

IECEx ExTAG Training Workshop

Definition of “Manufacturer” in relation to
“Trade Agents” and “Local Assemblers”
IECEx OD 203

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WHEN YOU NEED TO BE SURE



Who is a manufacturer?

- The “Applicant” is the individual person or company that pays for the IECEx Certificate and the work leading to its creation and therefore holds legal title to the use of the certificate.
 - Note the difference between owning the certificate and owning the right to use the certificate
- In simple terms, the “Manufacturer” is the individual person or company that designs and makes the product and sells it in the market place
 - Usually the Manufacturer and Applicant are the same

Who is a manufacturer?

- In practice, we often move away from the simple model of the single manufacturer being totally responsible for all activities and four individuals or companies can be responsible for:
 - Making the application
 - Designing the product
 - Physically making the product
 - Selling the product
 - Other than “Applicant” we tend to use the word “Manufacturer” to describe the other actors

- For all European “New Approach” Directives, including ATEX, the “Manufacturer” is defined as the legal person (or company) that places the product on the market and issues the Declaration of Conformity (DoC)
 - Note the manufacturer does not have to physically design or make the product, but takes responsibility for the product he places on the market
 - This is different from IECEx practice

- The term Manufacturer is used for:
- The individual person or company that designs the product
- The individual person or company that makes the product
- By implication only (through following IEC 60079-0 in respect of marking), the individual person or company that places the product on the market.

Market expectations?

- Do most purchasers expect to see the name and address at the top of the certificate (the Applicant) on the label of the product?
- Does the market assume that the first mentioned manufacturer is the design authority?
- Does the market expect to see the address of a relevant “manufacturing location” on the label, or do they expect to see the address of the design authority, irrespective of where it is made?

- It is common commercial practice for a product to be placed on the market in the name of a reseller, rather than the actual manufacturer.
- For IECEx and ATEX purposes, this “badging” of product is referred to as “Trade Agency”
- To maintain commercial agreements, it is often a requirement that the identification of the actual manufacturer is obscured, particularly if supposed competitors are selling each others’ badged product

- Operational Document OD 203 provides information on how an appropriate scheme is set up, including the necessary variations to Operational Document OD 009
- The legal arrangements must be tightly controlled so that the original manufacturer (the OEM) retains control of the product dispatched by the Trade Agent.
- Both the OEM and the Trade Agent need QARs covering their relevant responsibilities

- If only one ExCB is involved, the arrangements are straightforward.
- Potentially three ExCBs could be involved
 - ExCB issuing the certificates
 - ExCB issuing the QAR for the OEM
 - ExCB issuing the QAR for the Trade Agent
- This requires full transparent cooperation between all three ExCBs
- The cross references between the QARs needs to be confirmed in the web site QAR summaries

- Although all the references on the issued certificate will be to the Trade Agent, the initial application for the Trade Agent activity must come from the OEM
- The Trade Agent will be required to “sign up” with the ExCB in order to get the relevant QAR issued

- This is in many ways the reverse of the Trade Agent situation
- The product is placed on the market in the name of the manufacturer who has not completed the final assembly and has not actually placed the product on the market
- Legal contract required specifying the separate roles and responsibilities

Does the stockist/assembler require a QAR?

- Only if they do not have a certified ISO 9001 system that covers the activity
 - Since the stockist/assembler is not performing specialist Ex work, it is assumed that the ISO 9001 criteria is sufficient to demonstrate that they can follow the instructions of the manufacturer.
- Specialist Ex work such as drilling and tapping Ex d enclosures is excluded from the permitted activities
- Assembling Component Certified terminals into a Component Certified enclosure is typical

- The manufacturer must provide the stockist/assembler with fully comprehensive work instructions and any necessary drawings
- The stockist/assembler must keep accurate records of what has been assembled and dispatched, to enable the manufacturer to deal with any product recall issues
- (Possibly in code) the marking of each product shall identify which stockist/assembler was responsible

- All applications must come from the manufacturer, accompanied by the relevant documentation explaining how the relationship works and how the work instructions are passed and checked, plus records of training of relevant personnel
 - Normally if the Stockist/Assembler has either an ISO 9001 certificate or an existing relevant QAR, further application is not required unless the ExCB judges that the product and process being passed to the Stockist/Assembler is sufficiently complicated to require a QAR