EUROPEAN
COMMISSION

Brussels, XXX
[…](2023) XXX draft

COMMISSION DELEGATED REGULATION (EU) …/...

of XXX

supplementing Regulation (EU) No 305/2011 of the European Parliament and of the Council by establishing classes of performance in relation to the resistance to fire of construction products

(Text with EEA relevance)

This draft has not been adopted or endorsed by the European Commission. Any views expressed are the preliminary views of the Commission services and may not in any circumstances be regarded as stating an official position of the Commission.

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 harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC[1] 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 2000/367/EC[2] established a European classification system regarding resistance to fire performance 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.

The experience from the application of Commission Decision 2000/367/EC has demonstrated that the classification system has otherwise functioned well and served its purpose. However, no consolidated version of the Decision has been formally adopted and it needs to be updated to the latest technological developments in this field.

In general, the definition of the symbols used should be improved. Numbers should be included in every table. Reference to standards should be removed to maintain the classification as a self-standing document. Classes should be added to complete the full range of the classification and facilitate a more detailed definition of the performance.

As regards novelties to specific classes,

– The obsolete classification R for load-bearing elements with a fire-separating function applicable to floors and roofs should be removed.

– Roof windows, rooflights and shutters should be added to the classification for load-bearing elements with a fire-separating function applicable until now to floors and roofs only.

– The classification for load-bearing elements with a fire-separating function is applicable to raised floors because these products cannot be considered as non-loadbearing (in the previous legal act it was included in the classification for load non-loadbearing elements or products with a fire-separating function).

– Improvements to the text describing the classification should be introduced in the classification for products and systems for protecting load-bearing elements applicable to ceilings with no independent fire resistance.

– Clarifications in brackets, improvement to the text describing the classification and a new note should be added to the classification for products and systems for protecting load-bearing elements applicable to fire protective coatings, boards, renderings, claddings and screens.

– Fixed windows should be added to the classification for non-loadbearing elements or products with a fire-separating function applicable until now to partitions only because these products can be used in partitions.

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1 OJ L 88, 4.4.2011, p. 5.

2 OJ 133, 6.6.2000, p. 26. Decision as amended by Decision 2003/629/EC of 27 August 2003 (L 218, 30.8.2003, p. 51) and by Decision 2011/232/EC of 11 April 2011 (L 97, 12.4.2011, p. 49).

– The classification for non-loadbearing elements or products with a fire-separating function applicable to cavity barriers should be separated because EI-M and EW is not applicable.

– A new classification for non-loadbearing elements or products with a fire-separating function applicable to unloaded roofs should be added to complement the classification for load-bearing elements with a fire-separating function applicable to roofs.

– The note related to the classification for non-loadbearing elements or products with a fire-separating function applicable to facades and external walls should be revised to replace the reference to falling parts by a reference related to the test according to the assessment method.

– A new classification for non-loadbearing elements or products with a fire-separating function applicable to non-mechanical fire barriers for ventilation ductwork should be included.

– The classification for penetration seals and linear gap seals should be replaced by three different classifications.

– A new classification for non-loadbearing elements or products with a fire-separating function applicable to penetration seals should be included.

– A new classification for non-loadbearing elements or products with a fire-separating function applicable to combined penetration seals should be included. The note refers to the need for completion with the classification of the elements used but it is restricted to the classification applicable to the products.

– A new classification for non-loadbearing elements or products with a fire-separating function applicable to linear joint seals should be included.

– The classification for non-loadbearing elements or products with a fire-separating function applicable to fire doors and shutters should be redefined to fire resisting doorsets, openable windows, openable rooflights and shutters and the reference to C should be improved and revised. This classification should not be applicable to non-openable products because it includes the possibility to be complemented by C and a digit if a self-closing device is fitted.

– The classification for non-loadbearing elements or products with a fire-separating function applicable to smoke control doors should be redefined to smoke control doorsets, openable windows, openable rooflights and shutters and the reference to C should be improved and revised.

– The reference to C included for the classification for non-loadbearing elements or products with a fire-separating function applicable to closures for conveyers and track-bound transportation systems should be improved and revised.

– A new classification for non-loadbearing elements or products with a fire-separating function applicable to air transfer grilles should be included. The classification should be completed by the addition of “resist flame” when the relevant test is passed. The declaration of the failure of the test was considered but rejected in favour of a positive declaration. This point should be considered when referring to this classification.

– The classification for non-loadbearing elements or products with a fire-separating function applicable to chimneys should be revised including the operating temperature.

– The classification for products for use in ventilation systems applicable to ventilation ducts should be improved and refer to fire resisting ventilation ducts.

– The classification for products for use in ventilation systems applicable to fire dampers should be revised to include classification S in a clearer way and to provide additional information as regards the testing regime.

– The classifications for products to be used within services should be revised to refer to products to be used within electrical building service installations and the applications should be revised to refer to ire protective systems for cable systems and associated components, unprotected electrical cables with intrinsic fire resistance and unprotected small electrical cables with intrinsic fire resistance.

– The classification for products to be used within electrical building service installations applicable to cable management system and applicable to cables together with cable management system should not be included because a European test method is not available. This classification is expected to be revised when the test method is available. In the meantime, references to classification of the management system and references to the combination of cable and management system should not be used in the context of the European regulation.

– The classification for products to be used in smoke and heat control systems applicable to single compartment smoke control ducts should be revised by removing class E300 because the temperature limit of 300ºC is not compatible with the testing method. Reference to this class is obsolete.

– The reference to C and the note related to the classification for products to be used in smoke and heat control systems applicable to multi-compartment fire resistant smoke control ducts should be improved and revised.

– The reference to S and the note related to the classification for products to be used in smoke and heat control systems applicable to single compartment fire resistant smoke control ducts should be improved and revised.

– The reference to S and the note related to the classification for products to be used in smoke and heat control systems applicable to multi-compartment fire resistant smoke control dampers should be improved and revised.

– The classification for products to be used in smoke and heat control systems applicable to smoke barriers should be revised by removing the note because an undefined time limit is not applicable as a class.

– The note related to the classification for products to be used in smoke and heat control systems applicable to natural smoke and heat exhaust ventilators should be revised by to include certain clarifications.

For these reasons, Commission Decision 2000/367/EC should thus be repealed, and this Commission Regulation should be applied instead. 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 firstly discussed in the meeting of the Advisory Group for Construction[3] (the AG) on 19 January 2016 and submitted for a written consultation between 19 January and 19 February 2016. Moreover, the technical contents of this act had been the topic of preceding consultations of experts from March 2015 onwards. 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.

Based on the comments received, the draft Regulation was presented to the AG on 15 March 2017 and submitted for a written consultation between 15 March 2017 and 31 March 2017. Then, a revised draft was presented to the Subgroup Fire of the AG on 16 June 2017 and submitted for a written consultation between 16 June 2017 and 30 June 2017. Preparation continued with bilateral contacts to CEN Technical Committee 127, so as to coordinate the process with the drafting of the respective classification standards, and additionally with further contacts with external stakeholders.

A new version of the draft Regulation was submitted for a written consultation to the Subgroup Fire of the AG between 25 February 2021 and 31 March 2021 and then presented to the AG on 15 March 2021 and submitted for a written consultation between 15 March and 31 March 2021.

The draft final version was presented to the AG on 21 November 2022 and submitted for a written consultation after the meeting within one week. The comments received in the meeting and after the meeting in writing have been considered in the current version which was presented for information to the AG meeting on 15 February 2023.

The documents discussed in the AG, 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.

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.

The European classification system has been established by Commission Decision 2000/367/EC, regarding the resistance to fire of construction products. That Decision as amended contains thirty four classification tables for different products and applications.

The revised tables contained in this Regulation reflect the latest technological developments and provide a comprehensive classification system in relation to the resistance to fire of construction products

[3] Code E01329 in the Register of Commission Expert Groups and Other Similar Entities

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 2000/367/EC.

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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 harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC[4], and in particular Article 27(1) thereof,

Whereas:

(1) Commission Decision 2000/367/EC[5] establishes a system for classifying the performance of construction products with regard to their resistance to fire. That system is based on a harmonised solution for assessing that performance and for classifying the results of those assessments.

(2) Decision 2000/367/EC does not cover certain classes of performance and thus limits the possibility to declare a more detailed performance. It is therefore necessary to establish classes of performance that are up-to-date to the latest technological and market developments.

(3) New classifications for non-loadbearing elements or products with a fire-separating function applicable to unloaded roofs, non-mechanical fire barriers for ventilation ductwork, penetration seals, combined penetration seals, linear joint seals and air transfer grilles should be added

(4) The obsolete classification R for load-bearing elements with a fire-separating function applicable to floors and roofs should be removed.

(5) The technical progress in the assessment methods also requires more detailed explanations and points of reference as regards the products, including revised information in notes.

(6) In order to enable manufacturers to declare sufficiently detailed classes of performance of construction products with regard to their resistance to fire in line with the latest

4 OJ L 79, 16.3.2006, p. 27

5 Commission Decision of 3 May 2000 implementing Council Directive 89/106/EEC as regards the classification of the resistance to fire performance of construction products, construction works and parts thereof (OJ 133, 6.6.2000, p. 26).

technological and market developments, and in the interest of legal clarity, Decision 2000/367/EC should be repealed.

(7) In accordance with Article 27 of Regulation (EU) No 305/2011, classes of performance in relation to the essential characteristics of construction products need to be established by the Commission. In accordance with Article 27(2) of that Regulation, those classes are to be used in harmonised standards.

HAS ADOPTED THIS REGULATION:

Article 1

Classes of performance in relation to the resistance to fire of construction products, as set out in the Annex, are established.

Article 2

Decision 2000/367/EC is repealed.

References to Decision 2000/367/EC 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,

For the Commission
The President
Ursula VON DER LEYEN