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THE EUROPEAN UNION**

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from: General Secretariat of the Council  
to: Delegations

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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

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In view of the Energy Working Party on 24 April 2012, delegations will find in Annex a further revised text of the above proposal, amended in light of the discussions at the Working Party level and written comments received. This version of the draft Regulation will serve as a basis for the preparation of the progress report to be submitted to the TTE (Energy) Council on 15 June 2012.

Delegations should note that the revised text suggested is without prejudice to the ongoing discussion on the legal instrument of the proposal being a Regulation or a Directive. Furthermore, this version includes some linguistic and drafting improvements suggested by the Council Directorate for Quality of Legislation, specially with regard to Chapter VIII (Closing Provisions).

Changes compared to the previous text are indicated in **bold underlined**; deletions are marked with **||**; changes compared to the Commission proposal are indicated in **bold** and deletions by **||**.

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 Committee<sup>1</sup>,  
Having regard to the opinion of the Committee of the Regions<sup>2</sup>,  
Acting in accordance with the ordinary legislative procedure,  
Whereas:

*The Recitals will be examined at a later stage.*

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<sup>1</sup> OJ C , , p. .  
<sup>2</sup> 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 // in offshore oil and gas prospection, exploration and production activities. It applies to industry and // national authorities involved in // these activities.**
2. //
3. //
4. 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.
5. 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.
6. This Regulation shall apply without prejudice to Directives // 2003/4/EC, **2003/35/EU, 2010/75/EU and 2011/92/EU**.

### *Article 2 Definitions*

For the purpose of this Regulation:

1. // 'tolerable' // means where a risk of a major accident is // reduced to the furthest extent beyond which **the input of time, resources or cost required to further minimise the risk would be grossly disproportionate to the risk //**;

2. 'acceptance' means the conveyance in writing to the operator by the competent authority that its assessment of the operator's report on major hazards is unconditionally concluded pursuant to the requirements of this Regulation;
- 2a. 'activity' means a process or action carried out by a licensee, operator, its contractor or subcontractor in relation to offshore prospecting, exploration and production of hydrocarbons including related administrative proceedings;**
3. 'authorisation' means an authorisation pursuant to Directive 94/22/EC;
4. 'combined operation' means 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' means the point in time when the installation or connected infrastructure is involved for the first time in the operations for which it is designed for;
6. 'competent authority' means the public authority as defined in point 1 of Article 1 of Directive 90/531/EEC, appointed pursuant to this Regulation and responsible for the duties as assigned to it in this Regulation. The competent authority can comprise of one or more bodies;
7. 'connected infrastructure' means offshore equipment, pipelines or installations above or below the water surface used in connection with offshore oil and gas operations and for transporting oil and gas from a production installation to another installation nearby or offshore storage facility or for transporting and loading oil to a shuttle tanker;
8. 'consenting procedure' means a procedure of thorough assessment of all relevant information concerning a planned offshore oil and gas operation by the competent authority, concluded by acceptance of the report on major hazards and the absence of objections to the combined operation notification or well notification submitted by the operator;
- 8a 'contractor' means any entity contracted by the operator to perform specific tasks under instruction by the operator;**

**8b. 'entity' means any natural or legal person or any group of such persons;**

9. '[ ] safety zone' [ ] means area surrounding the installation **or the connected infrastructure that is** established by the Member State in which unrelated activities are prohibited;

10. [ ]

**10a 'exploration of oil and gas' means first drilling into a prospect and all subsequent activities necessary prior to production of oil and gas;**

11. 'external emergency response plan' [ ] means local, national or regional strategy to prevent escalation or limit consequences of a **[ ] major** accident related to offshore oil and gas operations using all available resources **[ ] of the operator including** those described in internal emergency response plans, **and any supplementary resources made available by the Member States concerned;**

12. 'independent verification' [ ] means an assessment and confirmation of the validity of particular written statements by **[ ] an entity or organisational part** that is not under the control or influence by the **[ ] entity or organisational part using** the statements;

13. 'industry' [ ] means **[ ] 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' [ ] means **[ ] a stationary fixed or mobile facility, or a combination of facilities, [ ] permanently inter-connected by bridges or other structures, [ ] used for offshore oil and gas operations or in connection with these operations;**

15. 'internal emergency response plan' [ ] means an overview prepared by operators pursuant to requirements of this Regulation of the measures to prevent escalation or limit consequences of a **[ ] major** accident related to offshore oil and gas operations [ ];

**15a. 'licence' means the authorisation conferring exclusive rights for the purpose of undertaking offshore oil and gas operations;**

16. 'licensed area' [ ] means the geographical area covered by the authorisation [ ];

17. 'licensee' [] means the holder of **an** authorisation to carry out offshore **oil and gas** operations [];
18. 'major accident' [] means:
- (a) [] explosion, **loss of well control, release of hydrocarbons or dangerous substance involving fatalities, or serious personal injury** [],
  - (b) an incident leading to [] **serious** damage to the installation or equipment thereon, **with an imminent risk of fatalities, or serious personal injury** [],
  - (c) [] any other event [] **leading to // death or serious injury to five or more persons on the offshore installation from which the source of danger occurs or engaged in an activity in connection with it;**
  - (d) **any significant or serious damage to the environment relating to the above;**
19. 'major hazard' [] means a situation with a potential for or resulting in a major accident;
- 19a 'material change' means, in the case of a report on major hazards, a change to the basis on which the original report was accepted. For example a change to the basis of the risk control measures described in the report, and/or where it is required to improve the adequacy of the measures. It would include physical modifications, availability of new knowledge or technology, and operational management changes. Whether a change is a material change may be determined by the operator or by the competent authority;**
20. 'non-production installation' [] means an installation other than **an installation used for production [] of oil and gas []**;
- 20a 'offshore' means situated in the territorial waters //, the exclusive economic zones and the continental shelves of the Member State within the meaning of the United Nations Convention on the Law of the Sea (UNCLOS);**

21. 'offshore oil and gas operations' means all activities related to exploring for, producing or processing of oil and gas offshore. This includes transport of oil and gas through connected infrastructure to or from 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' means the operator of a production installation, the operator of a non-production installation or a well operator ;
23. 'operator of a production installation' means an entity appointed by the licensee to manage and control the main functions of a production installation;
24. 'operator of a non-production installation' means an entity legally entitled to control the operation of a non-production installation. **This will usually be the owner of the non-production installation** ;
25. 'production of oil and gas' means extraction 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 ;
26. 'production installation' means an installation used for production of oil and gas;
27. ;
- 27a. 'prospection of oil and gas' means the activities performed to determine a structure assumed to contain oil or gas and that is ready to drill;**
28. 'public' means one or more entities and, in accordance with national legislation or practice, their associations, organisations or groups;
29. 'relevant authority' means (in the context of emergency response to an offshore accident) **the** primary emergency responder organisation of a Member State responsible for coordinating the **external** emergency response **in relation** to a **specific** major accident;

30. 'risk' [] means [] **the combination of the probability of an event and the consequences of the event;**

**30a. 'safety critical element' such parts of an installation and its plant, including computer programmes, a purpose of which is to prevent or limit the effect of a major accident, or the failure of which could cause or contribute substantially to a major accident;**

**30b. 'subcontractor' means an entity contracted by a contractor to perform specific tasks under instruction by the contractor;**

31. 'suitable' [] means 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' [] means **any operation concerning a well that can result in the accidental release of materials that has the potential to lead to a major accident, including** the drilling of a well **related to offshore oil and gas** [] operation[], **the** repairing or modifying **of a well**[], **the suspension of operations or the** permanent abandonment [] **of a well** [];

33. 'well operator' [] means the [] **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 **ensure that** all suitable measures **are taken** to prevent major accidents from offshore oil and gas operations. []



2. [] 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 **[] contractors and subcontractors []**.
3. Should a major accident nonetheless occur, operators and, **where necessary, Member States concerned** [] shall take all suitable measures to limit their consequences for human health and the environment [].
4. **Operators shall ensure that** offshore oil and gas activities covered by this Regulation **[] are** performed on the basis of a systematic **risk** assessment [], and the implementation of control measures so that the **residual** risks of major accidents [] are **[] tolerable**.

#### *Article 4*

#### *Safety **and environmental** considerations **[] relating to** authorisations []*

1. Decisions on granting authorisations for offshore oil and gas **[] operations []** shall take into account the capacity of applicants to meet **the** requirements for specific activities within the framework of that authorisation as required by the relevant provisions of Union law, [] in **particular** this Regulation.
2. In particular, when assessing the technical and financial capacity of the entities that apply for authorisation for offshore oil and gas **[] operations []**, due account shall be taken of the risk, **the** hazards and any other relevant information related to the **licensed** 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 // licensed area** shall be granted **// in such a way that information // collected pursuant to exploration activity can be considered by the licensing authority prior to production operations being authorised.**

4. //

#### *Article 5*

##### *Public participation in licensing procedures*

1. Member States **with offshore oil and gas activities under their jurisdiction** shall ensure that the public shall be given early and effective opportunities **concerning hydrocarbon authorisations pursuant to Directive 94/22/EC as required under Directive 2001/42/EC and Directive 2011/92/EU //**. The procedures **adopted for this purpose** 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 **// and shall not harm the commercial interests of // the applicants or the Member State.**

#### *Article 6*

##### *//Offshore oil and gas operations within licensed areas*

1. **Production installations and connected infrastructure** shall only be operated in licensed areas by licensees, or **// operators //** appointed for that purpose //. Where the competent authority **// informs the // licensing authority** that the **// operator //** is not competent to **// perform the relevant duties,** the licensee shall be notified by the licensing authority thereof and shall assume **// responsibility// for the execution of the duties concerned and nominate forthwith a replacement operator //**.

2.
3. **Operations on** installations pursuant to paragraph 1 **or on non-production installations** may not commence or continue    without submission of a **report on major hazards** pursuant to    Articles 10 and 11 and its acceptance by the competent authority pursuant to this Regulation.
4. Well **operations or**    combined operations may not be undertaken unless the **report on major hazards** for the installations **involved** has been accepted pursuant to paragraph 3 of this Article. Furthermore, operations may not be commenced and conducted without submission of a well **notification** or combined operation   notification pursuant to    Articles 13 and 14 to the competent authority or if the competent authority expresses objections to the content of   a notification.

#### *Article 7*

#### *Liability for environmental damage*

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 **operator** participating in the offshore oil and gas operations on the basis of a contract with the licensee   .

#### *Article 8*

#### **Appointment of the competent authority**

1. Member States with offshore oil and gas activities under their jurisdiction shall appoint a competent authority   .
2. The competent authority   appointed pursuant to paragraph 1 shall    be responsible for the **duties assigned to it in this Regulation, including:**

- (a) assessing and accepting **[] reports on major hazards**, assessing design notifications, and assessing notifications of wells or combined operations, and other such documents that are submitted to it;
  - (b) **[] overseeing compliance [] with this Regulation, including[] inspections, conducting** investigations and taking enforcement action;
  - (c) producing reports pursuant to this Regulation.
3. **[] Member States shall ensure that the regulatory functions of the competent authority [] are independent from any conflict of interest with regulatory [] 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 **with offshore oil and gas activities under their jurisdiction** shall ensure that **the** competent authority has adequate **human and financial** resources to perform its **[] duties** according to this Regulation.
5. **[] Where more than one body comprises the competent authority, Member States shall ensure that there is no duplication of regulatory functions.**

*Article **[] 8a***

**[] Functioning of** *the competent authorities*

1. The competent authority shall **[] in its 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 **the** control of major hazard risks, pursuant to Article 18, paragraph 3.

3. The competent authority shall establish a policy for thorough assessment of **[] reports on major hazards** and notifications pursuant to Articles 10, 11, 13 and 14, **[] oversight**, investigation and enforcement of **compliance with the provisions of this Regulation []** in its jurisdiction.
- 3a. The competent authority shall, where relevant, prepare and implement coordinated or joint procedures to undertake the duties pursuant to this Regulation and to fulfill the requirements under any other applicable Union legislation.**
4. The competent authority shall base its **policies**, organisation and operational procedures on the principles set out in Annex III.

### CHAPTER III

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

##### *Article 9*

##### *Conditions for operating [] installations*

1. Subject to the transitional provisions in Article 318, the operator of **an []** 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;
  - (aa) in the case of an existing production installation which is to be moved to a new production location where it is to be operated, a relocation notification in accordance with the requirements of Annex II, part 1;**
  - (b) a **[] report on major hazards pursuant to [] Articles 10 [] and 11 containing the details specified Annex II (2), (3), (5), (6) and (7);**

(c)   

(d)   

2. The competent authority shall receive the design notification **at least** 24 weeks before the intended submission of a **report on major hazards** for the planned operation.

  

3. The **report on major hazards** shall be **submitted** to the competent authority within a deadline set out by the competent authority and **at least** 12 weeks before the planned commencement of operation.

#### *Article 10*

##### **Report on major hazards** for a production installation

1. The **report on major hazards** for a production installation shall contain the details specified in Annex II, parts 2 and 5 **and be revised whenever appropriate**.

2. A **report on major hazards** for a production installation may be prepared in relation to a group of installations subject to the agreement of the competent authority.

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<sup>3</sup> The Presidency suggests to include the following new paragraphs:

2a. The competent authority shall receive the relocation notification at a sufficient early stage in the proposed development to enable the operator to take into account any matters raised by the competent authority during the preparation of the report on major hazards.

2b. Where an existing production installation is to enter or leave the waters of a Member State, the relevant competent authorities shall be notified in writing prior to the date on which the production installation is due to enter or leave the Member State's waters.

2c. Where there is a material change to the design or relocation notification prior to the submission of the report on major hazards, the competent authority shall be notified of the change as soon as possible.

3. Where [] modifications are **to be** made to the production installation **that leads to a material change, //** or it is intended to dismantle the **a fixed production** installation, the **[] report on major hazards** 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 **[] report on major hazards** can be accepted, **the operator shall, at the request of the competent authority, provide such information and make any necessary changes to the submission of the report on major hazards []**.
5. The amended **[] report on major hazards** for a production installation pursuant to paragraph 3 shall be submitted to the competent authority within a deadline specified by the competent authority and **[] at least** 6 weeks before the planned works are commenced. The planned **modifications []** shall not be **brought into use []** until the competent authority has accepted the amended **[] report on major hazards** for the production installation.
6. The **[] report on major hazards** 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*

##### **[] Report on major hazards** for a non-production installation

1. The **[] report on major hazards** for a non-production installation shall contain the details specified in Annex II, parts 3 and 5 **and be revised whenever appropriate**.
2. Where [] modifications are **to be** made to the non-production installation **that leads to a material change //**, or it is intended to dismantle the **fixed non-production** installation, the **[] report on major hazards** 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 **|| report on major hazards** pursuant to paragraph 2 shall be submitted to **the** competent authority within a deadline specified by competent authority and **|| at least** 2 weeks before the planned works are to be commenced. The planned **modifications** **||** shall not be **brought into use** **||** until the competent authority has accepted the amended **|| report on major hazards** for the non-production installation.
4. For a mobile non-production installation, an amended **|| report on major hazards** pursuant to paragraph 2 shall be submitted to the competent authority within a deadline specified by competent authority and **|| at least** 2 weeks before the installation is due to commence operations. The installation may not be operated until the competent authority has accepted the amended **|| report on major hazards** for a non-production installation.
5. Where further information is necessary before a **|| report on major hazards** can be accepted, **the operator shall, at the request of the competent authority, provide such information and make any necessary changes to the submission of the report on major hazards** **||**.
6. The **|| report on major hazards** 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 **|| report on major hazards**. 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 **report on major hazards**.
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**  notify the competent authority **of the** said amendment to the internal emergency response plan .

### *Article 13*

#### *Notification of well operations **and provision of well operations information***

1. **At least** 21 days **before the commencement** of a well operation, the well operator shall **submit** to the competent authority a notification containing details of the design of the well and **the proposed well operations**  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** , **such as prohibition of the start of operations**, before the well operations  commence.
3. The well operator shall immediately **inform** the competent authority of any **material** change to the details of the **submitted** well notification and simultaneously inform the independent **verifier**  pursuant to Article 15(3)(b). **The competent authority shall consider those changes and, if deemed necessary, take appropriate action.**

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<sup>4</sup> The Presidency suggests to include the following new paragraph 4:

"4. Where well operations involve the risk of an unplanned release of hydrocarbons from the well, the well operator shall submit reports to the competent authority in accordance with the requirements of Annex II, part 4A. The reports shall be submitted at weekly intervals, starting on the day of commencement of the well operations, or at intervals specified by by competent authority."

#### Article 14

##### Notification of combined operations

1. An operator of an installation which is to be involved in a combined operation shall **submit** [] to the competent authority a notification containing details of the combined operation in accordance with the requirements of Annex II, part 7. The operators **[] concerned [] shall** agree **[] that** one of them **[] shall** prepare the notification of combined operations []. The notification shall be submitted **[] at least** 21 days before combined operations commence.
2. The competent authority shall consider the notification and, **if deemed necessary**, take **appropriate** action [], **such as prohibition of the start of operations**, before the combined operations [] commence.
3. The operator who prepared the notification shall, without delay, inform the competent authority of any **[] material** change to the **submitted notification[]**. **The competent authority shall consider those changes and, if deemed necessary, take appropriate action.**

#### Article 15

##### Independent [] verification

1. Operators shall establish [] schemes for independent [] verification [] and shall describe such schemes within **the description of the safety management system incorporated in [] the [] report on major hazards** pursuant to Articles 10 and 11 [].
- 1a. **The results of the independent verification shall be without prejudice to the responsibility of the operator for the correct and safe functioning of the equipment and systems under verification.**
2. The selection of the independent [] verifier and the design of schemes for independent [] verification [] shall meet the criteria of Annex II, part 5.

3. The schemes for independent    verification    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, **as described in the report on major hazards**, are suitable    and **that** the schedule of examination and testing of the major hazard   control systems   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    **at all times**.
- 3a. **Operators shall respond to and take appropriate action based on the    advice of the independent verifier   .**
4. Operators shall ensure that **advice received from** the independent    verifier    pursuant to this Article under paragraph 3(a) **and the responses and actions to    such advice** are **made** available to the competent authority upon    request **and retained by the operator for a period of six months after completion of the oil and gas operations to which they relate**.
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 **report on major hazards** 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    **operated in Union waters**.

7. Non-production **mobile** 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 2009<sup>5</sup> or the equivalent standards of the Code for the construction and equipment of mobile offshore drilling units (**MODU CODE**). They shall be certified by an organisation that is recognised by the Union in accordance with the aforementioned Regulation.

*Article 16*

*Power **of the competent authority in relation** to **activities** on installations*

1. The competent authority shall prohibit the operation or bringing into operation of any installation or any **connected infrastructure** where the measures proposed **in the report on major hazards** for the prevention **or** mitigation of major accidents pursuant to Articles 10, 11, 13 and 14 are considered **insufficient to meet the provisions of this Regulation**.
2. Where the **report on major hazards** 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 **report on major hazards** or notification.
3. The competent authority shall require the operator to take any 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 **or any connected infrastructure** where the outcome of an inspection, periodic review of **report on major hazards** 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.

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<sup>5</sup> OJ L 131, 28.5.2009, p. 11

*Article 17*  
*Transboundary effects*

1. Where a Member State considers that a **major accident relating to an offshore oil and gas operation [] under its jurisdiction [] is likely to** have significant [] effects on **[] the environment in** another Member State [], or where a Member State likely to be significantly affected so requests, the Member State in whose jurisdiction the operations **[] is** to take place, shall forward **the relevant information** to the affected Member State [] and shall endeavour to adopt **[] agreed []** measures to prevent damages.
2. Application of paragraph 1 is without prejudice to other relevant provisions of Union Law, in particular [] the Convention on Environmental Impact Assessment in a Transboundary Context.

**CHAPTER IV**  
**BEST PRACTICE FOR [] 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 [] **referred to in** paragraph 1 shall be submitted to **the** competent authority [] **as part of** the **[] report on major hazards** pursuant to Articles 10 and 11 or [] 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 **II reports on major hazards** , and well notifications as appropriate, pursuant to Articles 10, 11 and 13 and their schemes for independent **II verification II** 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 **the** control of major hazard risks, which are a result of its activities.
5. Operators shall establish, and regularly consult with the representatives of the **II competent authorities** pursuant to Article 27(3), the industry priorities for preparing and/or revising standards and guidance for best practice in **relation to the** control of offshore major **II** 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
- 7. Where an activity carried out by an operator poses an immediate danger to human health or significantly increases the risk of a major accident, operators shall suspend the operation of the installation of the subject activity until the threat of or actual imminent danger is brought under control.**
- 8. Where measures are taken as referred to in paragraph 7 to this Article, the operator shall, without delay, notify the competent authority accordingly.**

*Article 19*

*Requirements for the competent authorities*

**Moved to Article 8a**

1. **II**

2. []
3. []
4. []

#### *Article 20*

##### *Securing compliance with the regulatory framework for major accident prevention*

1. Operators shall comply [] with the measures established in the **[] report on major hazards** 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.
  - 1a. Operators shall provide the competent authorities, or any other persons acting under the direction of the competent authorities, with transport to or from an installation (including the conveyance of their equipment) at any reasonable time, and with accommodation, meals, and other subsistence in connection with the visits to the installations, for the purpose of oversight, including inspections, investigations and enforcement of compliance with the provisions of this Regulation.**
2. []
3. []
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 [] compliance with the **[] report on major hazards and internal emergency response plans and well operations notifications** submitted to it pursuant to Article 9 [].
- 5. Member States with offshore oil and gas activities under their jurisdiction shall monitor 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 **┐ contractors and sub contractors connected with the operation and their employees**, 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 **┐** procedure referred to in Article **36(2) ┐**.
3. **┐**



*Article 23*  
*Transparency*

1. The information pursuant **to** 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 [] procedure referred to in Article **36(2)** []. 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. **[] Moved to Article 30(3)**

*Article 24*  
*Reporting on safety and environmental impact **with respect to Member States with []***  
*offshore oil and gas activities **under their jurisdiction***

1. The Member States shall prepare an annual report concerning:
  - (a) the number, age and location of installations [];
  - (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 [] performance of offshore oil and gas operations **in relation to prevention of major accidents and the limiting of consequences of major accidents that do occur.**

2. Member States **concerned** 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 **||** based on the information reported to it by Member States **pursuant to paragraph 1** and the European Maritime Safety Agency. The Commission shall be assisted in this task by relevant Member States pursuant Article **|| 27**.

#### *Article 25*

#### *Investigation following a major accident*

1. **|| Moved to Article 31(1)**
2. Member States shall **|| initiate** thorough investigations of major accidents **||**.
- 2a. || Member States shall make** an assessment of the effectiveness of the competent authority's **|| oversight** 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 **and the assessment report** prepared pursuant to paragraphs **2 and 2a** 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 **|| the** 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 **[ ] obtained** pursuant to this Regulation available to any **[ ] entity** 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 Council<sup>6</sup> are fulfilled.
3. Pursuant to paragraph 2, or for the purposes of public participation pursuant to Article 5, the operator shall **[ ] submit** to the competent authority, and make available to the public, a version of the **requested** document that excludes confidential information. ]<sup>7</sup>

**CHAPTER [ ] VI  
COORDINATION AND COOPERATION**

*Article 27  
Cooperation between Member States*

1. The **Member States [ ]** shall **ensure** regular[ ] exchange **of** knowledge, information and experience between **[ ] the competent authorities** and **that the competent authorities[ ]** engage in consultations on the application of relevant national and Union legal frameworks with the industry, other stakeholders and the Commission.

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<sup>6</sup> OJ L 41, 14.2.2003, p. 26

<sup>7</sup> The consistency of this article with existing *acquis* needs to be checked. This check was incomplete at the time of issuing this REV 1, but when completed the outcome will be made available to the Working Party for its consideration.

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. **Competent authorities and operators shall establish** clear priorities **[ ]** for the preparation and updating of guidance **[ ]** **and standards** in order to identify and facilitate the implementation **and consistent application** of **[ ]** best practices **[ ]**.
4. **[ ]**

#### *Article 28*

##### *Coordinated approach towards the safety in adjacent regions and international activities*

1. The Commission, in close cooperation with the Member States **concerned**, 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 **[ ]** **international agreements**.
2. The Commission shall **facilitate the exchange of information between Member States with offshore oil and gas activities and adjacent [ ] third countries with similar activities in order to promote [ ]** 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 **respond to [] any** major accident **involving an [] installation or the connected infrastructure []**;
  - (b) be [] in line with the external emergency **response** plan where the accident has escalated [].
2. The operator shall maintain equipment and expertise relevant to the plan to be available at all times, and shared as necessary with the **relevant** 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 [] risk assessment in the **[] report on major hazards or notifications submitted pursuant to Annex II []**. Any such updates shall be [] **notified** to the **relevant** authority **or authorities** 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 **or connected infrastructure** 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 [] operators' share 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 **existing or planned** installations **or connected infrastructure** [] 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 [] V, and made available to the Commission., and to the public as appropriate. **The procedures adopted for informing the public shall be those laid down in Annex II of Directive 2003/35/EC.** When **making available** [] their [] **external** emergency response plans [] the Member States **with offshore oil and gas activities under their jurisdiction** shall ensure that disclosed information does not pose risks to safety and security of offshore oil and gas installations and their operation.
4. Member States **with offshore oil and gas activities under their jurisdiction** 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 **concerned** shall encourage industry to develop compatible response [] **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 **concerned** shall keep updated records of emergency response **[ ] equipment and services** available in their territory or jurisdiction by both public and private entities. Those records shall be **[ ]** available to the other Member States and, on a reciprocal basis, **[ ] to** neighbouring third countries, and to the Commission.
7. Member States **concerned** 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. **[ ] The notification should include the circumstances of the accident and its foreseen consequences.**<sup>8</sup>
2. In the event of **[ ] a major** accident, the **[ ] 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. **[ ]**
4. In the course of the emergency response, the Member State **concerned** shall collect the information necessary for a full analysis of the **major** accident.

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<sup>8</sup> A recital will be developed in order to specify the criteria of the notification concerned.

## Article 32

### *Transboundary emergency preparedness and response*

1. Where transboundary effects of offshore oil and gas accidents are foreseeable, **the** Member States **concerned** 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. **Where transboundary effects of offshore oil and gas accidents are foreseeable and have a risk to affect third countries, Member States shall make information available to the Commission and, on a reciprocity basis, to the third countries.**
2. Member States **concerned** 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 **concerned** 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 **with offshore oil and gas activities under their jurisdiction** 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*<sup>9</sup>

1. The Commission shall be empowered to adopt delegated acts in accordance with Article 35 **II** **concerning the adaptation of** the requirements to the latest development of relevant technologies and procedures in Annex **III-VI**.
2. The Commission may also adopt delegated acts in accordance with Article 35 **II** to precise application of the requirements of Regulation in relation to:
  - (a) details to be submitted in a Design notification or a **II report on major hazards** 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.

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<sup>9</sup> For delegations' consideration, the use of delegated acts should take into account Member States with no offshore oil and gas activities under their jurisdiction.

2. The **power to adopt delegated acts** 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 **to revoke** 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 **it** simultaneously **to** 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 **two** 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 **two** months at the initiative of the European Parliament or **of** the Council.

### *Article 36*

#### *Committee procedure*

1. The Commission shall be assisted by a committee. Th**at** committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article **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 damage<sup>10</sup>*

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 [...] 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 [...] of it coming into effect, with the following exceptions:

- (a) Operators for non-production installations [] shall comply in full with this Regulation within [...] of it coming into effect, or earlier by agreement with the competent authority.

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<sup>10</sup> 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 [...] of it coming into effect.
- (c) Well operators shall comply in full with this Regulation within [...] 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 11 twentieth following that of its publication in the Official Journal of the European Union.
- 11 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

II

## ANNEX II

### Requirements on documents related to consenting procedure

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

Design **and relocation** 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 [] design **philosophy for the production operations and systems, from an initial concept to the submitted design or selection of an existing installation []**, the relevant standards used, and the design **concepts included in the []** 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 a **[] tolerable [] level**;
- (5) a description of the installation and the conditions at its intended location;
- (5a) a description of the details of any environmental, meteorological and sea-bed limitations on safe operations, and the arrangements for identifying risks from seabed and marine hazards such as pipelines and the moorings of adjacent installations;**
- (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 **[]**;
- (7a) a description of the independent verification arrangements and an initial list of safety critical elements and their required performance;**

**(7b) where an existing production installation is to be moved to a new location to serve a different production operation, a justification demonstrating that the installation is suitable for the proposed production operation;**

**(7c) where a non-production installation is to be converted for use as a production installation, a justification demonstrating that the installation is suitable for conversion to a production operation.**

## **2. INFORMATION TO BE SUBMITTED IN A REPORT ON MAJOR HAZARDS FOR OPERATION OF A PRODUCTION INSTALLATION**

**Reports on major hazards** 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 **report on major hazards**;
- (3) a description of the installation and **any association with other installations or** connected infrastructure **,** including wells **,**;
- (4) demonstration that all the major hazards have been identified, their likelihood and consequences assessed, and that their control measures **including associated safety critical elements** are suitable so as to reduce risks of a major hazard event to persons and the environment to a **tolerable level**;
- (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 **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 **,**;

- (7) details of the arrangements to protect persons on the [] installation from major hazards, and to ensure their safe escape, evacuation and [] rescue and arrangements for the maintenance of control systems to prevent damage to the installation and the environment in the event that all personnel are evacuated;
- (8) relevant codes, standards and guidance used in the construction and commissioning of the installation;
- (8a) information on the operator's major accident prevention policy pursuant to Article 18, and containing the details specified in Annex IV(1);**
- (9) **pursuant to Article 18**, information on the safety management system for the operations, maintenance and modification [] of the installation [], submitted in line with Annex IV(2);
- (9a) a copy of the internal emergency response plan pursuant to Articles 12 and 29, containing the details specified in Annex V, Part 1.(1) and (2);**
- (10) [] details of the independent 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 [] the major accident prevention requirements of Directive[] 92/91/EEC [];
- (13) **[] in respect of operations to be conducted from the installation, any information relevant to other requirements under this Regulation obtained pursuant to Directive 2011/ 92/EU, relating to the prevention of major accidents to the environment.**

### **3. INFORMATION TO BE SUBMITTED IN A [] REPORT ON MAJOR HAZARDS FOR A NON-PRODUCTION INSTALLATION**

**[] Reports on major hazards** 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 **[] report on major hazards**;
  - (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 **including associated safety critical elements** are suitable so as to reduce risks of a major hazard event to persons and the environment to a **[] tolerable [] level**;
  - (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 **[]**;
  - (7) details of the arrangements to protect persons on the **[] installation** from major hazards, and to ensure their safe **escape**, evacuation and **[] rescue**, and **arrangements** for the maintenance of control systems to prevent damage to the installation and the environment in the event **that** all personnel are evacuated;
  - (8) relevant codes, standards and guidance used in the construction and commissioning of the installation;
- (8a) information on operator's major accident prevention policy pursuant to Article 18, and containing the details specified in Annex IV(1);**
- (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 a **[] tolerable [] level**;

- (10) details of any 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 the moorings of adjacent installations;
- (11) **pursuant to Article 18**, information on the safety management system for the operations, maintenance, and modification **of the installation, submitted in line with Annex IV(2)**;
- (11a) a copy of the internal emergency response plan pursuant to Articles 12 and 29, containing the details specified in Annex V, Part 1.(1) and (2)**;
- (12) **any details of the independent** 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) **in respect of operations to be conducted from the installation, any information relevant to other requirements under this Regulation obtained pursuant to Directive 2011/92/EU relating to the prevention of major accidents to the environment.**

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

**any 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 **name and address of the any operator of the installation**;
- (3) details that identify the well and any association with **any installations and connected infrastructure**;

(4) information on the well work programme, including the period of its operation, verification of barriers against loss of well control **∏ (equipment, drilling fluids and cement etc), directional control of the well path, and limitations on safe operations in keeping with the risk assessment;**

**(4a) in the case of an existing well, information regarding its history, and condition;**

(5) any details concerning safety equipment to be deployed that are not described in the current **∏** report **on major hazards** 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) **∏**

(8) details of the well configuration at the end of operations – i.e. permanently or temporarily abandoned; and where **∏ production equipment has been placed into the well** for future use;

(9) **∏**

(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 **∏ constructed, modified or maintained** by means of a non-production installation additional information as follows:

- (a) details of **any environmental, [ ] meteorological [ ] and sea-bed [ ] limitations on safe operations, and arrangements for identifying risks from sea-bed and marine hazards** such as pipelines **and the moorings of adjacent installations**;
  - (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 **[ ] report on major hazards**, and;
  - (d) a description of how the management systems of the well operator and **the operator of the** installation **[ ]** 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 **[ ] the major accident prevention requirements of Directive [ ] 92/91/EEC [ ]**;
- (14) in respect of the well operations to be conducted, any information relevant to other requirements under this Regulation obtained pursuant to Directive 85/337/EEC relating to the prevention of major accidents to the environment.**

#### **14A INFORMATION TO BE SUBMITTED WHEN CARRYING OUT WELL OPERATIONS**

**The provision of well operations information pursuant to Article 13 shall contain at least the following information:**

- (1) the name and address of the operator;**
- (2) the name of the installation and the name and address of the operator of the installation;**
- (3) details that identify the well and any association with installations or connected infrastructure;**

- (4) a summary of the operations undertaken since the commencement of operations or since the previous report;**
- (5) the diameter and true vertical and measured depths of:**
  - (a) any hole drilled; and**
  - (b) any casing installed;**
- (6) the drilling fluid density at the time of making the report; and**
- (7) in the case of operations relating to an existing well, its current operational state.]<sup>11</sup>**

## **5. MATTERS RELATING TO A VERIFICATION SCHEME**

1. The independent **[] verifier** shall meet the following requirements with regard to its independence from the operator of the installation, or the **proposed** well **[]**:
  - (a) his function does not require him to consider any aspect of a safety critical element or specified plant in which he **[] 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 **[]** scheme of **independent** 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 **[] verifier []** **is able to** meet the following requirements with regard to **[] his** competence:
  - (a) technical competence, including suitably qualified staff in adequate numbers and with sufficient experience;

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<sup>11</sup> Insertion of this point 4A will be discussed.

- (b) suitable allocation of tasks by the **[] independent verifier** to staff qualified to undertake them;
  - (c) suitable arrangements for the flow of information between the operator and the independent **[] verifier**;
  - (d) sufficient authority given by the operator to the independent **[] verifier** 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 **[] 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 **[] verifier** for **[] him to undertake** further verification, and the outcomes of further verification should be **[] communicated** to the competent authority.

4. In the case of a well notification, a statement shall be included **by the operator after considering the report of the [] independent [] verifier** 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 **[] report on major hazards** shall include:
- (a) a statement **by the operator after considering the report of []** the independent **[] verifier** that the record of safety critical elements and their scheme of maintenance **[]** as specified in the **[] report on major hazards** are or will be suitable;

- (b) a description of the verification scheme including the selection of independent  verifiers, the means of verification that safety critical elements and any specified plant in the scheme remain in good repair and condition;
- (c) **a description of the means of verification referred to in subparagraph 5(b) that shall include details of the principles that will be applied to perform the functions under the scheme and to keep the scheme under review throughout the lifecycle of the installation; the examination and testing as necessary of the safety critical elements by independent and competent  verifiers, verification of the design, standard, certification or other system of  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 :

1. the name and address of the operator of the installation;
2. a summary of any worker involvement in the preparation of the revised  report on major hazards;
3.  sufficient details to fully update the earlier  report on major hazards and associated internal emergency **response** plan for the installation and to demonstrate major hazard risks are reduced to a  tolerable  level;
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 **decommissioning** of the installation **to workers and the environment**, the total exposed population, and the risk control measures;
- (c) emergency response arrangements to secure safe evacuation and **rescue** of personnel and to **maintain control systems for preventing** 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 **to a tolerable level**;
- (4) details of any equipment to be used in connection with the combined operation but which is not described in the current **report on major hazards** 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. []



### 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** [], Member States shall address the following []:
  - (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 [] **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 [] the **execution of the** duties of operators under this regulation, including how it will handle, assess and accept [] **reports on major hazards**, 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 **[] reports on major hazards**, joint investigation, internal communications, and **reports to be published** externally [].
2. Member States **with offshore oil and gas activities under their jurisdiction** should make the necessary provisions to bring the above arrangements into effect, including:
- (a) sufficient specialist expertise available internally or by **[] formal agreements with third parties in order** to inspect and investigate activities, take enforcement action, and to handle **[] reports on major hazards** 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) **provision of** adequate resources for essential training, communication, access to technology, travel and subsistence of competent authority staff **[] for the execution of their functions, and to facilitate** the active cooperation between competent authorities pursuant to Article 27;
- (d) where appropriate, to require operators **[]** to **[] reimburse** the competent authority for the cost of its functions carried out pursuant to this regulation;
- (e) to undertake or **[] 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 report on major hazards and notifications shall be prepared by the competent authority and made available to operators [/]. Information on assessment principles shall also be prepared which are accessible to the public.**

- 3a. The detailed procedures for assessment of reports on major hazards 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 [ ] requirements in this Regulation for control of major accident hazards [ ];**
  - (c) adequate arrangements have been made for independent 3rd party verification, and for audit by the operator [ ].**
- 3b. In undertaking a thorough assessment of reports on major hazards the competent authority shall ensure that:**
- (a) all factual information required is provided;**
  - (b) the operator [ ] 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 [ ] have taken into consideration all relevant stages in 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.
- (d) risk reduction measures identified as part of the risk assessment are intended to be implemented if necessary to reduce risks to a tolerable level;
- (e) in determining the necessary measures to achieve tolerable levels of risk, the operator<sup>1</sup> 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;
- (f) the measures and arrangements for the detection of, and the rapid and effective response to, an emergency are clearly identified and justified;
- (g) escape, evacuation and rescue 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;
- (h) the requirements of Annex V Part 1 are incorporated in the internal emergency response plans and the internal emergency response plan is included in the report on major hazards;

- (i) the safety management system described in the report on major hazards 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;
- (j) the scheme for independent verification is clearly explained.

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## 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 [] 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 [] **accident risk** assessments in the [] **report on major hazards**;
  - (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 [] **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 [] 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 [] **control** 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 [];
  - (f) competency at all levels of the operation;
  - (g) **visible commitment to tripartite consultations and actions arising therefrom.**
7. Industry shall cooperate with [] competent authority[] **lies** to establish and implement a priority plan for the development of standards, guidance and rules which will give effect to best practice in major [] **accident** prevention and limitation of consequences of major [] **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 **II**;
- (c) improving secondary containment that restricts escalation of an incipient major accident, including well blow-outs;
- (d) reliable decision making **II**;
- (e) management and supervision of major hazard activities;
- (f) competency of key post holders;
- (g) effective risk assessment **II**;
- (h) reliability assessment for safety critical systems;
- (i) key performance indicators **II**;
- (j) effectively integrating safety management systems between operators **II** and other **II** **entities** involved in **II oil and gas** 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 **[] 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 **or authorities** responsible for the external emergency **response** plan;
  - (c) for all foreseeable conditions or events which could cause a major accident, as described in the **[] report on major hazards** to which the plan is attached;
  - (d) a description of the actions **[] that will** be taken to control **[] relevant** conditions or events and to limit their consequences **[]**;
  - (e) a description of the equipment and the resources available;
  - (f) arrangements for limiting the risks to persons on the installation **and the environment**, 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 **escape, evacuation and rescue []** arrangements described in the **[] report on major hazards** for example as described in Annex II, part **[] (7)**, and part **[] (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 **authority or** 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 **and any entities relevant to the implementation of the internal emergency response plan**. 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 **emergency response** procedures;
  - (c) arrangements for coordinating resources necessary to implement the external emergency **response** plan;
  - (d) arrangements for providing assistance to the internal emergency **response** **[]**;
  - (e) a detailed description of the **[] external** 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 **or authorities** [] responsible for **coordinating** emergency response should make the following provisions available:
- (a) an inventory of available equipment, its ownership, location, **means of** transport to and mode of deployment at the **site of the accident**[];
  - (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 [] **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 **external emergency response** 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 [].

## 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 **with offshore oil and gas activities under their jurisdiction** and individual operators.
2. The [] reporting requirements referred to in paragraph 1 shall [] **cover** as a minimum []:
  - (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 [] 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 [] **potential** deterioration of safety and environmentally critical barriers, in order to take proactive corrective measures. The information should also [] **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.