

## FAQ

### Transition from Directive 94/9/EC to Directive 2014/34/EU (ATEX)

The new Directive 2014/34/EU applies to equipment and protective systems for use in potentially explosive atmospheres as from 26 February 2014. It replaces Directive 94/9/EC.

The following questions and answers are for all parties that are directly or indirectly affected by both Directives 2014/34/EU and 94/9/EC. This information will help to facilitate the transition process to the new Directive 2014/34/EU. The FAQ's serve as a reference in order to ensure a uniform approach.

Our objective is to provide information correctly and on time. We will try to correct errors that are brought to our attention. However, we assume no responsibility or liability with regard to the information on this page.

The information is solely of general interest. We do not intend to address specific circumstances or institutions. Information on this page is not necessarily comprehensive, complete, correct or up to date and does not constitute legal advice.

#### Questions and answers

- 1** Does the new Directive 2014/34/EU affect essential safety and health requirements (EHSR) for equipment and protective systems intended for use in hazardous areas?
- 2** Will EC Declarations of conformity according to Directive 94/9/EC still be valid after 20 April 2016?
- 3** Will certificates issued in accordance with Directive 94/9/EC still be valid after 20 April 2016?
- 4** When can notified bodies issue certificates according to Directive 2014/34/EU?
- 5** Will addendums (supplements) to certificates be possible, such as EC type-examination certificates and QA certificates issued according to regulation 94/9/EC?
- 6** Are new lists of references of ATEX harmonised standards to be published on the OJEU in the date of applicability of the new Directive? What would happen if new harmonised standards are not published in such date?
- 7** From which date a manufacturer has to mention the new ATEX Directive for his EU declaration of conformity?
- 8** Can a manufacturer issue an EU declaration of conformity according to the new ATEX Directive 2014/34/EU before 20 April 2016 with a validity date from 20 April 2016?

**1 Does the new Directive 2014/34/EU affect essential safety and health requirements (EHSR) for equipment and protective systems intended for use in hazardous areas?**

No. When compared with Directive 94/9/EC, the new Directive 2014/34/EU, the essential health and safety requirements for equipment and protective systems intended for use in potentially explosive atmospheres have not changed. It was the aim of the revision to harmonize the requirements with the New Legal Framework (New Legislative Framework - NLF).

This means: Adoption of the reference provisions of EC Decision No. 768/2008/EC of 9 July 2008 on a common regulatory framework for the marketing of products, taking into account the contents of (EC) No 765/2008 of 9 July 2008 about the requirements for accreditation and market surveillance relating to the marketing of products.

In the scope of regulation 2014/34/EU, the components are now explicitly listed. Annex I "Criteria determining the classification of equipment-groups into categories" was not changed, neither was Annex II "Essential health and safety requirements ...".

**2 Will EC Declarations of conformity according to Directive 94/9/EC still be valid after 20 April 2016?**

Yes. Products which will be placed on the market before 20 April 2016 for the first time require an EC declaration of conformity according to Directive 94/9/EC. Even after 20 April 2016, they can be made available on the market with this EC declaration (including stockpiles which are already in the distribution chain, see also recital 49). Products that will be placed on the market after 20 April 2016 or which are put into operation for the first time, however, require an EU declaration of conformity which is in accordance with Directive 2014/34/EU.

Remark WEKA AG:

About two months before the changeover date WEKA will apply the practice as described in section 8 to allow all distributors, representatives and resellers legal certainty in stockpiles. The Ex products will remain unchanged at this time. Otherwise WEKA will inform explicitly about a change.

**3 Will certificates issued in accordance with Directive 94/9/EC still be valid after 20 April 2016? (This applies to EC type-examination certificates and to QA certificates according to Directive 94/9/EC)**

Yes. Article 41 (2) of Directive 2014/34/EU states: "Certificates issued under Directive 94/9/EC shall be valid under this Directive." The term Certificates stands for certificates that were issued by a notified body ("Certificates"). Certificates that were issued according to Directive 94/9/EC can still be used for EU declarations of conformity according to 2014/34/EU. Otherwise, a re-certification of all products would have become necessary.

**4 When can notified bodies issue certificates according to Directive 2014/34/EU?**

Notified bodies can issue certificates in accordance with Directive 2014/34/EU only with a validity term beginning on 20 April 2016.

**5 Will addendums (supplements) to certificates be possible, such as EC type-examination certificates and QA certificates issued according to regulation 94/9/EC?**

Yes. Even after 20 April 2016 addendums (supplements) to certificates will be possible, such as EC type-examination certificates and QA certificates issued according to Directive 94/9 / EC. However, these addendums need Directive 2014/34/EU as a reference base.

**6 Are new lists of references of ATEX harmonised standards to be published on the OJEU in the date of applicability of the new Directive? What would happen if new harmonised standards are not published in such date?**

The Commission will not amend the existing standardisation mandates (M/BC/CEN/92/46 and others) for the new ATEX Directive 2014/34/EU: according to Article 43, references to the repealed Directive shall be construed as references to the new Directive. Therefore, there is no need to change reference numbers contained in harmonised standards: any reference to the previous Directive 94/9/EC should be read as a reference to the new Directive 2014/34/EU. In particular, as the legal provisions supported by a harmonised standard (the essential health and safety requirements) have not been changed, Annex Z referencing to the repealed Directive can be read as referencing to the new Directive as given in the new Directive itself. Consequently, standards harmonised under the previous Directive 94/9/EC continue to confer presumption of conformity with the essential health and safety requirements of the new Directive 2014/34/EU Directive because the EHSRs remain the same. There is in principle no need to revise the standards to make changes in Annex Z only: revision of standards by CEN and CENELEC can follow the normal revision cycle (approx. 5 years) in order to adequately follow the state of the art and/or to answer to specific needs. In any case, for the sake of clarity and transparency, the first list of references of harmonised standards under Directive 2014/34/EU will be published on the OJEU in time for its applicability, at the same time of the last list under Directive 94/9/EC (probably in February-March 2016). The contents of the last list under Directive 94/9/EC will be the identical to the first list under Directive 2014/34/EU.

**Remark WEKA AG:**

From present point of view WEKA Ex products should not be influenced by this. Otherwise WEKA will inform explicitly about a change.

**7 From which date a manufacturer has to mention the new ATEX Directive for his EU declaration of conformity?**

Before 20 April 2016 all the EC declarations of conformity for ATEX products placed on the EU market for the first time must be in line with Directive 94/9/EC. According to Article 41 products that are already in the distribution chain (including stockpiles: see Recital 49), before 20 April 2016, can continue to be distributed with the EC declaration of conformity referring to Directive 94/9/EC, as they have already been lawfully placed on the EU market. Declarations of conformity (EC or EU) remain valid according to the legislation in force when the product is placed on the EU market (= made available on the EU market for the first time). There is no need to change legislative references in documents accompanying the product. For products placed on the EU market as of 20 April 2016 (or, in the case of products manufactured for own use, put into service), the EU declaration of conformity must be in accordance with the new ATEX Directive 2014/34/EU.

As the ATEX Directive requires the product to be accompanied by the declaration of conformity, it is difficult for manufacturers to ensure that the declaration is exchanged from one day to the next. In order to facilitate the transition to the new ATEX Directive 2014/34/EU, the EU declaration of conformity can already today (when conformity still has to be declared to the old Directive 94/9/EC) indicate the following: "The object of the declaration described above is in conformity with the relevant Union harmonisation legislation: Directive 94/9/EC (until April 19th, 2016) and Directive 2014/34/EU (from April 20th, 2016)".

## 8 Can a manufacturer issue an EU declaration of conformity according to the new ATEX Directive 2014/34/EU before 20 April 2016 with a validity date from 20 April 2016?

There is no "transition period" in Articles 41, 42 and 43, or a "period of overlapping" of Directives 94/9/EC and 2014/34/EU. Before 20 April 2016 all the EC declarations of conformity for ATEX products placed on the EU market must be in line with Directive 94/9/EC. EU declarations of conformity and certificates must be in accordance to the new Directive 2014/34/EU as of 20 April 2016 for ATEX products placed on the EU market or put into service for the first time as by that date. In order to facilitate the transition to the new ATEX Directive 2014/34/EU, the EU declaration of conformity can indicate the following: "The object of the declaration described above is in conformity with the relevant Union harmonisation legislation: Directive 94/9/EC (until April 19th, 2016) and Directive 2014/34/EU (from April 20th, 2016)".

### Remark WEKA AG:

About two months before the changeover date WEKA will apply the practice as described in section 8 to allow all distributors, representatives and resellers legal certainty in stockpiles. The Ex products will remain unchanged at this time. Otherwise WEKA will inform explicitly about a change.

## Links

The whole "Guidance document on the ATEX transition" can be found at:  
[http://ec.europa.eu/growth/sectors/mechanical-engineering/atex/index\\_en.htm](http://ec.europa.eu/growth/sectors/mechanical-engineering/atex/index_en.htm)

Text of Directive 2014/34/EU  
<http://eur-lex.europa.eu/legal-content/DE/TXT/?qid=1452069331465&uri=CELEX:32014L0034>

## Source References

EUR-Lex – Document Server of European Union  
Federal Institute for Materials Research and Testing (BAM)  
DEKRA EXAM GmbH