any connected activity. No distinct position of user. Intended for both single and collective use. Normally no mechanical means of propulsion. Articles designed for protective functions, covered by Directive 89/686/EEC, are excluded. The same way, articles designed or clearly intended for individual use in play by children in shallow water, covered by Directive 88/378/EEC, are excluded.

**Class E:** Inflatable boats with buoyancy less than 1 800 N and a hull length of more than 1,2 m and less than 2,5 m, measured according to the appropriate harmonised standards intended for sports and leisure purposes as defined in Directive 94/25/EC. Single and collective use. Position of user inside the buoyant structure (wide cockpit).

## PART II

**A. Risks**

The main risks associated with these products are drowning and near-drowning accidents.

Other risks associated with the specific products which can also cause more or less serious injuries include risks related to the product design, such as drifting away, loosing hold, fall from high height, entrapment or entanglement above or below water surface, sudden loss of buoyancy, capsizing, cold shock, as well as the risks inherent to their use, such as collision and impact, and risks linked to winds, currents and tides.

**B. General safety requirement**

The products must comply with the general safety requirement referred to in Directive 2001/95/EC and be 'safe' within the meaning of Article 2(b) thereof.

**C. Specific safety requirements**

In application of the general safety requirement referred to in Directive 2001/95/EC, the following must be taken into account, as a minimum:

**C.1. Requirements on the product design**

Safety by design must be given priority compared to safety through instructions. Materials used and workmanship must correspond to the state of the art, taking into account the expected use of the articles and eventual consequences for the health of the user and the environment.

The following must be considered, as a minimum:

- (a) floating stability in accordance with the intended and foreseeable use;
- (b) minimum buoyancy and, in case of inflatable articles, residual buoyancy after failure of one air chamber. Additionally retention of function where appropriate and in particular where collective use is intended or likely;
- (c) means of getting hold during use, easy gripping;
- (d) easy escape in case of capsizing, avoidance of any other forms of entrapment or entanglement regarding parts of the human body;
- (e) means to facilitate re-embarkation in particular where collective use is intended as well as means of getting hold when in the water in an emergency;
- (f) presence of a reliable quick release for products moved (towed) at high speed;

**C.2. Warnings and information in respect of a cautious use of the product**

The presentation and illustration of the product, conspicuous and clear labelling, as well as any warnings and instructions for its use, must be fully coherent and easily and clearly understood by the consumer and must not play down risks to potential users, especially children.

Labelling (including pictograms) related to warnings or appropriate sizing must be visible during use. Pictograms directly related to very serious risks must be accompanied by the corresponding text. Essential information regarding the performance and limitations of the product must be presented in a way to inform the potential user before buying. Special attention must be given to information related to risks in relation to children. As a minimum, the following must be considered:

- (a) Any requisite limitation on use concerning, for example: number of users, total weight, risks linked to winds, currents and tides, specifications on distance from shore, height, speed, the interaction with other products or objects, where it is reasonably foreseeable that the product will be used with other products or in vicinity to dangerous objects (safety distances); additionally, the foreseeable misuse of the product must also be considered.
  - (b) All products must have the warning 'ATTENTION: No protection against drowning. Swimmers only!'
  - (c) Recommendation regarding the use of adequate personal protective equipment (PPE) against drowning and for impact resistance, where appropriate.
  - (d) Instructions on inflation and pressure conditions, maintenance, repair, storage and disposal taking account of the specific characteristics of these products and of their use, situations of repeated use over long periods and the aging process.
  - (e) Products intended for categories of consumers at risk when using the product, in particular children, non-swimmers and in some cases the elderly, must have specific warnings.
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