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From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

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To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
the European Union

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Subject: COMMISSION DELEGATED REGULATION (EU) .../... of 1.7.2015 on the
classification of the reaction to fire performance of construction products
pursuant to Regulation (EU) No 305/2011 of the European Parliament and
of the Council

Delegations will find attached document C(2015) 4394 final.

Encl.: C(2015) 4394 final



Brussels, 1.7.2015
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COMMISSION DELEGATED REGULATION (EU) .../...

of 1.7.2015

**on the classification of the reaction to fire performance of construction products
pursuant to Regulation (EU) No 305/2011 of the European Parliament and of the
Council**

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonized conditions for the marketing of construction products and repealing Council Directive 89/106/EEC¹, acknowledges two main alternatives to establish classes of performance in relation to the essential characteristics of construction products. According to Articles 27(1) and 60(f), this can be done by delegated acts of the Commission, whereas Article 27(2) allows for the use of harmonised standards for this purpose.

Commission Decision 2000/147/EC² established a European classification system regarding the reaction to fire of construction products based upon European test methods. The subsequent amendments of this Decision have enlarged and clarified the scope of its practical application for different families of construction products. However, no consolidated version of the Decision has been formally adopted.

According to the definition comprised in Article 2(7) of Regulation (EU) No 305/2011, “class” means a range of levels, delimited by a minimum and a maximum value, of performance of a construction product. Classes in Regulation (EU) No 305/2011 are thus always expressing a given range of determined performance of the product.

Moreover, Regulation (EU) No 305/2011 introduces, unlike its predecessor Council Directive 89/106/EEC, clear provisions for the use of NPD, “No Performance Determined”, in the context of manufacturers drawing up the declarations of performance for their products. Pursuant to Article 6(3)(f), the letters NPD are to be used for those listed essential characteristics, for which no performance is declared. This matter has thus been exhaustively regulated in this provision.

Commission Decision 2000/147/EC contains in its Tables respectively Classes F, F_{FL}, F_L and F_{ca}, the content of which is defined as “No performance determined”. Since however this concept cannot be considered a class as foreseen in Regulation (EU) No 305/2011 and therefore cannot be incorporated in a valid classification system under this act, the provisions defining the system in Commission Decision 2000/147/EC should be adjusted in this respect.

Within Commission Decision 2000/147/EC, Classes E, E_{FL}, E_L and E_{ca} are presented as representing the lowest ranges of performance. These classes have been defined with minimum levels of reaction to fire performance. Construction products exist with lower performance than these minimum levels. For such products, the classification system and the manufacturers drawing up their declarations of performance would require an additional class with performance lower than Classes E, E_{FL}, E_L and E_{ca}. The rules defining the classification should thus be amended so as to incorporate such new Classes F, F_{FL}, F_L and F_{ca} into the system to replace the previous provisions on Classes F, F_{FL}, F_L and F_{ca}.

The experience from the application of Commission Decision 2000/147/EC has demonstrated that the classification system has otherwise functioned well and served its purpose. No other substantial changes should therefore be envisaged to it, apart from adapting the wording to the

¹ OJ L 88, 4.4.2011, p. 5.

² OJ 50, 23.2.2000, p. 14. Decision as amended by Decision 2003/632/EC (L 220, 3.9.2003, p. 5) and by Decision 2006/751/EC of 27 October 2006 (L 305, 4.11.2006, p. 8).

terminology and the concepts used in Regulation (EU) No 305/2011 (notably concerning the intended use of products, which should replace the previous wording of “end-use application”, in Article 1 of Commission Decision 2000/147/EC), and updating the references included in Table 4 of Annex to this draft Regulation.

For these reasons, in addition to consolidating the content of Commission Decision 2000/147/EC as amended, updating it as concerns the treatment of cables, and adapting it to Regulation (EU) No 305/2011, the draft Regulation should contain new definitions for Classes F, F_{FL}, F_L and F_{ca}, establishing new classes of lower performance under the existing Classes E, E_{FL}, E_L and E_{ca}. Commission Decision 2000/147/EC should thus be repealed with the customary reference clause. The resulting situation will be simpler and clearer for the whole construction sector.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The draft Regulation was discussed in the meeting of the Advisory Group for Construction (the AG) on 3 October 2014 and also submitted for a written consultation of experts between 19 September and 31 October 2014. Before these steps, all Member States were presented an opportunity to nominate experts to participate in them. In addition to these experts, also other external stakeholders were consulted. The documents discussed in the AG and relevant to the written consultation were transmitted simultaneously to the European Parliament and to the Council, as foreseen in the Common Understanding on delegated acts. The observations presented in these contexts have been taken into account when preparing the final draft version of this act for the inter-service consultation.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

Pursuant to Article 27 of Regulation (EU) No 305/2011, classes of performance may be established in relation to the essential characteristics of construction products. According to Articles 27(1) and 60(f), this can be done by delegated acts of the Commission.

The European classification system has been established by Commission Decision 2000/147/EC, regarding the reaction to fire of construction products. This Decision as amended contains four classification Tables for different families of construction products. Within all these Tables, Classes F, F_{FL}, F_L and F_{ca} have been introduced for situations where the reaction to fire performance of the product has not been determined.

Pursuant to Article 2(7), classes in Regulation (EU) No 305/2011 are always expressing a given range of determined performance of the product. Classes defined by reference to “no performance determined” are not fulfilling this demand and cannot therefore be incorporated in a classification system under Regulation (EU) No 305/2011.

For these reasons, and in order to consolidate the existing regulatory framework on this classification system, which otherwise has been considered to have functioned well, the draft Regulation should be adopted to contain new definitions for Classes F, F_{FL}, F_L and F_{ca}, establishing new classes of lower performance under the existing Classes E, E_{FL}, E_L and E_{ca}. At the same time, the wording should be adapted to Regulation (EU) No 305/2011, notably as concerns the intended use of construction products, and updated as concerns Table 4 of Annex.

The draft Regulation conforms to the principle of proportionality. It results in alleviating certain inconsistencies caused by the impact of Regulation (EU) 305/2011 on the existing classification system under Commission Decision 2000/147/EC.

COMMISSION DELEGATED REGULATION (EU) .../...

of 1.7.2015

on the classification of the reaction to fire performance of construction products pursuant to Regulation (EU) No 305/2011 of the European Parliament and of the Council

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonized conditions for the marketing of construction products and repealing Council Directive 89/106/EEC³, and in particular Article 27(1) thereof,

Whereas:

- (1) A system for classifying the performance of construction products with regard to their reaction to fire was adopted by Commission Decision 2000/147/EC⁴. It was based on a harmonised solution of assessing this performance and classifying the results of these assessments.
- (2) Decision 2000/147/EC provides several classes of reaction to fire performance. In addition, it contains classes F, F_{FL}, F_L and F_{ca}, which are defined as “No performance determined”.
- (3) In accordance with Article 2(7) of Regulation (EU) No 305/2011, a class means a range of levels, delimited by a minimum and a maximum value of performance. Classes defined as “no performance determined” do not correspond to this definition and thus cannot be incorporated in a classification system under Regulation (EU) No 305/2011.
- (4) The use of “No Performance Determined” in the context of drawing up the declaration of performance is provided in Article 6(3)(f) of Regulation (EU) No 305/2011.
- (5) In order to enable the manufacturers to declare lower reaction to fire performance than that covered by classes E, E_{FL}, E_L and E_{ca}, it is necessary to change the classification criteria of classes F, F_{FL}, F_L and F_{ca} accordingly.

³ OJ L 88, 4.4.2011, p. 5.

⁴ Commission Decision 2000/147/EC of 8 February 2000 implementing Council Directive 89/106/EEC as regards the classification of the reaction to fire performance of construction products (OJ L 50 23.2.2000, p. 14).

- (6) It is therefore necessary to replace the classes F, F_{FL}, F_L and F_{ca} provided in Decision 2000/147/EC with new classes for products not reaching at least the reaction to fire performance under the classes E, E_{FL}, E_L and E_{ca}.
- (7) Decision 2000/147/EC has been amended several times and further amendments to that Decision are necessary. In the interests of clarity and rationality that decision should therefore be repealed and replaced,

HAS ADOPTED THIS REGULATION:

Article 1

When the intended use of a construction product is such that the product may contribute to the generation and spread of fire and smoke within the room or area of origin or beyond, the performance of the product in relation to its reaction to fire shall be classified in accordance with the classification system set out in the Annex.

Article 2

Decision 2000/147/EC is repealed.

References to the repealed Decision shall be construed as references to this Regulation.

Article 3

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 1.7.2015

For the Commission
The President
Jean-Claude JUNCKER