



CEA Position Paper April 2009

Dating of machinery that is modified to meet new Regulations

The application of 2006/42/EC becomes mandatory on 29 December 2009. This means that any machine first placed on the market after that date must conform to that Directive. Manufacturers might have existing stock which has been built in conformity with 98/37/EC and might choose to rework that stock to bring it into conformity with 2006/42/EC. The question then arises as to what should be done about the machine marking.

The following is based on the assumption that the machine in question was once completed, including being marked with the year of construction as required by 98/37/EC.

It must be remembered that the basic reason that there is a requirement to mark a machine with the year of construction is that in case of any investigation of that machine at a later date it will be possible to determine what safety requirements were relevant at the time that the machine was constructed. Therefore it is critical that there is no mismatch between the standards applied in the construction of the machine and the date marked on the machine. In principle, therefore, it is essential that if a machine is reworked to meet the requirements of 2006/42/EC then the year of construction is also updated and a new Declaration of Conformity is issued.

The following is to cover various scenarios related to the question.

Scenario 1: A machine in the manufacturer's own stock yard or in the stock of the manufacturer's authorised representative.

Assumption: the machine has been completed, marked with the year of construction, and a DoC has been issued claiming conformity with 98/37/EC. The rework will bring it into conformity with 2006/42/EC.

If the manufacturer reworks the machine then he is taking the machine back into the manufacturing process. In this circumstance the year of construction becomes the year when the rework is completed. If this is a different calendar year to that of the original construction then the original data plate should be removed and a new one affixed giving the year of the rework as the year of construction. That is, in terms of the Machinery Directive, the manufacturer has created a new machine in the year that the rework was done.

Also, a new DoC should be issued, stating conformity with 2006/42/EC.

Scenario 2: A machine in the distribution chain.

Assumption: The machine was completed in conformity with 98/37/EC and shipped from the manufacturer to a dealer or distributor. It has been decided to bring the machine into conformity with 2006/42/EC before sale to the end user. It should be noted that as the machine has already been placed on the market there is no legal duty to do this.

There is no specific guidance on this in the Directive, however it is clear that a person carrying out modifications related to safety becomes the manufacturer of the new machine. Therefore it is critical for manufacturers and their dealers to clarify between themselves the detail of who is doing what, and under whose responsibility. For example, if the manufacturer issues kits of parts, rework instructions, revised operation manuals and any

other necessary documentation and the work is carried out by the dealer's staff, using appropriate quality control procedures, then the original manufacturer might be confident to issue a new DoC and data plate. This would be a matter for an individual manufacturer to decide. It would be advisable for the manufacturer and the dealer to have a formal agreement on such work. If the manufacturer's staff carry out the rework, even at the dealer's site, then there should be no problem with the manufacturer issuing the new DoC and data plate as the Directive does not specify where "construction" takes place, only that its year is marked on the machine.

Notes

1. 2006/42/EC is very clear in requiring that the year of construction is marked on the machine, being the year in which the manufacturing process is completed. Therefore a machine built in 2009 in conformity with 2006/42/EC cannot be marked as being built in 2010 even though it conforms to the requirements for 2010.
2. The comments about rework relate only to matters of safety as required by Directives. Other changes after the machine is first completed, say, to livery, are not covered by the Directive and would not, by themselves, require the issuance of a new DoC. However, manufacturers would need to judge by themselves whether they had taken the machine back into the manufacturing process. If so, and if this was in a different calendar year to the original build date, then a new plate would be required. Clearly if this was done after 28 December 2009 then the machine would also have to be reworked to meet 2006/42/EC if it did not already do so.

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