
STATUTORY INSTRUMENTS

2016 No. 1107

**The Equipment and Protective Systems Intended for Use
in Potentially Explosive Atmospheres Regulations 2016**

PART 3

Conformity assessment

Conformity assessment procedures

39.—(1) For the assessment of conformity of equipment, and where necessary those devices referred to at regulation 3(2)(b), the manufacturer must follow one of the following procedures—

- (a) for equipment-groups I and II, equipment-categories M 1 and 1, the manufacturer must follow the EU-type examination set out in Annex III to the ATEX Directive (as amended from time to time), in conjunction with—
 - (i) conformity to type based on quality assurance of the production process as set out in Annex IV to the ATEX Directive (as amended from time to time), or
 - (ii) conformity to type based on product verification as set out in Annex V to the ATEX Directive (as amended from time to time);
- (b) for equipment-groups I and II, equipment-categories M 2 and 2, the manufacturer must follow—
 - (i) for internal combustion engines and electrical equipment in these groups and categories, the EU-type examination referred to in Annex III to the ATEX Directive (as amended from time to time) in conjunction with—
 - (aa) conformity to type based on internal production control plus supervised product testing as referred to in Annex VI to the ATEX Directive (as amended from time to time), or
 - (bb) conformity to type based on product quality assurance as set out in Annex VII to the ATEX Directive (as amended from time to time);
 - (ii) for other equipment in these groups and categories—
 - (aa) the procedure relating to internal production control referred to in Annex VIII to the ATEX Directive (as amended from time to time), and
 - (bb) the provision to a notified body of the technical documentation provided for in paragraph 2 of Annex VIII to the Directive (as amended from time to time);
- (c) for equipment-group II, equipment category 3, the procedure relating to internal production control referred to in Annex VIII to the ATEX Directive (as amended from time to time);
- (d) for equipment-groups I and II, instead of the procedures referred to in paragraphs (1)(a), (b) and (c), the manufacturer may follow conformity based on unit verification referred to in Annex IX to the ATEX Directive (as amended from time to time).

(2) The procedure referred to in paragraph (1)(a) or (d) must be used for the conformity assessment of protective systems.

(3) For the assessment of conformity of components, the manufacturer must—

(a) follow the procedures referred to in paragraph (1), with the exception of—

(i) affixing the CE marking;

(ii) drawing up of the EU declaration of conformity;

(b) issue a written attestation of conformity which must—

(i) confirm conformity of the component with Part 2 of these Regulations,

(ii) state the characteristics of the component, and

(iii) explain how the component must be incorporated into equipment or protective systems to comply with the essential health and safety requirements.

(4) In respect of the safety aspects referred to in paragraph 13 of Schedule 1, instead of the conformity assessment procedures referred to in paragraphs (1) and (2), the manufacturer may follow the procedure referred to in Annex VIII to the ATEX Directive (as amended from time to time).

(5) Where the procedures referred to in paragraphs (1), (2) and (4) have not been applied, the market surveillance authority, may authorise the placing on the market and the putting into service, of a product other than a component, in the Member State concerned where—

(a) the market surveillance authority is in receipt of a duly justified request, requesting the placing on the market and the putting into service of a product, other than a component, and

(b) the use of that product is in the interests of protection.

(6) The manufacturer must ensure that the documents and correspondence relating to the conformity assessment procedures referred to in paragraphs (1) to (4) are in the language determined by the Member State in which the product is made available on the market.