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NOTE

from: General Secretariat of the Council
to: Delegations

No. Cion prop.: 16175/11 ENER 344 ENV 832 MARE 1 COMAR 1 PROCIV 144 CODEC 1871

Subject: Proposal for a Regulation of the European Parliament and of the Council on safety of offshore oil and gas prospection, exploration and production activities

Delegations will find in Annex the text of the above draft Regulation, revised in light of the discussion in the Energy Working Party and the written comments received. Given that the comments received mostly are of preliminary and general nature, a number of substantive issues will still have to be examined by the Working Party before being reflected in a revised version of the document. Thus, this revision is only partial and does not encompass the whole package of provisions. It should also be noted that some parts of the proposal are subject to further examination by the legal services.

The changes in relation to the Commission proposal are indicated in **bold underlined** and ~~strikethrough~~.

All delegations have a general scrutiny reservation on the text.

Proposal for a
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
on safety of offshore oil and gas prospection, exploration and production activities
(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,
Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192
(1) thereof,
Having regard to the proposal from the European Commission,
After transmission of the draft legislative act to the national Parliaments,
Having regard to the opinion of the European Economic and Social Committee¹,
Having regard to the opinion of the Committee of the Regions²,
Acting in accordance with the ordinary legislative procedure,
Whereas:

The Recitals will be examined at a later stage.

¹ OJ C , , p. .

² OJ C , , p. .

CHAPTER I

INTRODUCTORY PROVISIONS

Article 1

Subject and Scope

1. This Regulation establishes minimum requirements for **preventing major accidents and limiting the consequences of major accidents to persons and the environment. It applies to** industry and **any** national authorities involved in offshore oil and gas operations performed **during and** following the award of an authorisation pursuant to Directive 94/22/EC. This Regulation applies to all offshore oil and gas operations defined in Article 2.
- ~~2. This Regulation applies to all related installations, subsea installations and connected infrastructure in the waters of Member States including their exclusive economic zones and on their continental shelves within the meaning of the United Nations Convention on the Law of the Sea (UNCLOS).~~
3. This Regulation aims to contribute to the achievement of the objectives of Directive 2008/56/EC of the European Parliament and the Council establishing a framework for community action in the field of marine environment policy.
4. The provisions of this Regulation shall apply without prejudice to relevant Union legislation, in particular concerning health and safety of workers at work, notably Council Directives 89/391/EEC and 92/91/EEC.
5. This Regulation shall apply without prejudice to Directives 85/337/EC, 2008/1/EC and Directive 2003/4/EC.

Article 2
Definitions

For the purpose of this Regulation:

1. 'acceptable' shall mean: ~~rendering~~ **where** a risk of a major accident **is made** tolerable to the furthest extent beyond which no significant reduction of the risk is ~~derived~~ **gained** from the input of further time, resources or cost;
2. 'acceptance' shall mean: the conveyance in writing to the operator **or the owner** by the competent authority ~~of the positive conclusions of~~ **that** its ~~examination~~ **assessment** of the operator's Major Hazards Report **is unconditionally concluded** pursuant to the requirements of this Regulation;
3. 'authorisation' shall mean: an authorisation pursuant to Directive 94/22/EC;
4. 'combined operation' shall mean: an operation carried out from a non-production installation with another installation or installations for purposes related to the other installation(s) which thereby materially affects the risks to the safety of persons or the protection of the environment on any or all of the installations;
5. 'commencement of operations' shall mean: the point in time when the installation ~~for~~ is involved **for** the first time in the operations for which it is designed for.
6. 'competent authority' shall mean: the authority appointed pursuant to this Regulation and responsible for duties related to its scope;
7. 'connected infrastructure' shall mean: an offshore equipment, pipeline or some other installation above or below the water surface used for transporting oil and gas to another installation nearby, onshore processing or storage facility or for transporting and loading oil to a shuttle tanker;

8. 'consenting procedure' shall mean: a procedure of thorough assessment of all relevant information concerning planned offshore oil and gas operation by the competent authority, concluded by acceptance of the Major Hazard Report by the competent authority and absence of objections to well or combined operations notifications submitted by operators;

8a. 'entity' shall mean any natural or legal person or any group of such persons;

9. '~~exclusion~~**safety** zone' shall mean: area surrounding the installation established by the Member State in which unrelated activities are prohibited;

10. 'exploration license' shall mean: an authorisation granted by the Member State to explore for oil and gas in the underground strata of the licensed area, but not to produce oil and gas for commercial purposes;

11. 'external emergency response plan' shall mean: local, national or regional strategy to prevent escalation or limit consequences of an accident related to offshore oil and gas operations using all available resources ~~in addition to~~ **of the operator including** those described in internal emergency response plans, **and any supplementary resources made available by the Member States;**

12. 'independent third party verification' shall mean: an assessment and confirmation of the validity of particular written statements by ~~a natural or legal person~~ **an entity** that is not under the control or influence by the ~~author of~~ **entity using** the statements;

13. 'industry' shall mean: ~~private companies~~ **entities** that are directly involved in offshore oil and gas activities pursuant to this regulation or whose activities are closely related to those operations;

14. 'installation' shall mean: ~~either a production or a non-production installation~~ **a platform, a combination of platforms permanently inter-connected by bridges or other structures, that are fixed or stationery mobile structures, used for offshore oil and gas operations or in connection with these operations;**

15. 'internal emergency response plan' shall mean: an overview prepared by operators pursuant to requirements of this Regulation of the measures to prevent escalation or limit consequences of an accident related to offshore oil and gas operations within ~~an exclusion~~ **a safety** zone around the installation;
16. 'licensed area' shall mean: the geographical area covered by the authorisation pursuant to Directive 94/22/EC;
17. 'licensee' shall mean: the holder of authorisation to carry out offshore operation pursuant to Directive 94/22/EC;
18. 'major accident' shall mean:
- (a) an occurrence such as fire or explosion, loss of well control, release of hydrocarbons or dangerous substance involving fatality, serious personal injury or damage to the environment**
- (b) an incident leading to significant loss of well control or significant escape of hydrocarbons to the environment, significant serious damage to the installation or equipment thereon, with an imminent risk of fatality, serious personal injury or damage to the environment**
- (c) loss of structural integrity of the installation, and any other event involving death or major injury to five or more persons on or working in connection with the installation leading to serious hazards to human health, property or the environment, immediate or delayed, inside or outside the offshore installation from which the source of danger occurs;**
19. 'major hazard' shall mean: a situation with a potential for **or** resulting in a major accident;
20. 'non-production installation' shall mean: an installation other than a production installation used both for exploratory drilling, support installation for production;
- 20a 'offshore' shall mean: situated in the waters of Member States including their exclusive economic zones and their continental shelves within the meaning of the United Nations Convention on the Law of the Sea (UNCLOS);**

21. 'offshore oil and gas operations' shall mean: all activities related to exploring for, producing or processing of oil and gas offshore. This includes transport of oil and gas through ~~offshore~~ **connected** infrastructure ~~connected~~ to an **offshore** installation or subsea installation **but not transportation of oil and gas from one coast to another, where the connected infrastructure only passes through the jurisdiction of a Member State;**
22. 'operator' shall mean: the operator of a production installation or the owner of a non-production installation and the well operator of a well operation. Operator and licensee both come under the definition of Article 2(6) of Directive 2004/35/EC ;
23. 'operator of production installation' shall mean: ~~a person~~ **an entity** appointed by the licensee to manage and control the main functions of a production installation;
24. 'owner' shall mean: ~~a person~~ **an entity** legally entitled to control the operation of a non-production installation, **under the instructions of the operator or the well operator;**
25. 'production of oil and gas' shall mean: extraction, ~~for commercial purposes,~~ of oil and gas from the underground strata of the **offshore** licensed area including offshore processing of oil and gas and its transportation through connected infrastructure including pipes and structures and well heads on the sea bed ~~and/or storing gas in subsurface formations for the purposes of recovering the gas;~~
26. 'production installation' shall mean: an installation used for production of oil and gas;
27. ~~'production license': shall mean: an authorisation granted by the Member State for production of oil and gas;~~
28. 'public' shall mean: one or more ~~natural or legal persons~~ **entities** and, in accordance with national legislation or practice, their associations, organisations or groups;
29. 'relevant authority' shall mean (in the context of emergency response to an offshore accident): primary emergency responder organisation of a Member State, responsible for initiating the emergency response to a major offshore oil and gas accident;

30. 'risk' shall mean: ~~the likelihood of a specific effect occurring within a specific period or in specified circumstances~~ **the combination of the probability of an event and the consequences of the event;**
31. 'suitable' shall mean: fully appropriate for a given requirement or situation and based on objective evidence and demonstrated by an analysis, comparison with appropriate standards or other solutions used in comparable situations by other authorities or industry;
32. 'well operation' shall mean: the drilling of a well for exploration or production purposes, including suspension of operations, repairing or modifying wells, permanent abandonment, or any operation concerning a well that can result in the accidental release of fluids ~~or risk~~ **that has a potential** of **a** major accident;
33. 'well operator' shall mean: the ~~person~~ **entity** appointed by the licensee to plan and execute a well operation.

CHAPTER II

PREVENTION OF MAJOR HAZARDS RELATED TO OFFSHORE OIL AND GAS ACTIVITIES

Article 3

General principles of risk management in offshore oil and gas activities

1. Operators shall take all suitable measures to prevent major accidents from offshore oil and gas operations. ~~Competent authorities shall oversee that operators meet this obligation.~~
2. Operators shall ensure that all entities, that are contracted to carry out specific tasks at the installations concerned, will likewise act in accordance with the requirements set out in this Regulation, in particular with its Annexes **II**, IV and V. Operators shall not be exonerated from their responsibilities under this Regulation by the fact that actions or omissions leading or contributing to major accidents, were carried out by such entities or their personnel.

3. Should a major accident nonetheless occur, operators and **where necessary, Member States** ~~competent authorities~~ shall take all suitable measures to limit their consequences for human health and the environment ~~and where possible to avoid serious disruptions of oil and gas production within the Union.~~
4. Offshore oil and gas activities covered by this Regulation shall be performed on the basis of a systematic **risk** assessment ~~of the likelihood of hazardous events and their consequences~~, and the implementation of control measures so that the **residual** risks of major accidents to people, the environment, and offshore assets are acceptable.

Article 4

Safety considerations within authorisation of offshore oil and gas activities pursuant to Directive 94/22/EC

1. Decisions on granting authorisations for offshore oil and gas activities pursuant to Directive 94/22/EC shall take into account the capacity of applicants to meet requirements for specific activities within the framework of that authorisation as required by the relevant provisions of Union law, notably in this Regulation.
2. In particular, when assessing the technical and financial capacity of the entities that apply for authorisation for offshore oil and gas activities **pursuant to Directive 94/22/EC**, due account shall be taken of the risk, hazards and any other relevant information related to the area concerned and the particular stage of exploration and production operations and also of the applicants' financial capacities, including any financial security and capacity to cover liabilities potentially deriving from offshore oil and gas activities in question, in particular liability for environmental damages.
3. Authorisations for offshore oil and gas exploration operations, and for production operations **relating to the same geographical area** shall be granted separately **progressively such that information on hazards collected pursuant to exploration activity can be considered by the licensing authority prior to production operations being authorised.**

4. ~~Licensing authorities pursuant to Directive 94/22/EC shall, when assessing the technical and financial capacity of the entities that apply for authorisation for offshore oil and gas activities, take into account the risks, hazards and any other relevant information related to the location concerned and the particular stage of exploration and production operations.~~

Article 5

Public participation in licensing procedures

1. Member States shall ensure that the public shall be given early and effective opportunities to participate in procedures concerning licensing ~~procedures~~ in their jurisdiction in accordance with the requirements of Annex I to this Regulation. The procedures shall be those laid down in Annex II of Directive 2003/35/EC.
2. The Member States may lay down more detailed arrangements for informing the public and for consulting the public concerned.
3. Public participation shall be organised so as to ensure that disclosure of information and involvement of the public shall not pose risks to safety and security of offshore oil and gas installations and their operation **for shall not harm commercial interests of license applicants**.

Article 6

Consenting to offshore oil and gas operations within licensed areas

1. Installations shall only be operated in licensed areas by licensees, or entities they contract and appoint for that purpose and that are approved by Member States.
2. Where the competent authority ~~considers~~ **informs the Member State's licensing authority** that the ~~person~~ **entity** appointed by the licensee is not competent to act as operator of an installation or as a well operator, the licensee shall be notified **by the licensing authority** thereof and shall assume all responsibilities of an operator pursuant to this Regulation.

3. Installations pursuant to paragraph 1 may not commence or continue operations **within licensed areas** without submission of a Major Hazards Report pursuant to conditions and deadlines specified in Articles 10 and 11 and its acceptance by the competent authority pursuant to this Regulation.
4. Well and combined operations may not be undertaken unless the Major Hazards Report for the installation has been accepted pursuant to paragraph 3 of this Article. Furthermore, operations may not be commenced and conducted without submission of a well or combined operations notification pursuant to conditions and deadlines specified in Articles 13 and 14 to the competent authority or if the competent authority expresses objections to the content of the notification.

Article 7

Liability for environmental damage

1. The licensee is liable for the prevention and remediation of environmental damage , pursuant to Directive 2004/35/EC, caused by offshore oil and gas activities carried out by the licensee or any entity participating in the offshore oil and gas operations on the basis of a contract with the licensee. The consenting procedure for operations pursuant to this Regulation shall not prejudice the liability of the licensee.

Article 8

~~National~~-Competent authority

1. Member States with offshore oil and gas activities under their jurisdiction shall appoint a competent authority responsible for duties ~~laid down in~~ **related to the scope of** this Regulation.

2. The competent authorities appointed pursuant to paragraph 1 shall **as a minimum** be responsible for the following ~~tasks~~ **duties**:
 - (a) assessing and accepting Major Hazards Reports, assessing design notifications, and assessing notifications of wells or combined operations, and other such documents that are submitted to it;
 - (b) ~~performing inspections~~ **overseeing compliance of operators and owners with this Regulation**, conducting investigations and taking enforcement action;
 - (c) producing reports pursuant to this Regulation.
3. ~~The competent authority shall be organised in accordance with the provisions of Article 19 so as to ensure independent performance of potentially conflicting tasks, expertise and general effectiveness in regulating offshore oil and gas activities.~~ **The regulatory functions of the competent authority shall be independent from any conflict of interest between regulating safety and environmental protection, and functions relating to economic development of the Member State, in particular licensing of offshore oil and gas activities, and policy for and collection of related revenues.**
4. Member States shall ensure that **the** competent authority has adequate **human and financial** resources to perform its ~~tasks~~ **duties** according to this Regulation.
5. The competent authority shall endeavour to prepare and implement coordinated or joint procedures as required to undertake the functions pursuant to this Regulation and to fulfill the requirements under any other applicable Union legislation. Where several agencies comprise the competent authority, they should avoid duplication of regulatory functions.

CHAPTER III
PREPARATION FOR AND CONDUCT OF OFFSHORE OIL AND GAS ACTIVITIES
BASED ON RISK ASSESSMENT

Article 9

Conditions for operating offshore installations

1. Subject to the transitional provisions in Article 39, the operator of a production or a non-production installation shall submit to the competent authority the following documents:
 - (a) in the case of a planned production installation, a design notification in accordance with the requirements of Annex II, part 1;
 - (b) a Major Hazard Report containing the details specified in Article 10 or Article 11;
 - (c) an internal emergency response plan pursuant to Article 12, integrated into the Major Hazards Report;
 - (d) an overview of **the** operator's major accident prevention policy pursuant to Article 18, integrated into the Major Hazards Report.
2. The competent authority shall receive the design notification no later than 24 weeks before the intended submission of a Major Hazards Report for the planned operation.
3. The Major Hazard Report shall be ~~notified~~ **submitted** to the competent authority within a deadline set out by the competent authority and no later than 12 weeks before the planned commencement of operation .

Article 10

Major Hazard Report for a production installation

1. The Major Hazard Report for a production installation shall contain the details specified in Annex II, parts 2 and 5.

2. A Major Hazard Report for a production installation may be prepared in relation to a group of installations subject to the agreement of the competent authority.
3. Where ~~significant~~ modifications are made to the production installation **that materially alters the risk of major accidents**, or it is intended to dismantle the **production** installation, the Major Hazard Report for a production installation shall be amended in accordance with Annex II, part 6 and submitted to the competent authority.
4. Where further information is necessary before a Major Hazard Report can be accepted, the competent authority shall request further information or changes to the documents submitted.
5. The amended Major Hazard Report for a production installation pursuant to paragraph 3 shall be submitted to the competent authority within a deadline specified by the competent authority and no later than 6 weeks before the planned works are commenced. The planned works shall not be commenced until the competent authority has accepted the amended Major Hazard Report for the production installation.
6. The Major Hazard Report for a production installation shall be subject to periodic review by the operator at least every five years or more frequently as required by the competent authority, and the results of the review shall be notified to the competent authority.

Article 11

Major Hazard Report for a non-production installation

1. The Major Hazard report for a non-production installation shall contain the details specified in Annex II, parts 3 and 5.
2. Where ~~significant~~ modifications are made to the non-production installation **that materially alters the risk of major accidents**, or it is intended to dismantle the **non-production** installation, the Major Hazard Report for a non-production installation shall be amended in accordance with Annex II, part 6 (excluding paragraph 4) and submitted to the competent authority.

3. For a fixed non-production installation, an amended Major Hazard Report pursuant to paragraph 2 shall be submitted to competent authority within a deadline specified by competent authority and no later than 2 weeks before the planned works are to be commenced. The planned works shall not be commenced until the competent authority has accepted the amended Major Hazard Report for a non-production installation.
4. For a mobile non-production installation, an amended Major Hazard Report pursuant to paragraph 2 shall be submitted to the competent authority within a deadline specified by competent authority and in no case later than 2 weeks before the installation is due to commence operations. The installation may not be operated until the competent authority has accepted the amended Major Hazard Report for a non-production installation.
5. Where further information is necessary before a Major Hazard Report can be accepted, the competent authority shall request further information or changes to the documents submitted.
6. The Major Hazard Report for a non-production installation shall be subject to periodic review by the operator at least every 5 years or more frequently as required by the competent authority. The results of the review shall be notified to the competent authority.

Article 12

Internal emergency response plans

1. Operators shall prepare internal emergency response plans taking into account the major accident risk assessments undertaken during preparation of the most recent major hazard report. In the case of drilling a well from a mobile non-production installation, the risk assessment pursuant to the well notification should be incorporated into the **internal** emergency response plan for the installation.
2. For production and non-production installations, the internal emergency response plan shall be submitted to the competent authority as part of the Major Hazard Report.

3. **In the event a** non-production installation **is** undertaking well operations where the internal emergency response plan is amended due to the particular nature of the well location, **the well operator concerned shall** ~~should~~ notify the competent authority of said amendment to the internal emergency response plan when submitting the well notification.

Article 13

Notification of well operations

1. No less than 21 days prior to the start of a well operation, the well operator shall send to the competent authority a notification containing details of the design of the well and its operation in accordance with the requirements of Annex II, part 4.
2. The competent authority shall consider the notification and, **if deemed necessary**, take **appropriate** action ~~it considers necessary~~ before the well operations ~~may~~ commence.
3. The well operator shall immediately notify the competent authority of any significant change to the details of the well notification and simultaneously inform the independent well examiner pursuant to Article 15(3b).

Article 14

Notification of combined operations

1. An operator of an installation which is to be involved in a combined operation shall send to the competent authority a notification containing details of the combined operation in accordance with the requirements of Annex II, part 7. The operators of ~~concerned~~ **the** installations **concerned** may agree for one of them to prepare the notification of combined operations on their behalf. The notification shall be submitted no later than 21 days before combined operations commence.

2. The competent authority shall consider the notification and take action it considers necessary before combined operations ~~may~~ commence.
3. The operator who prepared the notification shall without delay inform the competent authority of any significant change to the details of thereof.

Article 15

Independent third party verification

1. Operators shall establish ~~a~~ schemes for independent third party verification and well examination and shall describe such schemes within **the description of the safety management system incorporated in** ~~major accident policy integrated into the Major Hazards Reports pursuant to Articles 10 and 11~~ ~~18~~.

1a. The results of the independent verification shall be without prejudice to the responsibility of the operator for the correct functioning of the equipment and systems under verification.

2. The selection of the independent third party verifier and the design of schemes for independent third party verification and for independent well examination shall meet the criteria of Annex II, part 5.
3. The schemes for independent third party verification ~~in respect of production and non-production installations~~ shall be established:
 - (a) in respect of installations to give independent assurance that the specified systems and safety critical elements identified in the risk assessments and safety management system for the installation are suitable and up to date, and the schedule of examination and testing of the major hazards control system is suitable, up to date and operating as intended;

- (b) in respect of well plans to give independent assurance that the well design and well control measures are suitable to the anticipated well conditions ~~and kept as the basis if the well design changes for whatever reason~~ **at all times**.

3a. Operators shall respond to and take appropriate action based on the results of the independent verification.

4. Operators shall ensure that ~~outcomes~~ **results** of the independent third party verification scheme pursuant to this Article under paragraph 3(a) **and the responses and actions to these results** are available to the competent authority upon its request.
5. **Well** operators shall ensure that the findings and comments of the independent well examiner pursuant to this Article under paragraph 3(b) **and their response and actions to these findings and comments** are included in the well notification pursuant to Article 13.
6. For production installations, the verification scheme shall be in place prior to submission of the Major Hazards Report to the competent authority. In the case of a non-production installation, the scheme shall be in place prior to the non-production installation being ~~brought into a particular operation~~ **operated in Union waters**.
7. Non-production installations operated in Union waters shall meet the requirements of relevant international conventions as defined in Regulation 391/2009/EC of the European Parliament and of the Council of 23 April 2009³ or the equivalent standards of the Code for the construction and equipment of mobile offshore drilling units (**1989 or** 2009 MODU CODE). They shall be certified by an organisation that is recognised by the Union in accordance with the aforementioned Regulation.

³ OJ L 131, 28.5.2009, p. 11

Article 16

Power to prohibit activity

1. The competent authority shall prohibit the operation or bringing into operation of any installation or any part thereof where the measures proposed by the operator **in the Major Hazards Report (for a production or a non-production installation)** for the prevention and mitigation of major accidents pursuant to Articles 10, 11, 13 and 14 are considered seriously deficient.
2. Where the Major Hazards Report pursuant to Articles 10 and 11, or notifications pursuant to Articles **9**, 13 and 14 are not submitted on time, the competent authority may, in exceptional situations and where it considers safety and environmental protection are not compromised, agree a reduction in the time limit for submission of the Major Hazards Report or notification.
3. The competent authority shall require the operator to take any suitable ~~complementary~~ measures that the competent authority considers necessary to restore compliance pursuant to Article 3 paragraph 1.
4. The competent authority shall prohibit the use of any installation or any part thereof where the outcome of an inspection, periodic review of Major Hazards Report pursuant to Article 10 and 11 or changes to notifications pursuant to Articles 13 and 14 show that the requirements of this Regulation are not met or there are reasonable concerns about the safety of operations or installations.

Article 17

Transboundary effects

1. Where a Member State considers that a well operation or the operation of an installation may have significant negative effects on waters of another Member State in the case of an accident, or where a Member State likely to be significantly affected so requests, the Member State in whose jurisdiction the operations are to take place, shall forward to the affected Member State the relevant information and shall endeavour to adopt joint ~~preventive~~ measures to prevent damages.

2. Application of paragraph 1 is without prejudice to other relevant provisions of Union Law, in particular Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment⁴ and the Convention on Environmental Impact Assessment in a Transboundary Context.

CHAPTER IV

BEST PRACTICE FOR ~~CONTROL~~ PREVENTION OF MAJOR HAZARDS

Article 18

Major accident prevention by operators

1. Operators shall prepare a document setting out their major accident prevention policy, and ensure that it is implemented throughout the organisation of their offshore operations, including by setting up appropriate monitoring arrangements to assure effectiveness of the policy.
2. The document ~~pursuant~~ **referred to in** paragraph 1 shall be submitted to competent authorities ~~as a part of~~ **at the same time as** the Major Hazard Report pursuant to Articles 10 and 11 or as the notification of well operations pursuant to Article 13.
3. Operators shall describe their organisational arrangements for control of major hazards in a safety management system, including the arrangements for preparing and submitting major hazard reports, and well notifications as appropriate, pursuant to Articles 10, 11 and 13 and their schemes for independent third party verification of their major hazard controls pursuant to Article 15, and Annex II part 5.
4. The **major accident prevention** policy and **the** safety management systems shall be prepared in accordance with the requirements set out in Annex IV and shall make clear the operator's primary responsibility for control of major hazard risks, which are a result of its activities.

⁴ OJ L 175, 5.7.1985, p. 40

5. Operators shall establish, and regularly consult with the representatives of the relevant Member States pursuant to Article 27, the industry priorities for preparing and/or revising standards and guidance for best practice in control of offshore major ~~accident~~ hazards throughout the design and operation lifecycle of offshore operations, and as a minimum shall follow the outline in Annex IV.
6. Licensees, operators and major contractors based in the Union shall endeavour to conduct their offshore oil and gas operations when outside the Union in accordance with the principles set out in this Regulation.

Article 19

Requirements for the competent authorities

~~1. The competent authority shall make suitable arrangements to ensure its independence from conflicts of interest between regulation of safety and environmental protection, and functions relating to economic development of the Member State, in particular licensing of offshore oil and gas activities, and policy for and collection of related revenues.~~

1. Competent authorities shall in their regulatory decisions act independently of policies, regulatory decisions or other considerations unrelated to its functions pursuant to this Regulation. The competent authority shall not adopt any political stance regarding the oil and gas sector.

2. The competent authority shall make clear the extent of its responsibilities and functions so as to not confer on itself primary responsibility for control of major hazard risks, pursuant to Article 18, paragraph 3.

3. The competent authority shall establish a policy for thorough assessment of Major Hazard Reports and notifications pursuant to Articles 10, 11, 13 and 14, ~~inspection~~ **oversight**, investigation and enforcement of **compliance with the provisions of this Regulation** ~~the major hazard aspects of the offshore oil and gas operations~~ in its jurisdiction.

4. The competent authority shall base its **policies**, organisation and operational procedures on the principles set out in Annex III.

Article 20

Securing compliance with the regulatory framework for major accident prevention

1. Operators shall comply with this Regulation, and with the measures established in the Major Hazards Report for production and non-production installations and in the plans referred to in the well notification and combined operations notification prepared, pursuant to Articles 10, 11, 13 and 14.
2. Where non compliance with the provisions of paragraph 1 to this Article poses an immediate danger to human health or threatens to cause an immediate significant adverse effect upon safety and/or the environment, the operation of the installation or operation of relevant part thereof shall be suspended by the operator, until compliance is restored.
3. Where measures are taken as referred in paragraph 2 to this Article, the operator shall, without delay, notify the competent authority accordingly.
4. The competent authority shall develop annual plans for effective oversight, including inspections, of major hazard activities based on risk and paying particular regard to, ~~and verifying,~~ compliance with the documents **Major Hazards Report and internal emergency response plans and well notifications** submitted to it pursuant to Article 9. **Member States** ~~and~~ shall monitor ~~it's~~ **the** effectiveness **of the competent authority** and shall take any necessary measures to effect improvements thereto.

Article 21

Anonymous reporting of safety concerns

1. Competent authorities shall establish procedures for allowing anonymous reporting of safety and/or environmental concerns related to offshore oil and gas operations. Competent authorities shall also establish procedures to investigate these reports while maintaining anonymity of the individuals concerned.
2. Operators shall communicate details of the national arrangements pursuant to paragraph 1 to their employees, and to employees ~~to relevant subcontractors~~ **of contractors and sub contractors connected with the operation and their employers**, and ensure that reference to anonymous reporting is included in relevant training and notices.

CHAPTER V

TRANSPARENCY AND SHARING OF INFORMATION

Article 22

Sharing of information

1. Operators and competent authorities shall share, as a minimum, the information described in Annex VI.
2. The Commission shall determine by means of an implementing act a common data reporting format and the details of information to be shared. This implementing act shall be adopted in accordance with the advisory procedure referred to in Article **36 paragraph 2 4** of Regulation (EU) No 182/2011.
3. Member States shall keep updated records of emergency response **equipment and services** ~~resources available in accordance with Article 30 paragraph 3~~ **in their jurisdiction by both public and private entities. Those records shall be made available to other Member States or potentially affected third countries and to the Commission.**

Article 23

Transparency

1. The information pursuant Annex VI shall be made publicly available without a need for request pursuant to applicable provisions of Union legislation on access to environmental information.
2. The Commission shall by means of an implementing measure also determine a common publication format that shall enable easy cross-border comparison of data. This implementing act shall be adopted in accordance with the ~~advisory~~ procedure referred to in Article **36 paragraph 2** ~~4 of the Regulation (EU) No 182/2011~~. While remaining accessible to general public, the common publication format shall be developed in view of the allowing for a reliable comparison of national operations and regulatory practices pursuant to this Article and Article 24.
3. When publishing their ~~national~~ **external** emergency response plans pursuant to Article 30 the Member States shall ensure that disclosed information does not pose risks to safety and security of offshore oil and gas installations and their operation.

Article 24

Reporting on safety and environmental impact of offshore oil and gas activities

1. The Member States shall prepare an annual report concerning:
 - (a) the number, age and location of installations in their jurisdiction;
 - (b) the number and type of inspections and investigations performed, any enforcement actions, decided prosecutions;
 - (c) incident data pursuant to the common reporting system required in Article 22;

- (d) any major change in the offshore regulatory framework;
 - (e) the ~~safety and environmental~~ performance of offshore oil and gas operations in their jurisdiction **in relation to prevention of major accidents and the limiting of consequences of major accidents that do occur.**
2. Member States shall designate an authority to be responsible for exchanging information pursuant to Article 22 and publication of information pursuant to Article 23 and shall inform the Commission accordingly.
 3. Every two years, the Commission shall publish reports on the safety of offshore operations across the Union based on the information reported to it by Member States and the European Maritime Safety Agency. The Commission shall be assisted in this task by relevant Member States pursuant Article ~~26~~ **27**.

Article 25

Investigation following a major accident

1. Immediately following a major accident, the operator shall notify the competent authority of relevant information, including the circumstances of the accident, and its consequences.
2. Member States shall conduct thorough investigations of major accidents involving significant damage (to persons and **to the** environment) or involving major loss of assets. The report of the investigation shall include an assessment of the effectiveness of the competent authority's regulation of the installation concerned in the time preceding the accident and recommendations for adequate changes to the relevant regulatory practices where needed.

3. A summary of the investigation report prepared pursuant to paragraph 2 of this Article shall be made available to the Commission at the conclusion of the investigation or at the conclusion of legal proceedings, whichever is the later. A specific version of the report, that takes into account possible legal limitations, shall be made available publicly with regard to Articles 22 and 23.
4. Following its investigations pursuant to paragraph 2, the competent authority shall implement any recommendations of the investigation that are within its powers to act.

Article 26

Confidentiality

1. Competent authorities shall make information received pursuant to this Regulation available to any natural or legal person who so requests.
2. Requests for information obtained by the competent authority under this Regulation may be refused where the conditions laid down in Article 4(2) of Directive 2003/4/EC of the European Parliament and of the Council⁵ are fulfilled.
3. Pursuant to paragraph 2, or for the purposes of public participation pursuant to Article 5, the operator shall supply to the competent authority, and make available to the public, a version of the **requested** document that excludes confidential information.

⁵ OJ L 41, 14.2.2003, p. 26

CHAPTER ~~IV~~ VI
COORDINATION AND COOPERATION

Article 27

Cooperation between Member States

1. The competent authorities shall regularly exchange knowledge, information and experience between themselves and shall engage in consultations on the application of relevant national and Union legal frameworks with the industry, other stakeholders and the Commission.
2. Information exchanged pursuant to paragraph 1 shall concern, in particular, the functioning of the measures for risk assessment, accident prevention, compliance verification and emergency response related to offshore oil and gas operations within the Union, as well as beyond its borders where appropriate.
3. Clear priorities ~~and procedures~~ should be established **between operators and competent authorities** for the preparation and updating of guidance ~~documents~~ **and standards** in order to identify and facilitate the implementation **and consistent application** of ~~the~~ best practices ~~in areas pursuant to paragraph 2.~~
4. A Member State may seek the opinion of other Member States participating in the exchange of information pursuant to paragraph 1 regarding any decision of another Member State that has potential negative cross border impact.

Article 28

Coordinated approach towards the safety in adjacent regions and international activities

1. The Commission, in close cooperation with the Member States, shall promote cooperation with third countries that undertake offshore oil and gas operations in the same marine regions as Member States including, where appropriate, within the framework of regional sea conventions.

2. The Commission shall assess the safety of oil and gas operations in the waters of the third countries adjacent to waters of Member States and support a coordinated approach to mutual exchange of experience and promotion of preventive measures and regional emergency response plans.
3. The Commission shall promote high safety standards for offshore oil and gas operations at international level at appropriate global and regional fora, including those related to Arctic waters.

CHAPTER VII

EMERGENCY PREPAREDNESS AND RESPONSE

Article 29

Requirements for internal emergency response plans

1. Internal emergency response plans shall be prepared by the operator so as to:
 - (a) be initiated to contain an incipient major accident within the installation, or within the ~~exclusion~~ **safety** zone established by the Member State around the perimeter of the installation, or subsea wellhead;
 - (b) be operated in line with the external emergency **response** plan where the accident has escalated beyond the installation .
2. The operator shall maintain equipment and expertise relevant to the plan to be available at all times, and shared as necessary with the Member State in the execution of the external emergency response plan.
3. The internal emergency **response** plan shall be prepared in accordance with the provisions of Annex V, and updated in line with any **[significant] [material]** change to the major hazard risk assessment in the well plan or Major Hazards Report as appropriate. Any such updates shall be ~~advised~~ **notified** to the authority responsible for preparing the external emergency response plans for the area concerned.

4. **The** internal emergency response plan shall be integrated with other provisions relating to protection and rescue of personnel from the stricken installation so as to secure a good prospect of survival.
5. The operator shall periodically test the effectiveness of the internal emergency response plans.

Article 30

External emergency response plans and emergency preparedness

1. Member States shall prepare external emergency **response** plans covering all offshore oil and gas installations and potentially affected areas within their jurisdiction. **The external emergency response plans shall specify the role of operators in the external emergency response, and the liability of operators for the costs of external emergency response.**
2. External emergency response plans shall be prepared with the cooperation of relevant operators and, as appropriate, licensees, and aligned with the internal emergency response plans of the installations stationed or planned **to be stationed** in the subject area. Any update to the internal plans advised by an operator should be taken into account.
3. External emergency response plans shall be prepared in accordance with the provisions of Annex I and V, and made available to the Commission., and to the public as appropriate.
4. Member States shall take all suitable measures to achieve a high level of compatibility and interoperability of response equipment and expertise between all Member States in a geographical region, and further afield where appropriate. Member States shall encourage industry to develop compatible response instruments **equipment and services** in the spirit of this paragraph.
5. Operators shall cooperate with Member States in implementing the provisions of paragraph 4 of this Article.

6. Member States shall keep updated records of emergency response resources **equipment and services** available in their territory or jurisdiction by both public and private entities. Those records shall be made available to the other Member States and, on a reciprocal basis, with neighbouring third countries, and to the Commission.
7. Member States and the operators shall regularly test their preparedness to respond effectively to offshore oil and gas accidents.

Article 31

Emergency response

1. The operator shall immediately notify the relevant authorities of a major accident or of a situation with immediate risk of major accident. ~~Where necessary, relevant authorities shall assist the operator concerned with a view to preventing escalation of the risk or accident.~~
2. In the event of ~~an~~ **a major** accident, the ~~relevant authorities, in cooperation with operators concerned~~ **operator** shall take all measures necessary to prevent escalation of the accident and to mitigate its consequences. **The operator may be assisted by the relevant authorities who may supply additional resources.**
3. In the event of a major accident overwhelming the national response capacities, an affected Member State may request additional assistance from Member States and the European Maritime Safety Agency through the EU Civil Protection Mechanism established by the Council Decision 2007/779/EC.
4. In the course of the emergency response, the Member State shall collect the information necessary for a full analysis of the **major** accident.

Article 32

Transboundary emergency preparedness and response

1. Where transboundary effects of offshore oil and gas accidents are foreseeable, Member States shall make information available to the Commission and potentially affected Member States or third countries on a reciprocity basis and take identified risks into account when preparing the external emergency **response** plan. The Member States in question shall coordinate their emergency **response** plans to facilitate joint response to an accident.
2. Member States shall coordinate measures related to areas beyond the boundaries of the Union in order to prevent potential negative affects of offshore oil and gas operations.
3. Member States shall regularly test their preparedness to respond effectively to accidents in cooperation with potentially affected Member States, relevant EU Agencies or third countries. The Commission may contribute to exercises focused on the test of cross-border and Union emergency mechanisms.
4. In the event of a major accident, or of an imminent threat thereof, which causes or is capable of causing transboundary effects, the Member State under whose jurisdiction the emergency has occurred shall, without delay, notify the Commission and those Member States which may be affected by the emergency.

CHAPTER VIII

CLOSING PROVISIONS

Article 33

Penalties

Member States shall establish penalties applicable to infringements of this Regulation by the industry and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive.

Article 34

Delegated powers of the Commission

1. The Commission shall be empowered to adopt delegated acts in accordance with Article 35 of this Regulation to adapt the requirements to the latest development of relevant technologies and procedures in Annex I-VI.
2. The Commission may also adopt delegated acts in accordance with Article 35 of this Regulation to precise application of the requirements of Regulation in relation to:
 - (a) details to be submitted in a Design notification or a Major Hazard Report as specified in Annex II points 1, 2, 3, 6;
 - (b) notification of well/combined operations as specified in Annex II, point 4 and 7;
 - (c) requirements related to verification by independent third party verification as specified in Annex II, point 5;
 - (d) requirements for functioning and organisation of competent authorities as specified in Annex III and;
 - (~~e~~) requirements related to the prevention of major hazards by operators as specified in Annex IV .

Article 35

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The delegation of power referred to in Article 34 shall be conferred on the Commission for an indeterminate period of time from the date of the entry of this Regulation into force.

3. The delegation of power referred to in Article 34 may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify simultaneously the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 34 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or the Council.

Article 36

Committee procedure

1. The Commission shall be assisted by a committee. The committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 ~~4~~ of Regulation (EU) No 182/2011 shall apply.

Article 37

*Amendment to Directive 2004/35/EC of the European Parliament and of the Council
of 21 April 2004 on environmental liability with regard to the prevention
and remedying of environmental damage⁶*

1. Article 2(1)(b) of that Directive shall be replaced by the following:

'(b) water damage, which is any damage that significantly adversely affects

- (i) the ecological, chemical and/or quantitative status and/or ecological potential, as defined in Directive 2000/60/EC, of the waters concerned, with the exception of adverse effects where Article 4(7) of that Directive applies, or
- (ii) the environmental status of the marine waters concerned, as defined in Directive 2008/56/EC, in so far as particular aspects of the environmental status of the marine environment are not already addressed through Directive 2000/60/EC;'

2. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with the above paragraph within one year of the entry into force of this Regulation. They shall forthwith inform the Commission thereof.

Article 38

Transitional provisions

Operators of installations shall comply in full with this Regulation within two years of it coming into effect, with the following exceptions:

- (a) Operators for non-production installations ~~that are under contract but not yet established on location~~ shall comply in full with this Regulation within 1 year of it coming into effect, or earlier by agreement with the competent authority.

⁶ OJ L 154, 30.4.2004, p. 56

- (b) Operators of planned **production** installations shall comply in full with this regulation unless otherwise agreed with the competent authority, and in any case no later than within 1 year of it coming into effect.
- (c) Well operators shall comply in full with this Regulation within 3 months of it coming into effect, or earlier by agreement with the competent authority.

Article 39

Entry into force

1. This Regulation shall enter into force on the day following that of its publication in the Official Journal of the European Union.
2. This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels [.....]

For the European Parliament

The President

For the Council

The President

ANNEX I

Public participation linked to authorisations under Directive 94/22/EC

1. Member States shall ensure that:
 - (a) the public is informed, whether by public notices or other appropriate means such as electronic media where available, about submission of licensing applications to Member States, and that relevant information about such proposals is made available to the public including inter alia information about the right to participate, and to whom comments or questions may be submitted;
 - (b) the public is entitled to express comments and opinions when all options are open before decisions on the licensing applications are made;
 - (c) in making those decisions, due account shall be taken of the results of the public participation;
 - (d) having examined the comments and opinions expressed by the public, the Member States makes reasonable efforts to inform the public about the decisions taken and the reasons and considerations upon which those decisions are based, including information about the public participation process.
2. Reasonable time-frames shall be provided allowing sufficient time for each of the different stages of public participation. ~~The~~ Member States shall identify the public entitled to participate for the purposes of paragraph 1, including relevant non-governmental organisations meeting any requirements imposed under national law, such as those promoting environmental protection, or offshore safety.

ANNEX II

Requirements on documents related to consenting procedure

1. INFORMATION TO BE SUBMITTED IN A DESIGN NOTIFICATION FOR A PRODUCTION INSTALLATION

Design notification for a production installation pursuant to Article 9 shall contain at least following information:

- (1) the name and address of the operator of the installation;
- (2) a description of the process applied to the design activity, the relevant standards used, and the design options produced by this process;
- (3) a description of the selected design concept in relation to the major hazard scenarios for the particular installation and its location, and the primary risk control features;
- (4) a demonstration that the concept reduces major hazard risks to an acceptable extent;
- (5) a description of the installation and the conditions at its intended location;
- (6) a description of the types of major hazard operations to be carried out;
- (7) a general description of the safety management system by which the intended major hazard risk control measures will be maintained in good effect, including the scheme of independent verification to be selected.

2. INFORMATION TO BE SUBMITTED IN A MAJOR HAZARD REPORT FOR OPERATION OF A PRODUCTION INSTALLATION

Major Hazard Report for a production installation pursuant to Article 10 shall contain at least following information:

- (1) a description of the account taken of the competent authority's response to the design notification;
- (2) a summary of any worker involvement in the preparation of the major hazards report;
- (3) a description of the installation and connected infrastructure and any other structures, including wells connected to it;
- (4) demonstration that all the major hazards have been identified, their likelihood and consequences assessed, and that their control measures are suitable so as to reduce risks of a major hazard event to persons and the environment to an acceptable extent;
- (5) details of the types of operations with major hazard potential to be carried out, and the maximum number of persons that can be on the installation at any time;
- (6) details of ~~plant~~ **equipment** and arrangements to ensure well control, process safety, containment of hazardous substances, prevention of fire and explosion, protection of the workforce from hazardous substances, and protection of the environment from an incipient major hazard event (in line with the internal emergency **response** plan pursuant to Annex V);
- (7) details of the arrangements to protect persons on the platform from major hazards, and to ensure their safe evacuation and recovery and for the maintenance of control systems to prevent damage to the installation and the environment in the event all personnel are evacuated;
- (8) relevant codes, standards and guidance used in the construction and commissioning of the installation;
- (9) information on the safety management system for operations, maintenance, modification, and verification schemes, including the main operational limitations of the installation to be controlled by the **safety** management system;
- (10) information relating to the verification scheme pursuant to section 5(2) to this Annex;

- (11) any other relevant details, for example where two or more installations operate in combination in a way which affects the major hazard potential of either or all installations;
- (12) the information relevant to other requirements under this regulation obtained pursuant to other applicable Union legislation notably Directives 92/91/EC and 85/337/EEC;
- (13) a description of the aspects of the environment likely to be significantly affected, an assessment of the identified potential environmental effects, in particular releases of pollutants to the environment, and a description of the technical and non-technical measures envisaged to prevent, reduce or offset them, including monitoring.

3. INFORMATION TO BE SUBMITTED IN A MAJOR HAZARDS REPORT FOR A NON-PRODUCTION INSTALLATION

Major Hazards Report for a non-production installation pursuant to Article 11 shall contain at least following information:

- (1) the name and address of the operator of the installation;
- (2) a summary of any worker involvement in the preparation of the major hazards report;
- (3) a description of the installation and, in the case of a mobile installation, details of its means of transfer between locations, and its stationing system;
- (4) details of the types of operations with major hazard potential that the installation is capable of performing, and the maximum number of persons that can be on the installation at any time;
- (5) demonstration that all the major hazards have been identified, their likelihood and consequences assessed, and that their control measures are suitable so as to reduce risks of a major hazard event to persons and the environment to an acceptable extent;
- (6) details of plant and arrangements to ensure well control, process safety, containment of hazardous substances, prevention of fire and explosion, protection of the workforce from hazardous substances, and protection of the environment from an incipient major hazard event (in line with the internal emergency **response** plan pursuant to Annex V);

- (7) details of the arrangements to protect persons on the platform from major hazards, and to ensure their safe evacuation and recovery, and for the maintenance of control systems to prevent damage to the installation and the environment in the event all personnel are evacuated;
- (8) relevant codes, standards and guidance used in the construction and commissioning of the installation;
- (9) demonstration that all the major hazards have been identified for all activities the installation is capable of performing, and that the risks of a major hazard event to persons and the environment are reduced to an acceptable extent;
- (10) details of the environmental, meteorological and sea-bed limitations on safe operations, and the arrangements for identifying risks from sea-bed and marine hazards such as pipelines and moorings of adjacent installations;
- (11) information on the safety management system for operations, maintenance, and modification;
- (12) information relating to the verification scheme pursuant to section 5(2) to this Annex;
- (13) any other relevant details, for example where two or more installations operate in combination in a way which affects the major hazard potential of either or all installations;
- (14) a description of the aspects of the environment likely to be significantly affected, an assessment of the identified potential environmental effects, in particular releases of pollutants to the environment, and a description of the technical and non-technical measures envisaged to prevent, reduce or offset them, including monitoring.

4. INFORMATION TO BE SUBMITTED IN A NOTIFICATION OF WELL OPERATIONS

~~Well notification~~ **Notification of well operations** pursuant to Article 13 shall contain at least the following information:

- (1) the name and address of the well operator;

- (2) the name of the installation to be used and the owner;
- (3) details that identify the well and any association with other wells, ~~or developments~~ **activities or installations**;
- (4) information on the well work programme, including the period of its operation, verification of barriers against loss of well control, and the intended status of the well at completion of the operation;
- (5) any details concerning safety equipment to be deployed that are not described in the current major hazards report for the installation;
- (6) a risk assessment incorporating a description of:
 - (a) the particular hazards associated with the well operation;
 - (b) the subsurface hazards;
 - (c) any surface or subsea activities which introduce simultaneous major hazard potential;
 - (d) suitable control measures;
- (7) details of well design, including barriers to loss of well control (equipment, drilling fluids, and cement etc), directional control of the well path, and limitations on safe operation in keeping with the risk assessment;
- (8) details of the well configuration at the end of operations – i.e. permanently or temporarily abandoned; and where ~~completed~~ **production equipment has been placed into the well** for future use;
- (9) in the case of an existing well, ~~relevant~~ information ~~of~~ **regarding** its history, and condition;
- (10) in the case of a modification to a previously submitted well notification, sufficient details to fully update the notification;

- (11) where a well is to be ~~carried out~~ **constructed, modified or maintained** by means of a non-production installation additional information as follows:
- (a) details of the meteorological, marine and sea-bed conditions at the location, including any physical obstructions such as pipelines;
 - (b) details of environmental conditions that have been taken into account within the internal emergency **response** plan for the installation;
 - (c) details of the provisions for emergency response including in the case of a major accident to the environment that are not described in the major hazards report, and;
 - (d) a description of how the management systems of the well operator and installation owner are to be coordinated to ensure effective control of major hazards at all times.
- (12) a statement of independent well examination pursuant to part 5 (1) of this Annex;
- (13) the information relevant to their requirements under this regulation obtained pursuant to other applicable Union legislation notably Directives 92/91/EC and 85/337/EEC.

5. MATTERS RELATING TO A VERIFICATION SCHEME

1. The independent third party shall meet the following requirements with regard to its independence from the operator of the installation, or the well operator:
 - (a) his function does not require him to consider any aspect of a safety critical element or specified plant in which he ~~has had prior involvement~~ **was previously involved** or where his objectivity might be compromised;
 - (b) he is sufficiently independent of a management system which has, or has had, any responsibility for any aspect of a component in the ~~independent~~ scheme of **third party** verification or well examination so as to ensure he will be objective in carrying out his functions within the scheme.

2. The **operator shall ensure that the** independent third party ~~shall~~ **is able to** meet the following requirements with regard to its competence:
 - (a) technical competence, including suitably qualified staff in adequate numbers and with sufficient experience;
 - (b) suitable allocation of tasks by the operator to staff qualified to undertake them;
 - (c) suitable arrangements for the flow of information between the operator and the independent third party;
 - (d) sufficient authority given by the operator to the independent third party to be able to perform his functions adequately;
3. For the purposes of Article 13 paragraph 3, a significant change to a well notification will include:
 - (a) any change having potential to ~~infringe~~ **alter** the original design intent of the well plan particularly in regard to well control and other barriers to flow and their verification;
 - (b) any material change to the plant or equipment, or management system or **change of** well operator notified pursuant to Annex II part 4;
 - (c) any change to the risk assessment, including where caused by conditions encountered during well operations.

Significant changes should be referred to the independent well examiner for ~~his~~ **him to undertake** further verification, and the outcomes of further verification should be ~~advised~~ **communicated** to the competent authority.

4. In the case of a well notification, a statement shall be included from an independent well examiner that the risk assessment relating to well design and its barriers to loss of control are suitable for all anticipated conditions and circumstances.

5. In the case of operation of an installation, the Major Hazards Report shall include:
- (a) a statement from the independent third party verifier that the record of safety critical elements and ~~their~~ the scheme of maintenance ~~of them~~ as specified in the major hazards report are or will be suitable;
 - (b) a description of the verification scheme including the selection of independent third party verifiers, the means of verification that safety critical elements and any specified plant in the scheme remain in good repair and condition;
 - (c) **a discription of** the means **of verification** referred **to** in subparagraph 5(b) **that** shall include examination and testing as necessary of the safety critical elements by independent and competent ~~persons~~ **third party verifiers**, verification of the design, standard, certification or other system of ~~conformance~~ **conformity** of the safety critical elements, examination of work in progress, the reporting of any non-compliances, and remedial actions taken by the operator;

6. INFORMATION TO BE PROVIDED IN RESPECT OF A MAJOR CHANGE TO AN INSTALLATION, INCLUDING REMOVAL OF A FIXED INSTALLATION

Where major changes are to be made on the installation, the information provided to **the** competent authority pursuant to Articles 10 and 11 shall contain at least **the** following ~~information~~:

1. the name and address of the operator of the installation;
2. a summary of any worker involvement in the preparation of the revised Major Hazards Report;
3. ~~in the case of a major modification~~, sufficient details to fully update the earlier Major Hazard Report and associated internal emergency **response** plan for the installation and to demonstrate major hazard risks are reduced to an acceptable extent;

4. in the case of taking a fixed production installation out of use:
 - (a) means of isolating all hazardous substances and in the case of wells connected to the installation, the permanent sealing of the wells from the installation and the environment;
 - (b) a description of major hazard risks associated with the dismantlement of the installation, the total exposed population, and the risk control measures;
 - (c) emergency response arrangements to secure safe evacuation and recovery of personnel and to prevent a major accident to the environment.

7. INFORMATION TO BE SUBMITTED IN A NOTIFICATION FOR COMBINED OPERATIONS

The notification for combined operations pursuant to Article 14 shall contain at least following information:

- (1) the name and address of the operator preparing the notification;
- (2) in the event that other operators are involved in the combined operations their names and addresses, including a confirmation that they agree with the contents of the notification;
- (3) a description, **in the form of a bridging document authorised by all parties to the document**, of how the management systems for the installations involved in the combined operation will be coordinated so as to reduce the risks from a major accident;
- (4) details of any equipment to be used in connection with the combined operation but which is not described in the current Major Hazards Report for any of the installations involved in the combined operations;

- (5) a summary of the risk assessment performed by all operators involved in the combined operations, which shall include:
- (a) a description of any activities during the combined operation which may involve hazards with the potential to cause a major accident on or in connection with an installation;
 - (b) a description of any risk control measures introduced as a result of the risk assessment.
- (6) a description of the combined operation and a programme of work, which shall include the dates on which the combined operation is expected to commence. ~~and finish and a copy of an agreement between the operators involved in the combined operations;~~

ANNEX III

Provisions by competent authorities for regulation of major hazards operations

1. For the purposes of appointing a competent authority responsible for the **duties related to the scope of this Regulation** ~~regulatory functions in this regulation relating to safety and environmental protection~~, Member States shall address the following ~~minimum criteria~~ **elements**:
 - (a) organisational arrangements which allow all duties in this regulation to be effectively discharged, including arrangements for regulating safety and environmental protection in an equitable manner;
 - (b) a policy statement ~~addressing~~ **describing** the aims of oversight and enforcement, and how the competent authority will achieve transparency, consistency, proportionality and objectivity in its regulation of offshore oil and gas activities. The competent authority should also make clear to the public the division of responsibilities of the regulator from the operator, the latter having primary responsibility for controlling risks, the former responsible for verifying that the operator has adequate measures in place that are likely to be effective in controlling major hazard risks;
 - (c) a strategy statement that describes the functions of the competent authority, its priorities for action (for example in design and operation of installations, integrity management and in emergency preparedness and response), and how it is organised;
 - (d) operating procedures that describe how the competent authority will inspect and enforce ~~against~~ the duties of operators under this regulation, including how it will handle, assess and accept major hazard reports, handle well notifications and how the intervals between inspection of major hazard risk control measures (including to the environment) for a given installation or activity are to be determined;
 - (e) procedures for discharging the functions of the competent authority under this regulation without prejudice to other responsibilities, for example onshore oil and gas operations, and arrangements pursuant to Directive 92/91/EC;

(f) where the competent authority comprises two or more agencies, a formal agreement establishing the necessary mechanisms for joint operation of the competent authority, including senior management oversight and monitoring and reviews, joint planning and inspection, division of responsibilities for handling major hazards reports, joint investigation, internal communications, and **reports to be published** externally ~~reporting~~.

2. Member States should make the necessary provisions to bring the above arrangements into effect, including:

(a) sufficient specialist expertise available internally or by ~~an external arrangement~~ **formal agreements with third party in order** to inspect and investigate activities, take enforcement action, and to handle major hazard reports and notifications;

(b) where there is reliance on external sources of expertise, sufficient written guidance and oversight to maintain consistency of approach and to ensure the legally appointed competent authority retains full responsibility under this regulation;

(c) adequate resources for essential training, communication, access to technology, travel and subsistence of competent authority staff in their regulatory functions, and so as to permit the active cooperation between competent authorities pursuant to Article 27;

(d) where appropriate, to require operators and/or installation owners to ~~indemnify~~ **reimburse** the competent authority for the cost of its functions carried out pursuant to this regulation;

(e) to undertake or ~~instigate~~ **encourage** research pursuant to the competent authority's functions under this regulation;

(f) for the competent authority to make reports.

3. ~~Procedures for the assessment of the Major Hazards Report and notifications, internal emergency plans and other relevant documents shall include:~~
- ~~(a) a quantitative risk assessment analysis;~~
 - ~~an assessment of operator's judgement on the relevant details of the location of operations~~
 - ~~(b) ;an assessment of the technical and organisational standards used;~~
 - ~~(c) an assessment of engineering solutions;~~
 - ~~(d) an assessment of operator's arrangements for management of changes to operational plans;~~
 - ~~(e) a comparison of the solutions used with the solutions used in other comparable situations;~~
 - ~~(f) an assessment of the consistency of the emergency plans with the risks identified;~~
 - ~~(g) an assessment of the operator's arrangements for halting the operations in case of imminent risk;~~
 - ~~(h) an assessment of the availability of emergency response equipment and adequacy of procedures to effectively put it in use;~~

3. Procedures for the assessment of the Major Hazards Report and notifications shall be prepared by the competent authority and made available to operators and installation owners. Information on assessment principles shall also be prepared which are accessible to the public.

3a. The detailed procedures for assessment of Major Hazards Reports shall require all factual information and other particulars as described in Annex II to this regulation and other particulars as subsequently agreed pursuant to this regulation, to be provided by the submitter. As a minimum the competent authority shall address the principal matters to be demonstrated:

- (a) all hazards with the potential to cause a major accident, including to the environment have been identified, their risks evaluated and measures identified to control the risks;**
- (b) the management system is adequate to ensure compliance with legal requirements for control of major accident hazards, and any other regulations of the national authorities relating to safety and environmental protection;**
- (c) adequate arrangements have been made for independent 3rd party verification, and for audit by the operator/owner/well operator.**

3b. In undertaking a thorough assessment of major hazard reports the competent authority shall ensure that:

- (a) all factual information required is provided;**
- (b) the operator/owner has identified all reasonably foreseeable major accident hazards that apply to the installation and its functions, together with potential initiating events, and that the methodology and evaluation criteria adopted for major accident risk assessment are clearly explained, including factors for uncertainty in the analysis;**
- (c) The risk assessments shall be performed for the lifecycle of the installation and have anticipated all foreseeable situations including:**
 - (i) how the design decisions described in the design notification have taken account of risk assessment so as to ensure inherent safety principles are applied;**
 - (ii) well operations to be conducted from the installation when operating;**
 - (iii) well operations that are to be undertaken and temporarily suspended before production commences from a production installation;**

(iv) combined operations undertaken with other installation;

(v) decommissioning of the installation.

(c) risk reduction measures identified as part of the risk assessment are intended to be implemented if necessary to reduce risks to an acceptable level;

(d) in determining the necessary measures to achieve acceptable levels of risk, the operator/owner has clearly demonstrated how relevant good practice and judgement based on sound engineering, best management practice, and human and organisational factors principles have been taken into account;

(e) the measures and arrangements for the detection of, and the rapid and effective response to, an emergency are clearly identified and justified;

(f) evacuation and escape arrangements and measures to limit escalation of the incident and reduce its impact on the environment are integrated in a logical and systematic manner, taking account of the likely emergency conditions in which they will be operated;

(g) the requirements of Annex V Part 1 are incorporated in the internal emergency plans and the internal emergency response plan is included in the major hazards response plan;

(h) the safety management system described in the major hazards report is adequate to ensure control of the major hazard risks at each stage of the installation life cycle, and ensures compliance with all relevant legal provisions, and provides for auditing and implementing audit recommendations;

(i) the scheme for independent verification is clearly explained.

4. ~~Competent authorities should be clearly independent of any government organisation for industry sponsorship, or for licensing or revenue collection. The competent authority should not adopt any political stance regarding the oil and gas sector.~~

ANNEX IV

Provisions by operators for prevention of major accidents

1. For the purposes of implementing the operator's major accident prevention policy and safety management system pursuant to Article 18, account should be taken of the following:
 - (a) the major accident prevention policy should be established in writing and shall establish the overall aims and organisation for control of major accident hazards, and how these arrangements are put into effect at corporate level;
 - (b) the safety management system should be integrated within the overall management system ~~for~~ **of** the operator and shall include organisational structure, responsibilities, practices, procedures, processes and resources for determining and implementing the major hazards policy.
2. The safety management system shall include but not be limited to:
 - (a) organisation structure and personnel roles and responsibilities;
 - (b) identification and evaluation of major hazards – their likelihood and consequences;
 - (c) integration of environmental impact into major ~~hazard~~ **accident risk** assessments in the major hazards report;
 - (d) controls of the major hazards during normal operations;
 - (e) management of change;
 - (f) emergency planning and response;
 - (g) limitation of damage to the environment;
 - (h) monitoring of performance;
 - (i) audit and review arrangements.

3. Operators shall pay particular attention to evaluation of the reliability and integrity requirements of all safety critical systems and base their inspection and maintenance systems on achieving ~~this~~ **the required** level of safety integrity.
4. Operators shall ensure that hazardous substances are at all times contained within the pipelines, vessels and systems intended for their safe confinement. In addition, operators shall ensure that no single failure of a **containment** barrier ~~to loss of containment~~ can lead to a major hazard incident.
5. Operators shall ensure they have a suitable framework for monitoring compliance with all relevant statutory provisions by incorporating their statutory duties in respect of major hazards safety and environmental protection into their standard operating procedures.
6. Operators shall pay particular attention to building and maintaining a strong safety culture with a high likelihood of continuous safe operation including but not limited to:
 - (a) extensive process auditing;
 - (b) rewarding and recognising desired behaviours;
 - (c) regular evaluation of the organisations capabilities and goals;
 - (d) maintaining high standards as a corporate core value;
 - (e) formal command and control systems that include involving senior management and workforce, ~~and~~;
 - (f) competency at all levels of the operation;
 - (g) visible commitment to tripartite consultations and actions arising therefrom.**

7. Industry shall cooperate with the competent authority to establish and implement a priority plan for the development of standards, guidance and rules which will give effect to best practice in major ~~hazards~~ **accident** prevention and limitation of consequences of major ~~hazards~~ **accidents** should they nonetheless occur. The matters to be considered should include:
- (a) improving well integrity, well control equipment and barriers and monitoring their effectiveness;
 - (b) improving primary containment in process safety systems;
 - (c) improving secondary containment that restricts escalation of an incipient major accident, including well blow-outs;
 - (d) reliable decision making in high pressure environments;
 - (e) management and supervision of major hazard activities;
 - (f) competency of key post holders;
 - (g) effective risk assessment for evaluating changing conditions;
 - (h) reliability assessment for safety critical systems;
 - (i) key performance indicators of safety system integrity;
 - (j) effectively integrating safety management systems between operators, well operators, rig owners and others involved in combined operations.

ANNEX V

Requirements related to emergency preparedness and response

INTERNAL EMERGENCY RESPONSE PLANS

1. Internal emergency **response** plans should include but not be limited to:
 - (a) names ~~or~~ **and** positions of persons authorized to initiate emergency procedures and the person directing the internal emergency response;
 - (b) name or position of the person with responsibility for liaising with the authority responsible for the external emergency **response** plan;
 - (c) for all foreseeable conditions or events which could cause a major accident, as described in the major hazards report to which the plan is attached;
 - (d) a description of the actions which should be taken to control ~~the~~ **relevant** conditions or events and to limit their consequences to within the installation and its ~~exclusion~~ **safety** zone;
 - (e) a description of the equipment and the resources available;
 - (f) arrangements for limiting the risks to persons on the installation, including how warnings are to be given and the actions persons are expected to take on receipt of a warning;
 - (g) arrangements that coordinate with the recovery arrangements described in the major hazards report for example as described in Annex II, part (2) (7), and part (3) (7) to secure a good prospect of survival for persons on the installation during a major accident;

- (h) arrangements for providing early warning of the accident to the authorities responsible for initiating the external emergency **response** plan, the type of information which should be contained in an initial warning and the arrangements for the provision of more detailed information as it becomes available;
 - (i) arrangements for training staff in the duties they will be expected to perform, and where necessary coordinating this with external emergency responders;
 - (j) arrangements for coordinating internal emergency response with external emergency response.
2. Operators should prepare an inventory of available equipment, its ownership, location, transport to and mode of deployment at the installation. The inventory should identify measures in place to ensure equipment and procedures are maintained in operable condition.

EXTERNAL EMERGENCY RESPONSE PLANS

1. External emergency **response** plans shall include but not be limited to:
- (a) names or positions of persons authorized to initiate emergency procedures, and of persons authorized to direct the external emergency response;
 - (b) arrangements for receiving early warning of accidents, and the associated alert and ~~callout~~ **emergency** procedures;
 - (c) arrangements for coordinating resources necessary to implement the external emergency **response** plan;
 - (d) arrangements for providing assistance to the internal emergency plan which deals with events on the installation and in the ~~exclusion~~ **safety** zone around it;
 - (e) a detailed description of the offsite emergency response arrangements;
 - (f) arrangements for providing persons and organisations that may be affected by the accident with suitable information and advice relating to the accident;

- (g) arrangements for the provision of information to the emergency services of other Member States and the Commission in the event of a major accident with possible transboundary consequences;
 - (h) arrangements for the mitigation of the negative impacts on wildlife both onshore and offshore including the situations where oiled animals reach shore earlier than the actual spill.
2. The authority ~~primarily~~ responsible for **coordinating** emergency response should make the following provisions available:
- (a) an inventory of available equipment, its ownership, location, transport to and mode of deployment at the installation;
 - (b) a description of the measures in place to ensure equipment and procedures are maintained in operable condition;
 - (c) an inventory of industry owned equipment that can be made available in an emergency;
 - (d) a description of the general arrangements for offshore oil and gas emergencies, including competencies and responsibilities of all involved parties and the bodies responsible for maintaining such arrangements;
 - (e) measures to ensure that equipment, staff and procedures are ~~ready to operate and up to date~~ **available and up to date and sufficient members of trained staff are available** at all times.
3. External emergency response plans shall clearly explain the role of relevant authorities, emergency responders, coordinators and other subjects active in emergency response, so that cooperation is ensured in all emergencies.

4. Arrangements should include provisions for a major accident that potentially overwhelms the Member State or exceeds its boundaries by:
- (a) sharing plans with adjacent Member States and the Commission;
 - (b) compiling **at** cross-border **level the** inventories of response assets, both industry and nationally owned and all necessary adaptations to make equipment and procedures compatible between adjacent countries and Member States;
 - (c) procedures for invoking the EU Civil Protection Mechanism (as established by Council Decision 2007/779/EC);
 - (d) arranging cross boundary exercises of external emergency response ~~exercises~~.

ANNEX VI

Sharing of information and transparency

1. A common data reporting format for major hazard indicators to be developed by the Commission pursuant to Articles 22 and 23 shall allow for comparing information between Member States and individual operators.
2. The ~~defining~~ reporting requirements referred to in paragraph 1 shall ~~contain~~ **cover** as a minimum ~~the following information and data~~:
 - (a) information relating to unintended release of hydrocarbons or other hazardous substances, whether or not ignited;
 - (b) information related to loss of well control requiring actuation of well control equipment, or failure of a well barrier requiring its replacement or repair;
 - (c) failure of a main component of the installation's process safety system;
 - (d) significant loss of structural integrity, or loss of protection against the effects of fire or explosion, or loss of station keeping in **relation to** a ~~floating~~ **mobile** installation;
 - (e) vessels on collision course and actual vessel collisions with an offshore installation;
 - (f) helicopter accidents, on or near offshore installations or en route to offshore installations;
 - (g) any fatal accident;
 - (h) any serious injuries to 5 or more people in the same accident;
 - (i) any evacuation of non essential personnel;
 - (j) a major accident to the environment.

3. The information referred to in paragraph 2 shall consist of both factual information and analytical data regarding oil and gas operations, and shall be unambiguous. The information and data provided shall be such that the performance of individual operators can be compared, not only within the Member State but also among the industry as a whole between Member States.
4. The aim of collecting and assembling the information referred to in paragraph 2 is to provide advanced warning for ~~(further)~~ **potential** deterioration of safety and environmentally critical barriers, in order to take proactive corrective measures. The information should also ~~establish~~ **demonstrate** the overall effectiveness of measures and controls implemented by individual operators and industry as a whole, in particular to prevent major accidents ~~hazards~~ and to minimize risks for the environment.
5. In order to meet the requirements of Article 23, a simplified format shall be developed to facilitate publication of relevant data pursuant to paragraph 2 and preparation of reports pursuant to Article 24 in a way that is easily accessible to public and facilitates cross border comparison of data.
