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Delegations will find attached document D089530/04.

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Brussels, XXX
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[...] (2023) XXX draft

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

of XXX

implementing Directive 2009/125/EC of the European Parliament and of the Council as regards ecodesign requirements for local space heaters and separate related controls and repealing Regulation (EU) 2015/1188

(Text with EEA relevance)

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

of XXX

implementing Directive 2009/125/EC of the European Parliament and of the Council as regards ecodesign requirements for local space heaters and separate related controls and repealing Regulation (EU) 2015/1188

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products¹ and in particular Article 15(1) thereof,

Whereas:

- (1) Directive 2009/125/EC requires the Commission to set ecodesign requirements for energy-related products that represent significant volumes of sales and trade, that have a significant environmental impact and whose environmental impact could be considerably reduced without excessive costs.
- (2) The proposal for a revised Energy Efficiency Directive (EED)² requires Member States to further develop their national energy and climate plans (NECPs), referred to in Article 4(2), by including measures to reduce Union energy consumption by at least 9% overall by 2030 compared to the 2020 Reference Scenario. In this context, the ecodesign and energy labelling rules for products are key ways for the Union to achieve its energy and decarbonisation objectives.
- (3) The Ecodesign and Energy Labelling Working Plan 2022-2024³ includes local space heaters among the product groups for which the ecodesign and energy labelling requirements are due or expected to be reviewed before the end of 2025.
- (4) Measures from the Ecodesign and Energy Labelling Working Plan 2022-2024 have an estimated potential to deliver total annual final energy savings in excess of 170 TWh by 2030. This is equivalent to reducing greenhouse gas emissions by approximately 24

¹ OJ L 285, 31.10.2009, p. 10.

² Proposal for a Directive of the European Parliament and of the Council on energy efficiency (recast) (COM/2021/558 final of 14.7.2021).

³ Communication from the Commission, Ecodesign and Energy labelling Working Plan 2022-2024 (2022/C 182/01) (C/2022/2026) (OJ C 182, 4.5.2022).

million tonnes per year by 2030. Local space heaters have the potential to deliver electricity savings of 11 TWh/year by 2030.

- (5) The Commission established ecodesign requirements for local space heaters in Regulation (EU) 2015/1188⁴. In accordance with Article 7 of that Regulation the Commission has reviewed it and analysed the technical, environmental and economic aspects of local space heaters as well as real-life end-user behaviour. The results of the review were made public and presented to the Consultation Forum established by Article 18 of Directive 2009/125/EC.
- (6) The review study shows that the ecodesign measures in Regulation (EU) 2015/1188 have significantly contributed to reducing energy consumption and greenhouse gas emissions. However, without further regulatory action, energy savings will stagnate after 2030. The environmental aspects of local space heaters, identified in the review study as significant for the purposes of Regulation (EU) 2015/1188 are the consumption of energy during the use phase, the generation of waste at the end of life and the emissions to air and water in the production phase (due to the extraction and processing of raw materials).
- (7) Annual energy consumption from local space heaters amounted to 200 TWh/year in 2020, equivalent to 1.7% of the Union total final energy consumption and 4% of the final energy consumption of households and services. The projected energy consumption of local space heaters in a business as usual scenario is estimated to decrease to 140 TWh/year in 2030. The decrease may be accelerated if the existing ecodesign requirements are updated.
- (8) The Commission has assessed the impact of different policy options to reduce energy consumption from local space heaters from 2025 onwards. According to the impact assessment, new ecodesign measures could reduce energy consumption and greenhouse gas emissions by 23 TWh/year and 1.8 Mt CO₂-eq/year respectively by 2030.
- (9) As a result, it is necessary to clarify and expand the scope of Regulation (EU) 2015/1188 in order to eliminate ambiguities and close existing loopholes in relation to products that provide thermal comfort and should therefore be considered local space heaters. Given that aim, the definition of exempted products should be improved to reduce the possibility of misinterpretation. In addition, the declaration from the manufacturer, importer or authorised representative about the intended use of an exempted product and its design as indicated in the technical documentation should be coherent with the description and definition of the exempted product types, and should not be contradicted by marketing claims or by any other information provided by the manufacturer, importer or authorized representative accompanying the product in question.
- (10) It is appropriate to include in the scope of the Regulation local space heaters placed on the market without a temperature control, including self-regulating heating cables and mats. This would bring energy savings and very importantly, would remove the legal loophole whereby local space heaters can be placed on the market either without

⁴ Commission Regulation (EU) No 2015/1188 of 28 April 2015 implementing Directive 2009/125/EC of the European Parliament and of the Council with regard to ecodesign requirements for local space heaters (OJ L 193, 21.7.2015, p. 76).

control or with controls that are sold separately, in order to sidestep the application of the ecodesign requirements.

- (11) In order to cover the relevant types of local space heaters placed on the market, ecodesign requirements should be set for the following categories of domestic local space heaters: open-fronted local space heaters; open-to-chimney local space heaters; closed fronted open combustion local space heaters; balanced flue local space heaters; electric portable local space heaters; electric fixed local space heaters; electric storage local space heaters; electric underfloor local space heaters; electric visibly glowing radiant local space heaters; electric visibly glowing radiant portable local space heaters; luminous local space heaters; tube local space heaters; towel rails and flueless heaters.
- (12) Fixed local space heaters and electric visibly glowing radiant local space heaters span a wide range of products of different sizes and heat output. More stringent ecodesign requirements should be set for products providing larger heat outputs and therefore consuming more energy, within the same product category.
- (13) Electric visibly glowing radiant local space heaters feature heating elements at high temperatures that may be reached from the outside and could therefore accidentally get in touch with flammable elements. For this reason electric visibly glowing radiant portable local space heaters, which can be moved from one place to another, should only be operated manually and should subsequently not be subject to energy efficiency levels requiring the fitting of automatic controls allowing the product to turn itself on and to remain active in the absence of human intervention.
- (14) In order to increase the representativeness and relevance of ecodesign requirements as regards commercial local space heaters available on the market, luminous local space heaters and tube local space heaters of 300 kW or less should be subject to this Regulation's requirements.
- (15) Controls placed on the market separately from local space heaters should be subject to relevant ecodesign requirements as to avoid undermining ecodesign potential to reduce energy consumption.
- (16) Towel rails are not only intended to heat or dry towels. They are also able to heat the space in which they are placed contributing to thermal comfort by acting as local space heaters. To create a levelled playing field for manufacturers independent of whether or not they place them on the market as local space heaters, all such products should be subject to ecodesign requirements to save more energy.
- (17) Towel rails' main use is dependent on the heat output of the product. Towel rails with medium to high heat output would contribute to thermal comfort, thus heating or drying towels only being a secondary use, whereas towel rails with low heat output would be mostly used to heat or dry towels, with only a small quantity of heat contributing to thermal comfort. The level of stringency of ecodesign requirements should therefore be adapted to the main use of the product, determined by its heat output.

- (18) Delegated Regulation (EU) 2023/807⁵ establishes a primary energy factor for electricity of 1,9 (conversion coefficient) to be applied when energy savings are calculated in primary energy terms based on final energy consumption. This primary energy factor should be applied when calculating the seasonal space heating energy efficiency for electric local space heaters.
- (19) All low power modes currently implemented in local space heaters generate additional energy consumption. Specific ecodesign requirements for low power modes, including idle mode or networked standby mode, should be set out in this Regulation both for local space heaters and separate controls.
- (20) It is appropriate that application of more stringent requirements for low power modes for local space heaters and separate controls occurs concurrently with those set for power consumption in off-mode under Regulation (EU) 2023/826.
- (21) Ecodesign measures should only be implemented at Union level since they apply directly to the product in question, uniformity of which needs to be ensured to avoid a situation where different national rules undermine the internal market for that product.
- (22) The Commission's Circular Economy Action Plan⁶ and the Ecodesign and Energy Labelling Working Plan 2022-2024 underline the importance of using the ecodesign framework to support the move to a more resource-efficient and circular economy. This Regulation should therefore lay down appropriate circularity-related requirements ensuring that products are effectively repaired thanks to the availability of a range of spare parts, setting maximum delivery time for spare parts and specifying what repair and maintenance information is to be given to professional repairers and end-users. Local space heaters should also be designed in a way that facilitates the recovery of materials and components.
- (23) The transitional period for introducing the new ecodesign requirements should be sufficient for manufacturers to adapt local space heaters to those requirements. The period should take into account any cost impact for manufacturers, in particular small and medium-sized enterprises, while ensuring this Regulation's objectives are achieved.
- (24) Essential characteristics of local space heaters as regards ecodesign should be measured and calculated using reliable, accurate and reproducible measurement and calculation methods including, if available, harmonised standards adopted by the European standardisation organisations following a request by the Commission in accordance with the procedures laid down in Regulation (EU) 1025/2012 of the European Parliament and of the Council⁷. In the absence of harmonised standards, the transitional methods set out in Annex IV should be used for supporting verification of compliance of local space heaters with this Regulation. When harmonised standards are adopted, Annex IV to this Regulation should be repealed.

⁵ Commission Delegated Regulation (EU) 2023/807 of 15 December 2022 on revising the primary energy factor for electricity in application of Directive 2012/27/EU of the European Parliament and of the Council (OJ L 101, 14.4.2023, p. 16).

⁶ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. A new Circular Economy Action Plan (COM/2020/98 final of 11.3.2020).

⁷ OJ L 316, 14.11.2012, p. 12.

- (25) The calculation of the energy efficiency of local space heaters in regard of the heat output losses and the recovery of heat output by means of controls, should be representative of the real physical effect taking place when a local space heater is active. The losses and recovery of heat output should therefore be based on factors multiplying the final energy rather than subtracted from the primary energy.
- (26) To ensure the effectiveness of the Regulation and to protect consumers, the alteration of the performance of local space heaters in test conditions to improve the declared values as regards ecodesign should not be allowed. This includes, but is not limited to, local space heaters designed to detect they are being tested by recognising the test conditions or test cycle and to automatically alter their behaviour or properties as a result, and local space heaters pre-set to alter their behaviour or properties at the time of testing. It also includes prescribing the manual alteration of a local space heater in preparation for testing that alters its behaviour or properties for normal use. For the same reasons, software updates of local space heaters should not worsen the declared characteristics.
- (27) In order to ensure that devices are able to be effectively repaired, a range of spare parts should be available to professional repairers or end users. Also the price of spare parts should be reasonable and should not discourage repair. To create transparency and incentivise the setting of reasonable prices, the indicative pre-tax price for spare parts provided pursuant to this Regulation should be accessible on a free access website.
- (28) In accordance with Article 8(2) of Directive 2009/125/EC, this Regulation should specify which conformity assessment procedures apply.
- (29) To facilitate compliance checks, manufacturers should provide the information in the technical documentation referred to in Annexes IV and V to Directive 2009/125/EC if that information relates to the requirements in this Regulation.
- (30) In addition to the legally binding requirements in this Regulation, indicative benchmarks for the best available technologies should be determined to ensure that information on the life-cycle environmental performance of local space heaters is widely available and easily accessible.
- (31) This Regulation should be reviewed to assess the appropriateness of its provisions for achieving, and their effectiveness in achieving, its goals. The timing of the review should be sufficient for all provisions to be applied and have an effect on the market.
- (32) The measures provided for in this Regulation are in accordance with the opinion of the Committee established under Article 19(1) of Directive 2009/125/EC,

HAS ADOPTED THIS REGULATION:

Article 1
Subject matter and scope

1. This Regulation lays down ecodesign requirements for the placing on the market and putting into service of domestic local space heaters with a nominal heat output of 50 kW or less and commercial local space heaters with a nominal heat output of the

product or a single tube segment heat output of 300 kW or less. This Regulation also lays down ecodesign requirements for separate related controls.

2. This Regulation shall not apply to:
 - (a) local space heaters using a vapour compression cycle or sorption cycle for the generation of heat driven by electricity or fuel;
 - (b) local space heaters designed, tested, marketed and declared exclusively for outdoor use;
 - (c) local space heaters of which the direct heat output is less than 6% of the combined direct heat output and indirect heat output at nominal heat output;
 - (d) air heating products;
 - (e) sauna stoves;
 - (f) cooking appliances.
3. Manufacturers, importers or authorised representatives shall not consider a product to fall outside the scope of this Regulation on the basis of paragraph 2, if the design, the technical characteristics, the intended use, the marketing claims or any other information provided by the manufacturer, importer or authorised representative accompanying that product do not sufficiently distinguish it from local space heaters covered by this Regulation.

Article 2 **Definitions**

For the purposes of this Regulation, the following definitions shall apply:

- (1) ‘local space heater’ means a device equipped with one or more heat generators to convert electricity from the mains or gaseous or liquid fuels directly into heat output to provide thermal comfort for human beings in the enclosed space in which it is situated by direct heat transfer, possibly combined with heat output to other spaces or with heat transfer to a fluid;
- (2) ‘domestic local space heater’ means a local space heater other than a commercial local space heater;
- (3) ‘nominal heat output’ (P_{nom}) means the heat output of a local space heater comprising both direct heat output and indirect heat output (where applicable), when operating at the setting for the maximum heat output that can be maintained over an extended period, as declared by the manufacturer, expressed in kW;
- (4) ‘commercial local space heater’ means either a luminous local space heater or a tube local space heater;
- (5) ‘luminous local space heater’ means a gaseous fuel local space heater or a liquid fuel local space heater equipped with a burner, to be installed above head level directed towards the place of use so that the heat emitted by the burner, being predominantly

infrared radiation, directly warms the people to be heated, being the products of combustion evacuated in the space where the heater is placed;

- (6) ‘tube local space heater’ means a gaseous fuel or liquid fuel local space heater equipped with a burner, to be installed above head level near the people to be heated, that heats the space primarily by infrared radiation from the tube(s) or strip(s) heated by the internal passage of products of combustion, being the products of combustion evacuated through a flue duct;
- (7) ‘tube segment’ means a part of a tube local space heater that comprises all the elements needed for stand-alone operation and can therefore be tested independently of the other tube heating system parts;
- (8) ‘tube segment heat output’ means the heat output of a tube segment which together with other tube segments forms part of a configuration of a tube heater system, expressed in kW;
- (9) ‘tube heater system’ means a tube local space heater comprising more than one single tube segment, of which the products of combustion of one tube segment may feed into the next tube segment, and of which the products of combustion of multiple tube segments are to be evacuated by a single exhaust fan;
- (10) ‘direct heat output’ means the heat output of the product by radiation and convection of heat, as emitted by or from the product itself to air, excluding the heat output of the product to a heat transfer fluid, expressed in kW;
- (11) ‘indirect heat output’ means the heat output of the product to a heat transfer fluid by the same heat generation process that provides the direct heat output of the product, expressed in kW;
- (12) ‘air heating product’ means an air heating product as defined in Article 2, point (1), of Commission Regulation (EU) 2016/2281⁸;
- (13) ‘sauna stove’ means a space heating product, designed, tested, marketed and declared exclusively to be used in, dry or wet sauna’s or similar environments;
- (14) ‘cooking appliance’ means an appliance or part of it that incorporates one or more cavities using electricity, gas or both, to prepare food by means of a conventional or fan-forced mode;
- (15) ‘gaseous fuel local space heater’ means a local space heater using gaseous fuel;
- (16) ‘liquid fuel local space heater’ means a local space heater using liquid fuel;
- (17) ‘equivalent model’ means a model placed on the market with the same technical parameters set out in Annex II, Table 1, Table 2, Table 3, Table 4, Table 5 or Table 6 as another model placed on the market by the same manufacturer;

⁸ Commission Regulation (EU) 2016/2281 of 30 November 2016 implementing Directive 2009/125/EC of the European Parliament and of the Council establishing a framework for the setting of ecodesign requirements for energy-related products, with regard to ecodesign requirements for air heating products, cooling products, high temperature process chillers and fan coil units (OJ L 346, 20.12.2016, p. 1).

- (18) ‘control’ means the equipment that provides one or more control functions and that interfaces with the end-user to regulate the heat output of a local space heater in scope of this Regulation;
- (19) ‘control function’ means each of the different control functions according to Table 10 and Table 11 of Annex III for the control of a local space heater;
- (20) ‘separate related control’ means a control intended to be used with local space heaters in scope of this Regulation but placed on the market separately;
- (21) ‘declared values’ means the values provided by the manufacturer, importer or authorised representative for the stated, calculated or measured technical parameters in accordance with Article 4, for the verification of compliance by the Member State authorities;
- (22) ‘model identifier’ means the code, usually alphanumeric, which distinguishes a specific product model from other models with the same trade mark or the same manufacturer’s, importer’s or authorised representative’s name.

Article 3

Ecodesign requirements

1. Local space heaters and separate related controls referred to in Article 1, shall meet the ecodesign requirements set out in Annex II.
2. Compliance with ecodesign requirements shall be measured and calculated in accordance with the methods set out in Annex III and Annex IV.

Article 4

Conformity assessment

1. The conformity assessment procedure referred to in Article 8(2) of Directive 2009/125/EC shall be the internal design control set out in Annex IV to that Directive or the management system for assessing conformity set out in Annex V to that Directive.
2. For the purposes of the conformity assessment pursuant to Article 8 of Directive 2009/125/EC, the technical documentation shall contain the declared values of the parameters listed in point 6 of Annex II to this Regulation and the details and results of the calculations undertaken in accordance with Annex III to this Regulation.
3. Where the information included in the technical documentation for a particular model has been obtained from either of the following means, the technical documentation shall include the details of the calculation, the assessment undertaken by the manufacturer to verify the accuracy of the calculation and, where appropriate, the declaration of identity between the models of different manufacturers:
 - (a) from a model that has the same technical characteristics relevant for the technical information to be provided but is produced by a different manufacturer, or

- (b) by calculation on the basis of design or extrapolation from another model of the same or a different manufacturer, or both.
- 4. The technical documentation shall include a list of all equivalent models, including the model identifier.

Article 5

Verification procedure for market surveillance purposes

Member States shall apply the verification procedure set out in Annex V to this Regulation when performing the market surveillance checks referred to in Article 3(2) of Directive 2009/125/EC.

Article 6

Circumvention

- 1. Manufacturers, importers or authorised representatives shall not place on the market or put into service local space heaters or separate related controls designed to alter their behaviour or properties when being tested, in order to obtain a more favourable result for any of the declared values of the parameters set out in this Regulation.
- 2. Manufacturers, importers or authorised representatives shall not prescribe test instructions, specifically for when local space heaters or separate related controls are being tested, that have the effect of altering the behaviour or properties of those heaters or of those separate related controls in order to obtain a more favourable result for any of the declared values of the parameters set out in this Regulation.
- 3. Manufacturers, importers or authorised representatives shall not place on the market or put into service local space heaters or separate related controls designed to alter their behaviour or properties within a short period after being put into service resulting in a degrading of any of the declared values of the parameters set out in this Regulation.

Article 7

Software updates

- 1. Software or firmware updates shall not worsen any declared value for the parameters of a local space heater or separate related control when measured using the testing method applicable at the time of them being placed on the market or put into service.
- 2. No change of any declared value for the parameters of a local space heater or separate related control when measured using the testing method applicable at the time of them being placed on the market or put into service shall occur as a result of rejecting the update.

Article 8
Indicative benchmarks

The indicative benchmarks for the best-performing local space heaters available on the market at the time of the entry into force of this Regulation are set out in Annex VI.

Article 9
Review

By [OP – please insert date - five years after its entry into force], the Commission shall review this Regulation in the light of technological progress and shall present the results of that review including, if appropriate, a draft revision proposal, to the Consultation Forum.

In particular, the review shall assess:

- whether it is appropriate to set stricter ecodesign requirements for energy efficiency and pollutant emissions;
- whether the verification tolerances should be modified;
- the validity of the correction factors used to assess the seasonal space heating energy efficiency of local space heaters;
- whether it is appropriate to introduce third party certification;
- whether it is appropriate to include into the scope of this Regulation local space heaters for outdoor use only, sauna stoves and software controls;
- whether it is appropriate to set additional resource efficiency requirements in accordance with the objectives of the circular economy, including whether more spare parts should be available, whether critical raw material requirements should be set, whether additional requirements for the availability of spare parts should be set;
- whether the lifetime of local space heaters has decreased due to the introduction of more advanced controls and the appropriateness of revising the requirements related to controls and their application to ensure the longest possible lifetime;
- whether it is appropriate to set additional requirements for the upgradeability of controls.

Article 10
Repeal

Regulation (EU) 2015/1188 is repealed as of 1 July 2025.

Article 11
Entry into force and application

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

It shall apply from 1 July 2025.

However, Article 6 shall apply from [*OP – please insert date – entry into force of this Regulation*].

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

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