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COVER NOTE

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

date of receipt: 17 July 2014

To: Mr Uwe CORSEPIUS, Secretary-General of the Council of the European
Union

No. Cion doc.: C(2014) 4581 final

Subject: Commission Delegated Regulation (EU) No .../.. of 17.7.2014 on the
conditions for classification, without testing, of metal lath and beads for
internal plastering covered by the harmonised standard EN 13658-1, metal
lath and beads for external rendering covered by the harmonised standard
EN 13658-2 and metal beads and feature profiles covered by the
harmonised standard EN 14353, with regard to their reaction to fire

Delegations will find attached document C(2014) 4581 final.

Encl.: C(2014) 4581 final



Brussels, 17.7.2014
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COMMISSION DELEGATED REGULATION (EU) No .../..

of 17.7.2014

on the conditions for classification, without testing, of metal lath and beads for internal plastering covered by the harmonised standard EN 13658-1, metal lath and beads for external rendering covered by the harmonised standard EN 13658-2 and metal beads and feature profiles covered by the harmonised standard EN 14353, with regard to their reaction to fire

(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, envisages that the manufacturers of construction products should not be subjected to unnecessary administrative burdens or costs. Notably, as foreseen in Article 28 of Regulation (EU) No 305/2011, the Commission should choose the least onerous system for assessment and verification of constancy of performance, which still could serve appropriately the needs of health, safety and environment.

Additionally, Regulation (EU) No 305/2011 acknowledges two main alternatives to establish classes of performance in relation to the essential characteristics of construction products. According to Article 27(1), this can be done by delegated acts of the Commission, whereas Article 27(2) allows for the use of harmonised standards for this purpose.

When the performance of certain construction products has already been sufficiently demonstrated by stable test results or other existing data, their manufacturers should be permitted, under conditions to be specified, to declare a certain class of performance without testing or further testing these products. Such a simplified procedure would serve the same objective of avoiding unnecessary administrative burdens and costs. This has been foreseen in Article 27(5) and Article 36(1)(a) of Regulation (EU) No 305/2011.

Commission Decision 2000/147/EC² established a European classification system regarding the reaction to fire of construction products, based upon European test methods and explicit levels of performance.

Metal lath and beads for internal plastering falling within the scope of EN 13658-1, metal lath and beads for external rendering falling within the scope of EN 13658-2 and metal beads and feature profiles falling within the scope of EN 14353, all with an exposed surface containing organic material, have proven to have a stable and predictable performance concerning reaction to fire. This conclusion has been based on the very limited exposure to fire these products are experiencing, since they have only an insignificant part of their surface exposed to fire: these metal lath, beads and feature profiles are products broadly used with gypsum plasterboards to form corners in walls. For this reason, the reaction to fire performance of these products can be deemed, without the need for any testing, to achieve class E, as defined in the European classification system mentioned above. If the manufacturers of these products want to declare better reaction to fire performances for them, such products still have to be tested.

Therefore, the draft Regulation, proposed by the construction industry, renders the manufacturers of metal lath and beads for internal plastering covered by the harmonised standard EN 13658-1, metal lath and beads for external rendering covered by the harmonised standard EN 13658-2 and metal beads and feature profiles covered by the harmonised standard EN 14353, all with an exposed surface containing organic material, the right to use these simplified procedures for determining their performance in relation to reaction to fire

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).

and classifying them without testing in class E, as defined in the European classification system mentioned above.

The draft Regulation will thus significantly reduce the burdens and the costs incurred by the manufacturers of metal lath, beads and feature profiles to be used with gypsum products because they will need to assess the products covered by the draft Regulation for their reaction to fire only if the manufacturer intends to declare a reaction to fire class higher than class E. The consequence will be the general increase in efficiency and competitiveness of the construction industry as a whole.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The draft act was initially prepared as a Commission Implementing Decision, based on Council Directive 89/106/EEC (Construction Products Directive). It was submitted for the opinion of the Standing Committee of Construction, in accordance with the procedures foreseen in Article 20 of Directive 89/106/EEC, and was supported by the unanimity of Member States present (325 votes). EFTA and the construction products industry also supported the draft Decision. In this context, the European Parliament, to which the draft was duly transmitted, did not formulate any comments on the draft Decision.

Before the draft Decision was adopted, Regulation (EU) No 305/2011 entered into full application and repealed Directive 89/106/EEC. Therefore, a revised version of the draft legal act was produced to correspond to the procedural demands of Regulation (EU) No 305/2011 and subjected to consultation under its provisions, as a delegated act. However, all its substance aspects remain untouched.

In particular, the draft Regulation was submitted for a written consultation of experts. Before this consultation, all Member States had been presented an opportunity to nominate experts to participate in it. In addition to these experts, also other external stakeholders were included as consulted. The documents 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 during all these preceding consultations were 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.

Moreover, in accordance with Article 27(5), the Commission may establish conditions under which a construction product shall be deemed to achieve a certain class of performance without testing or without further testing, in order to avoid the unnecessary testing of construction products for which performance has already been sufficiently demonstrated by stable test results or other existing data.

These conditions are then to be fulfilled when a manufacturer wishes to replace type-testing of his product by these levels or classes of performance, as set out in Article 36(1)(a) of Regulation (EU) No 305/2011.

The European classification system established by Commission Decision 2000/147/EC, regarding the reaction to fire of construction products, in particular its Table 1 of the Annex, is applicable also to metal lath and beads for internal plastering covered by the harmonised standard EN 13658-1, metal lath and beads for external rendering covered by the harmonised standard EN 13658-2 and metal beads and feature profiles covered by the harmonised standard EN 14353.

According to the consultations carried out, the reaction to fire performance of metal lath and beads for internal plastering covered by the harmonised standard EN 13658-1, metal lath and beads for external rendering covered by the harmonised standard EN 13658-2 and metal beads and feature profiles covered by the harmonised standard EN 14353, all with an exposed surface containing organic material, within the classification provided for in Decision 2000/147/EC, is sufficiently well known to justify their classification without testing in Class E, as defined in the European classification system mentioned above.

The draft Regulation conforms to the principle of proportionality. It results in alleviating certain obligations foreseen by Regulation (EU) 305/2011, concerning the testing of products under its scope.

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on the conditions for classification, without testing, of metal lath and beads for internal plastering covered by the harmonised standard EN 13658-1, metal lath and beads for external rendering covered by the harmonised standard EN 13658-2 and metal beads and feature profiles covered by the harmonised standard EN 14353, with regard to their reaction to fire

(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(5) thereof,

Whereas:

- (1) A system for classifying the performance of construction products with regard to their reaction to fire was adopted in Commission Decision 2000/147/EC⁴. Metal lath and beads for internal plastering covered by the harmonised standard EN 13658-1, metal lath and beads for external rendering covered by the harmonised standard EN 13658-2 and metal beads and feature profiles covered by the harmonised standard EN 14353, with an exposed surface containing organic material, are among the construction products to which that Decision applies.
- (2) Those products have proved to have a stable and predictable performance concerning reaction to fire when they are used with gypsum plasterboards to form corners in walls as only an insignificant part of their surface risks being exposed to fire.
- (3) Metal lath and beads for internal plastering covered by the harmonised standard EN 13658-1, metal lath and beads for external rendering covered by the harmonised standard EN 13658-2 and metal beads and feature profiles covered by the harmonised standard EN 14353, with an exposed surface containing organic material, should therefore be deemed to satisfy class E of performance for reaction to fire without the need for any testing,

³ OJ L 88, 4.4.2011, p. 5.

⁴ OJ L 50 23.2.2000, p. 14. Decision as amended by Decision 2003/632/EC (OJ L 220, 3.9.2003, p. 5) and by Decision 2006/751/EC (L 305, 4.11.2006, p. 8).

HAS ADOPTED THIS REGULATION:

Article 1

Metal lath and beads for internal plastering covered by the harmonised standard EN 13658-1, metal lath and beads for external rendering covered by the harmonised standard EN 13658-2 and metal beads and feature profiles covered by the harmonised standard EN 14353 shall be deemed to satisfy the class E set out in Table 1 of the Annex to Decision 2000/147/EC, without testing, where they have an exposed surface containing organic material.

Article 2

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, 17.7.2014

For the Commission
The President
José Manuel BARROSO