

**Submissions on the Public Consultation on
Draft (Draft European Union (Equipment and Protective Systems Intended for Use in
Potentially Explosive Atmospheres) Regulations, 2016)**

Public Consultation from 20 October 2015 to 20 November 2015

2 submissions received

Submission 1

Document Submitted by	Elisha Kelly on behalf of Rob McLean
Organisation	IBEC on behalf of Rusal Aughinish , Askeaton, Co. Limerick.
Email	rob.mclean@augh.com & elisha.kelly@ibec.ie
Reference Number	DW-om_131115
Submission Date	13 Nov 2015
Document reviewed by	Padraig Delaney

Submission re HSA Atex public consultations in General

Main point is the Atex regulation documents can be difficult to read and understand for the normal end user and I would suggest that easy to use and understand guideline/training documents be available to plant operations and maintenance personnel such as

- Easy to follow guide on the main general ATEX requirements for plants
- Guide to Hazard area classification
- Guide to recommended signage for Hazard area marking
- Avoiding ignition sources within Hazard areas
- A guide of how to safely deal with leakage of combustible products
- Personal pocket size risk assessment cards for use by operations and maintenance personnel before commencing any work in Atex areas

Decision/Result of review

The HSA has considered the submission from IBEC/ Rusal Aughinish. The draft legislation in question is predominantly about the procedures to be undertaken in the manufacture of safe products destined for a potentially explosive atmosphere.

The submission, on the other hand, refers primarily to procedures to be adopted while working in, or dealing with, a potentially explosive atmosphere.

This is covered by the [ATEX Workplace Directive \(Directive 1999/92/EC Of The European Parliament and of the Council Of 16 December 1999\)](#) and our associated regulations [Part 8 of the General Application Regulations 2007](#).

In addition the HSA is represented on the Electro Technical Council of Ireland (ETCI)

Technical Committee 6 which publishes rules and guidance for work in explosive atmospheres. The HSA will bring the proposal from IBEC/ Rusal Aughinish to ETCI TC 6 with a view to investigating the possibility of producing the specific type of guidance proposed.

Submission 2

Document Submitted by	Conor Kenny
Organisation	H&S professional
Email	conor.kenny@yahoo.co.uk
Reference Number	CK-jh_211015
Submission Date	21 October 2015
Document reviewed by John Colreavy	

The Authority's (the HSA) grant last year was €18,428,811, down from €18,780,000 the previous year and practically a quarter less than the grant of €24,235,000 in 2008. In 2008 the Authority carried out 16,009 inspections / investigations; in 2014 the number of inspections / investigations was down to 10,719, a dramatic reduction of over 33%. The Authority is now being asked to enforce these new regulations without adequate funding. In addition to this the REGULATORY IMPACT ANALYSIS (RIA) associated with these new regulations is fundamentally flawed as the cost of enforcement are unknown - "However should the Authority come across an ATEX product which it prohibits and the economic operator becomes unavailable then it could be faced with the costs of product destruction. Because this is situation specific and the Authority has no experience in this area, it is impossible to put a cost on this." I also note that the Authority is struggling to fulfil most other areas of it's remit; for example the Construction Regulations were updated in 2013 however the authority has yet to revise & reissue their guidance material (other than that for home-owners) due to losing staff members. I therefore submit that these Regulations should not be enacted until - - the authority has an adequate, and sufficient, budget to fulfil it's current remit; and - an adequate, and sufficient, supplementary budget is provided for the enforcement of the proposed new regulations.

Yours sincerely,
Conor Kenny

Decision/Result of review

The issues addressed in this submission do not relate to the content of the draft Regulations.

Failure to comply with the transposition deadline could lead to infringement proceedings by the European Commission.

Failure to transpose the Directive could create enforcement issues concerning duties of

importers and distributors.