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(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 13 May 2002

on the procedure for attesting the conformity of construction products in contact with water intended for human consumption, pursuant to Article 20(2) of Council Directive 89/106/EEC

(notified under document number C(2002) 1417)

(Text with EEA relevance)

(2002/359/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 89/106/EEC of 21 December 1988 on the approximation of laws, regulations and administrative provisions of the Member States relating to construction products⁽¹⁾, as amended by Directive 93/68/EEC⁽²⁾, and in particular Article 13(4) thereof,

Whereas:

(1) The Commission is required to select, as between the two procedures under Article 13(3) of Directive 89/106/EEC for attesting the conformity of a product, the 'least onerous possible procedure consistent with safety'. This means that it is necessary to decide whether, for a given product or family of products, the existence of a factory production control system under the responsibility of the manufacturer is a necessary and sufficient condition for an attestation of conformity, or whether, for reasons related to compliance with the criteria mentioned in Article 13(4), the intervention of an approved certification body is required.

(2) Article 13(4) of Directive 89/106/EEC requires that the procedure thus determined must be indicated in the mandates and in the technical specifications. Therefore, it is desirable to define the concept of products or family of products as used in the mandates and in the technical specifications.

(3) The two procedures provided for in Article 13(3) are described in detail in Annex III to Directive 89/106/EEC. It is necessary therefore to specify clearly the methods by which the two procedures must be implemented, by reference to Annex III to that Directive, for each product or family of products, since Annex III gives preference to certain systems.

(4) The procedure referred to in point (a) of Article 13(3) of Directive 89/106/EEC corresponds to the systems set out in the first possibility, without continuous surveillance, and the second and third possibilities of point (ii) of section 2 of Annex III. The procedure referred to in point (b) of Article 13(3) corresponds to the systems set out in point (i) of section 2 of Annex III, and in the first possibility, with continuous surveillance, of point (ii) of section 2 of Annex III.

(5) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Construction,

HAS ADOPTED THIS DECISION:

Article 1

The products set out in Annex I shall have their conformity attested by a procedure whereby, in addition to a factory production control system operated by the manufacturer, an approved certification body is involved in assessment and surveillance of the production control or of the product itself.

⁽¹⁾ OJ L 40, 11.2.1989, p. 12.

⁽²⁾ OJ L 220, 30.8.1993, p. 1.

Article 2

The procedure for attesting conformity as set out in Annex II shall be indicated in the mandates and in the technical specifications referred to in Article 4 of Directive 89/106/EEC.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 13 May 2002.

For the Commission

Erkki LIIKANEN

Member of the Commission

ANNEX I

Piping kits and storage systems, pipes, tanks, valves, taps, pumps, water meters, protection and safety devices, fittings, adhesives, joints, joint sealings, gaskets, membranes, resins, coatings including linings, lubricants and greases in contact with water intended for human consumption.

ANNEX II

ATTESTATION OF CONFORMITY

For the product(s) and intended use(s) listed below, CEN/CENELEC/EOTA are requested to specify the following system(s) of attestation of conformity in the relevant technical specifications referred to in Article 4 of Directive 89/106/EEC.

Product(s)	Intended use(s)	Level(s) or class(es)	Attestation of conformity of system(s)
— Kits (piping and storage systems) — Pipes — Tanks — Valves, taps, pumps, water meters, protection and safety devices — Fittings, adhesives, joints, joint sealings and gaskets — Membranes, resins — Coatings — Lubricants, greases	in installations for the transport/distribution/storage of water intended for human consumption, up to, and including, the consumer taps	—	1+ ⁽¹⁾

System 1+: see CPD Annex III(2)(i), with audit-testing of samples

⁽¹⁾ The performance of the products, other than that related to the sanitary properties of the product (fitness for contact with water intended for human consumption), shall be assessed following the provisions of Decision 1999/472/EC, published in OJ L 184, 17.7.1999, p. 42).

The specification for the system should be such that it can be implemented even where performance does not need to be determined for a certain characteristic, because at least one Member State has no legal requirement at all for such a characteristic (see Article 2(1) of Directive 89/106/EEC and, where applicable, clause 1.2.3 of the Interpretative Documents). In those cases the verification of such a characteristic must not be imposed on the manufacturer if he does not wish to declare the performance of the product in that respect.