

COMMISSION IMPLEMENTING DECISION (EU) 2023/1587**of 1 August 2023****amending Implementing Decision (EU) 2022/1668 as regards harmonised standards on performance requirements and test methods for electrical equipment for the detection and measurement of oxygen****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council ⁽¹⁾, and in particular Article 10(6) thereof,

Whereas:

- (1) In accordance with Article 12 of Directive 2014/34/EU of the European Parliament and of the Council ⁽²⁾, products which are in conformity with harmonised standards or parts thereof, the references of which have been published in the *Official Journal of the European Union*, are to be presumed to be in conformity with the essential health and safety requirements set out in Annex II to that Directive covered by those standards or parts thereof.
- (2) By letter BC/CEN/46-92 – BC/CLC/05-92 of 12 December 1994, the Commission made a request to the European Committee for Standardization (CEN) and the European Committee for Electrotechnical Standardization (Cenelec) for the drafting and revision of harmonised standards in support of Directive 94/9/EC of the European Parliament and of the Council ⁽³⁾ ('the request'). That Directive was replaced by Directive 2014/34/EU without changing the essential health and safety requirements set out in Annex II to Directive 94/9/EC. Those requirements are currently set out in Annex II to Directive 2014/34/EU.
- (3) In particular, CEN and Cenelec were requested to draft new standards on the design and testing of equipment for use in potentially explosive atmospheres as indicated in Chapter I of the standardisation programme agreed between CEN and Cenelec and the Commission and attached to the request. CEN and Cenelec were also requested to revise the existing standards with a view to aligning them to the essential health and safety requirements of Directive 94/9/EC.
- (4) On the basis of the request, CEN revised the following harmonised standard, the reference of which is published by Commission Implementing Decision (EU) 2022/1668 ⁽⁴⁾: EN 50104:2010 – Electrical apparatus for the detection and measurement of oxygen – Performance requirements and test methods. This resulted in the adoption of the harmonised standard EN 50104:2019 – Requirements for electrical equipment for the detection and measurement of oxygen – performance requirements and test methods. On the basis of the request, CEN amended the harmonised standard EN 50104:2019. It resulted in the adoption of the amended harmonised standard EN 50104:2019/A1:2023– Requirements for electrical equipment for the detection and measurement of oxygen – performance requirements and test methods.

⁽¹⁾ OJ L 316, 14.11.2012, p. 12.

⁽²⁾ Directive 2014/34/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to equipment and protective systems intended for use in potentially explosive atmospheres (OJ L 96, 29.3.2014, p. 309).

⁽³⁾ Directive 94/9/EC of the European Parliament and the Council of 23 March 1994 on the approximation of the laws of the Member States concerning equipment and protective systems intended for use in potentially explosive atmospheres (OJ L 100, 19.4.1994, p. 1).

⁽⁴⁾ Commission Implementing Decision (EU) 2022/1668 of 28 September 2022 on harmonised standards for equipment and protective systems intended for use in potentially explosive atmospheres drafted in support of Directive 2014/34/EU of the European Parliament and of the Council (OJ L 251, 29.9.2022, p. 6).

- (5) The Commission together with CEN has assessed whether the standard EN 50104:2019 as amended by EN 50104:2019/A1:2023 complies with the request.
- (6) The standard EN 50104:2019 as amended by EN 50104:2019/A1:2023 satisfies the requirements it aims to cover and which are set out in Annex II to Directive 2014/34/EU. It is therefore appropriate to publish the reference of this standard in the *Official Journal of the European Union*.
- (7) Implementing Decision (EU) 2022/1668 provides in Annex I thereto the references of harmonised standards conferring a presumption of conformity with Directive 2014/34/EU. In order to ensure that the references of harmonised standards drafted in support of Directive 2014/34/EU are listed in one act, the reference of harmonised standard EN 50104:2019 as amended by EN 50104:2019/A1:2023 should be included in that Annex.
- (8) It is necessary to withdraw from the L series of the Official Journal of the European Union the reference of harmonised standard EN 50104:2010, given that it has been revised. It is therefore appropriate to delete that reference from Annex I to Implementing Decision (EU) 2022/1668.
- (9) In order to give manufacturers sufficient time to prepare for application of harmonised standard EN 50104:2019 as amended by EN 50104:2019/A1:2023 it is necessary to defer the withdrawal of the reference of the harmonised standard EN 50104:2010.
- (10) Implementing Decision (EU) 2022/1668 should therefore be amended accordingly.
- (11) Compliance with the harmonised standards confers a presumption of conformity with the corresponding essential requirements set out in Union harmonisation legislation from the date of publication of the reference of such standard in the *Official Journal of the European Union*. This Decision should therefore enter into force on the date of its publication,

HAS ADOPTED THIS DECISION:

Article 1

Annex I to Implementing Decision (EU) 2022/1668 is amended in accordance with the Annex to this Decision.

Article 2

This Decision shall enter into force on the day of its publication in the *Official Journal of the European Union*.

Point (1) of the Annex shall apply from 2 February 2025.

Done at Brussels, 1 August 2023.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

Annex I is amended as follows:

- (1) row 60 is deleted;
- (2) the following row is inserted:

'60a.	EN 50104:2019 Electrical equipment for the detection and measurement of oxygen – Performance requirements and test methods EN 50104:2019/A1:2023'.
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