353640 "Doors, windows, shutters, building harware and curtain walling"

AG012-04.3 Draft delegated decision on AVCP system BWR7

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Opmerking secretaris:	Geachte leden van de normcommissies die TC33 volgen, Bijgaand het voorstel aangaande Basic Work Requirement 7: Environmental Sustainability. De EU stelt voor om systeem 3 te gebruiken voor de AVCP (Assessment & Verification of Constancy of Performance). Argumentatie hiervoor vindt u aan het eind van punt 1., op p. 2. Commentaar (en vragen) ontvang ik graag nog deze week; komende maandag levert mijn collega Annemarie Mewe verzamelde input aan o.a. BZK.
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EUROPEAN
COMMISSION

Brussels, XXX
[…](2019) XXX draft

COMMISSION DELEGATED DECISION (EU) …/…

of XXX

on supplementing Regulation (EU) No 305/2011 of the European Parliament and of the Council with regard to the applicable systems to assess and verify constancy of performance in relation to the essential characteristic environmental sustainability

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

According to Article 28 of 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], assessment and verification of constancy of performance (AVCP) of construction products in relation to their essential characteristics is to be carried out in accordance with the systems set out in Annex V to Regulation (EU) No 305/2011.

Pursuant to Articles 28(2) and 60(h) of Regulation (EU) No 305/2011, the Commission is delegated the task of establishing the AVCP systems of construction products, relating to a given product, a given product family or a given essential characteristic, taking into account the considerations laid down in these provisions.

In accordance with Article 28(2), the choice of the AVCP systems should aim at the least onerous system for the manufacturers, when account is taken of all the relevant considerations.

Pursuant to Council Directive 89/106/EEC (Construction Products Directive)[2], the Commission adopted Decisions on the appropriate procedure for the attestation of conformity (AoC) for several product families. These acts are deemed valid also under the application of Regulation (EU) No 305/2011, taking into consideration Article 65(2) of this Regulation, and thus continue to provide a legal base for the choice of AVCP systems of construction products respectively under the scope of each one of these Decisions.

Regulation (EU) No 305/2011 contains a new basic requirement for construction works, BWR7 on environmental sustainability, which was not included in Directive 89/106/EEC and therefore not explicitly dealt with in the AoC Decisions, either. In order to appropriately deal with the choice of AVCP systems of construction products for this new area, for legal clarity and certainty it is thus more opportune to establish explicit horizontal rules on this topic.

For environmental sustainability, treated as an essential characteristic, the assessment of the performance of construction products would be based on calculation. On the other hand, the complexity of this assessment and the need to use sophisticated databases would in any case necessitate turning to third party assistance, at least when it comes to smaller enterprises. Therefore, and in order to aim at the least onerous AVCP system and to provide greater legal clarity and certainty, more onerous systems are not necessary than AVCP system 3 as foreseen in Annex V to Regulation (EU) No 305/2011.

[Here it would be highly opportune to flag those product families which would need exceptions of any kind from the main rule described above.]

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

To be added subsequently.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

Pursuant to Articles 28(2) and 60(h) of Regulation (EU) No 305/2011, AVCP systems of construction products, as set out in Annex V to Regulation (EU) No 305/2011, are to be

[1] OJ L 88, 4.4.2011, p. 5.
[2] OJ L 40, 11.2.1989, p. 12.

established by delegated acts of the Commission, to be applicable to a given product, a given product family or a given essential characteristic, taking into account the considerations laid down in these provisions.

When establishing the AVCP systems, pursuant to Article 28(2) of Regulation (EU) No 305/2011, the Commission shall choose the least onerous systems consistent with the fulfilment of all basic requirements for construction works. Pursuant to Article 60(h) of Regulation (EU) No 305/2011, this shall be done in accordance with the impact of the product to this fulfilment during its expected working life.

The draft Decision conforms to the principle of proportionality. For these reasons, and owing to its horizontal nature, the draft Decision is expected to serve the interests of the construction sector as a whole.

COMMISSION DELEGATED DECISION (EU) …/…

of XXX

on supplementing Regulation (EU) No 305/2011 of the European Parliament and of the Council with regard to the applicable systems to assess and verify constancy of performance in relation to the essential characteristic environmental sustainability

(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/EEC[3], and in particular Article 28(2) thereof,

Whereas:

(1) The system for assessing and verifying constancy of performance of construction products, regarding the essential characteristic environmental sustainability, has not yet been established.

(2) Taking into account the specific features of this essential characteristic and the assessment methods to be used for it, its assessment should be carried out by the notified laboratory before placing the product on the market. More onerous systems are not necessary,

HAS ADOPTED THIS DECISION:

Article 1

Construction products shall be assessed and verified for constancy of performance in relation to their essential characteristic environmental sustainability in accordance with the system 3.

Article 2

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

Done at Brussels,

For the Commission
The President

[3] OJ L 88, 4.4.2011, p. 5.