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NOTE

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
- Regulation format

Delegations will find in Annex, for information purposes, a further revised text of the above proposal, amended in light of the discussions at the Working Party level and written comments received.

Delegations should note that this document will currently not be examined by the Energy Working Party. Instead, delegations will start examining doc.13998/12 at the next EWP meeting on 27 September. Doc.13998/12 is drafted in a Directive format and, in substance, based on this REV 3 of doc.5277/12. Furthermore, a review of the characteristics of the elements (essential or non-essential) included in the provisions of the annexes is ongoing. Articles 34-35 will be revised once the result of this review has been examined.

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]] operations and amending Directive 2004/35/EC**

(Text with EEA relevance)

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

The Recitals will be examined at a later stage.

¹ OJ C , , p. .
² OJ C , , p.

CHAPTER I INTRODUCTORY PROVISIONS

Article 1 *Subject and Scope*

1. This Regulation establishes minimum requirements for **preventing major accidents and limiting the consequences of major accidents in offshore oil and gas // operations**. It **applies to** industry and national authorities involved in **[] these // operations**.
2. []
3. []
4. []
5. [] This Regulation shall apply without prejudice to [] Union legislation [] 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/EC**, **2010/75/EU and 2011/92/EU**.

Article 2 *Definitions*

For the purpose of this Regulation:

1. 'acceptable' // [] **in relation to [] a risk [] means, a risk of a magnitude at which the time, cost or trouble of reducing it would be grossly disproportionate to the risk []**³;
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 concluded** pursuant to the requirements of this Regulation;

³ A recital will be developed to further clarify the criteria for 'acceptable'.

- 2a.
3.
4. 'combined operation' [] means an operation carried out from **an []** 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 authority, appointed pursuant to this Regulation and responsible for **the duties [] as assigned to it in this Regulation. The competent authority may be comprised of one or more bodies;**
- 6a. 'licensing authority' means the public authority, as defined in Article 1 (1) of Directive 90/531/EEC, which is responsible for granting authorisation and/or monitoring use thereof. The licensing authority shall not form part of the competent authority;**
7. 'connected infrastructure' [] means [] **any well (and associated structures, supplementary units and devices) connected to the [] installation and any pipeline apparatus or works within 500 meters of the main structure of the offshore [] installation to which it is attached, as well as any apparatus or works on or fixed to the main structure of the offshore installation [];**
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. []

10. []

10a. 'exploration' [] means drilling into a prospect and all subsequent [] operations 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 [] resources **available to [] 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 of the operator** that is not under the control **of** or influenced by, the [] **entity or organisational part using** the statements;

13. 'industry' [] means [] **entities** that are directly involved in offshore oil and gas **[] operations** 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 an authorisation for offshore oil and gas operations pursuant to Directive 94/22/EC;

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

17. 'licensee' [] means the holder of **a licence []**;
18. 'major accident' [] means, **in relation to an installation or connected infrastructure:**
- (a) [] **an explosion, fire, loss of well control, release of // oil and gas or dangerous substances involving, or with a significant potential to cause, fatalit[]ies, or serious personal injury []**,
- (b) an incident leading to [] **serious damage to the installation or connected infrastructure involving [], or with a significant potential to cause, fatalit[]ies 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 is engaged in an operation on or // in connection with the installation or connected infrastructure //; or**
- (d) any significant or serious damage to the environment **resulting from paragraphs (a) to (c) //.**

Where an installation is normally unattended, paragraphs (a), (b) and (d) shall apply as if that installation were attended.

19. 'major hazard' [] means a situation with **[] the potential to result []** in a major accident;

19a 'material change' means,

a) in the case of a report on major hazards, a change to the basis on which the original report was accepted including *inter alia* physical modifications, availability of new knowledge or technology and operational management changes;

b) in the case of a notification of a well operation or a combined operation, a change to the basis on which the original notification was submitted including *inter alia* physical modifications, change of installation, availability of new knowledge or technology and operational management changes.

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 Zone and the continental shelf 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 **[] operations associated with an offshore installation or connected infrastructure** related to exploring for, producing or processing of oil and gas offshore **[]**;
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. **[]**;
25. 'production' **[]** 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. []**
28. 'public' [] means one or more **[] entities** and, in accordance with national legislation or practice, their associations, organisations or groups;
29. **[]**

30. 'risk' [] means [] **the combination // of the probability of an event and the consequences of the event**;
- 30a. 'safety critical element' **means** 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 **right or** fully appropriate, **including consideration of proportionate effort and cost.** 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 [] operations [], 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 [] ACCIDENTS RELATED TO OFFSHORE
OIL AND GAS [] OPERATIONS

Article 3

General principles of risk management in offshore oil and gas [] operations

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 **its** consequences for human health and the environment [].
4. **Operators shall ensure that** offshore oil and gas **operations** covered by this Regulation [] **are** performed on the basis of a systematic **risk** assessment [].

Article 4

Safety and environmental considerations [] relating to licences []

1. Decisions on granting **licences** for offshore oil and gas **operations** [] shall take into account the capacity of applicants to meet **the** requirements for specific **operations** within the framework of **the licence** 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 **applicants** for **a licence to carry out** [] 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 **offshore oil and gas** operations and also of the applicants' financial capacities, including any financial security and capacity to cover liabilities potentially deriving from offshore oil and gas **operations** in question, in particular liability for environmental damages.
3. **The licensing procedures** for offshore oil and gas **operations** [] **relating to the same licensed area** shall be **organised** [] **in such a way that information collected pursuant to exploration [] can be considered by the [] Member State prior to production [] operations being authorised.**
4. []

[Article 5]⁴

Public participation[] relating to planned offshore oil and gas operations

1. **Where // Member States plan to make available offshore areas for // oil and gas operations, [] they shall ensure that the public shall be given early and effective opportunities to participate []. The [] rules to be followed for this purpose shall be those laid down in Article 2(2) of Directive 2003/35/EC.**
- 1a. **For exploration //, the planning to which paragraph 1 refers may relate either to areas in which several exploration wells may be drilled, or to individual well locations.**
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 or the personal safety and well-being of officials of Member States.**

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 by the licensee 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 [].

⁴ There are doubts about the inclusion of this Article. It is unclear if this Article has an added value in the light of the existing Union acquis. The content of and intention behind paragraph (1a) are unclear.

1a. The licensee shall:

(a) ensure that any operator appointed by him is capable of carrying out his functions and discharging his duties under this Regulation; and

(b) take all reasonable steps to ensure that any operator appointed by him carries out his functions and discharges his duties under the Regulation.

2. []

3. **Operations relating to production and non-production //** installations [] **shall** 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 [] **shall** not be **commenced or continued without submission of []** the [] **report on major hazards** for the installations **involved** has been accepted pursuant to paragraph 3 of this Article. Furthermore, operations [] **shall** be commenced and [] **continued** without submission of a well **notification** or combined operation[] notification pursuant to [] Article **9** 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 **operations** carried out by, **or on behalf of,** 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 **[] operations** under their jurisdiction shall appoint a competent authority [] responsible for the [] **following duties** []:
 - (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 [] by undertaking inspections, conducting** investigations and taking enforcement action;
 - (c) producing reports **and providing advice** pursuant to **its duties under** this Regulation;
 - (c1) making annual plans pursuant to Article 20;**
 - (c2) making available information in accordance with Article 26 (1) and (2);**
 - (c3) cooperating with the competent authorities established by this Regulation in other Member States and operators pursuant to Article 27.**
2. []
3. [] Member States shall ensure that [] **conflicts of interest are prevented between the [] regulatory functions of the competent authority under this Regulation [] and the economic [] licensing of offshore oil and gas [] operations within the Member State, including policy for and collection of [] revenues related to that licensing.**
4. Member States shall ensure that **the** competent authority has adequate **human and financial** resources to perform its [] **duties** according to this Regulation. **These resources shall be commensurate with the level of offshore [] oil and gas operations** of the Member States.

5. Where the competent authority **is comprised of more than one body**, Member States shall ensure that duplication of regulatory functions **between the bodies is avoided**. **Member States may designate one of the constituent bodies as the lead body with responsibility for the co-ordination of the duties assigned under this Regulation and for reporting to the Commission.**

5a. Member States shall monitor the effectiveness of the competent authority and shall take any necessary measures to effect improvements thereto.

Article 8a

Functioning of the competent authority

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 .**
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, **process and procedure** for thorough assessment of **reports on major hazards** and notifications pursuant to Article 9, **oversight**, investigation and enforcement of **compliance with the provisions of this Regulation** in its jurisdiction.
- 3a. **The competent authority shall, where necessary, 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 OPERATIONS
BASED ON RISK ASSESSMENT

Article 9

Conditions for operating installations

1. The operator of an **an** installation shall submit to the competent authority the following documents:
 - (-a) a statement of the corporate major accident prevention policy pursuant to Article 18(1) and 18(4);**
 - (-aa) a copy of the company safety management system applicable to the installation pursuant to Article 18(3);**
 - (a) in the case of a planned production installation, a design notification in accordance with the requirements of Annex II, part 1;
 - (b) a report on major hazards pursuant to Articles 10 and 11 ;
 - (b1) an internal emergency response plan pursuant to Articles 12 and 29;**
 - (b2) a description of the scheme of independent verification pursuant to Article 15 (1) and (3)(a);**

(b3) in the case of a combined operation, the operator of an installation, where it is agreed between the operators involved that he shall do so, shall submit to the competent authority a notification of combined operations pursuant to Article 14;

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(b4) any other relevant document requested by the competent authority.

(c) []

(d) []

1a. The documents required under paragraph 1 (-a), (-aa), (b1) and (b2) shall be included in the report on major hazards required under paragraph 1(b).

1b. In the case of a well operation, the well operator shall submit to the competent authority a notification of well operations and provision of well operations information pursuant to Article 13, prepared in accordance with Article 15(1) and (3)(b) .

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

⁵ The Presidency considers the inclusion of the following new paragraph subject to the future form of the legal instrument:
"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;"

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 or when so [] required by the competent authority.**
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.
3. Where **[] modifications are to be made** to the production installation **that leads to a material change**, or it is intended to dismantle **[] 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.

⁶ The Presidency considers the inclusion of the following new paragraphs subject to the future form of the legal instrument:

"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."

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** [] **or, as the case may be, dismantlement shall not commence** 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 [] **when so** required by the competent authority. [] **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 or when so [] required by the competent authority.**
2. Where [] modifications are **to be** made to the non-production installation **that leads to a material change**, or it is intended to dismantle **a [] 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 [] or, as the case may be, dismantlement shall not commence** 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 **the** competent authority and **[] at least 2 weeks** before the installation is due to commence operations. The **planned modifications [] shall** not be **brought into use []** until the competent authority has accepted the amended **[] report on major hazards** for **[] the mobile** 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 **[] when so** 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 **in accordance with the requirements in Article 29** 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 internal emergency response plan for the installation shall take into account the risk assessment undertaken during the preparation of the well notification**.
2. **[]**
3. **[] Where** a non-production installation **[] will be** undertaking well operations **[] and** the internal emergency response plan **[] must be** amended due to the particular nature **or location** of the well **[]**, the well operator **[] shall [] submit the amended internal emergency response plan to []** the competent authority **[] to support the relevant notification of the well operation []**.

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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.

⁷ The Presidency considers the inclusion of the following new paragraph subject to the future form of the legal instrument:
“3a. In the event that a non-production installation will be undertaking combined operations, the internal emergency response plan must be amended to cover the combined operations and submitted to the competent authority to support the relevant notification of the combined operations.”

2. The competent authority shall consider the notification and, **if deemed necessary**, take **appropriate action before the well operations commence, which could include [] prohibition of the start of the operations []**.
3. The well operator shall **[] involve** the independent verifier **[] in planning and preparation a material change to the details of the submitted well notification** pursuant to Article 15(3)(b) **and immediately inform the competent authority of any material change to the details of the submitted well notification**. The competent authority shall consider those changes and, **if deemed necessary**, take appropriate action.

8

Article 14

Notification of combined operations

1. **[] Operators** of **[] installations** which **[] are** to be involved in a combined operation shall **jointly prepare []** 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 [] submit** the notification of combined operations **to the competent authority []**. 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 before the combined operations commence, which may include [] prohibition of the start of the operations []**.

⁸ The Presidency considers the inclusion of the following new paragraph subject to the future form of the legal instrument:
"3a. 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 competent authority."

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 Article 9 .
- 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 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 safety critical elements** of the major hazard control systems is suitable, up to date and operating as intended;
 - (b) in respect of **notifications of well operations**, 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 **the 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 offshore 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. **the**

Article 16

Power of the competent authority in relation to operations 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 Article **9** are considered **insufficient to meet the provisions of this Regulation.**
2. **The** competent authority may, in exceptional situations and where it considers safety and environmental protection are not compromised, **reduce** the time limit for submission of the **report on major hazards** or notification **pursuant to Article 9.**
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 [] **may** prohibit the **[] operation** 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 **[] 9** or changes to notifications pursuant to Article **[] 9** show that the requirements of this Regulation are not met or there are reasonable concerns about the safety of operations or installations.

Article 17

Transboundary effects

1. Where a Member State considers that a **major hazard 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, prior to the operation taking place,** forward **the relevant information** to the affected Member State [] and shall endeavour, **[] individually or jointly, to** adopt [] measures to prevent damages. **Where the Member State likely to be affected does not have any // offshore oil and gas operations, the Member State shall // appoint a relevant contact point.**
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
PREVENTION OF MAJOR ACCIDENTS

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 Article **9** or **the** notification of well operations pursuant to Article **9**.
3. Operators shall describe their organisational arrangements for control of major hazards in **the** safety management system, including the arrangements for preparing and submitting **reports on major hazards** , and well notifications as appropriate, pursuant to Article **9** and their schemes for independent **verification** 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 **operations**.
5. Operators shall **regularly** consult with the **competent authorities** pursuant to Article 27**(3)**, **on** preparing and **revising** standards and guidance **on** best practice in **relation to the** control of offshore major **hazards** throughout the design and operation lifecycle of offshore **oil and gas** 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 **or to a higher standard.**⁹
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 take suitable measures which may include, if deemed necessary, suspending the relevant // activity until the // danger or risk is // adequately controlled.**
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. []
2. []
3. []
4. []

⁹ It is still under consideration whether it is possible to impose this obligation on companies in respect of their operations outside the Union.

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 Article 19.
- 10
2. []
3. []
4. The competent authority shall develop annual plans for effective oversight, including inspections, of major hazard activities based on risk **assessment** and paying particular regard to [] compliance with the [] **report on major hazards, internal emergency response plans, well operations notifications and // combined operations notifications** submitted to **the competent authority** [] pursuant to Article 9 [].
5. *Moved to Article 8(5a)*

¹⁰ The Presidency considers the inclusion of the following new paragraph subject to the future form of the legal instrument:

"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 facilitating competent authority oversight, including inspections, investigations and enforcement of compliance with the provisions of this Regulation."

Article 21

Anonymous reporting of safety concerns

1. **The competent authority** shall establish **[] means** for allowing anonymous reporting of safety and **[]** environmental concerns related to offshore oil and gas operations. **The competent authority** shall also establish **[] means** 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 **the competent authority** 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 Member States shall make** the information pursuant to Annex VI publicly available .
2. The Commission shall by means of an implementing **act** determine a common publication format that shall enable easy cross-border comparison of data. This implementing act shall be adopted in accordance with the advisory procedure referred to in Article 36(2) . **The** common publication format shall allow for a reliable comparison of national **practices under** this Article and Article 24.
3. *Moved to Article 30(3)*

Article 24
Reporting on safety and environmental impact

1. Member States **with offshore oil and gas operations under their jurisdiction** shall **submit** an annual report **to the Commission** **containing the information specified in Annex VI (2a).**
 Moved to Annex VI (2a)
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** .

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 assess** the effectiveness of the competent authority's **oversight** of the installation concerned in the time preceding the accident and **shall** recommend adequate changes to the relevant regulatory practices where needed.
3. A summary of the **findings** pursuant to paragraphs 2 **and 2a** of this Article shall be made available to the Commission **either** at the conclusion of the investigation or at the conclusion of legal proceedings **as appropriate** . **The Member States shall make a non-confidential** version of the **findings** publicly **available** .
4. Following **the** investigations pursuant to paragraph 2 **and 2a**, the competent authority shall implement any recommendations of the investigation that are within its powers to act.

Article 26

Confidentiality

CHAPTER [] VI
COORDINATION AND COOPERATION

Article 27

Cooperation between Member States

1. The **Member States []** shall **ensure that the competent authorities** regularly exchange knowledge, information and experience **amongst each other and that they []** engage in consultations on the application of relevant national and Union legal frameworks with the industry, other stakeholders and the Commission. **Member States who have appointed a contact point pursuant to Article 17(1) shall be entitled to receive this information.**
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 [] shall collectively 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 **in offshore oil and gas operations []**.
4. []

Article 28

Coordinated approach towards the safety in adjacent regions and international [] operations

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 **[] without prejudice to existing international agreements.**

2. The Commission shall facilitate the exchange of information between Member States with offshore oil and gas **// operations** and adjacent [] third countries with similar **// operations** 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. **The operator shall prepare** internal emergency response plans **which are []**:
 - (a) [] initiated to **respond to [] any major accident involving an [] installation or // a connected infrastructure []; and**
 - (b) [] in line with the external emergency **response plan []**.
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 **[] as a consequence of any // material change to the [] report on major hazards or notifications submitted pursuant to Annex II []**. Any such updates shall be **submitted to the competent authority pursuant to Article 9 [] and 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 and financial obligation of licensees and operators in the external emergency response.**
2. External emergency response plans shall be prepared in cooperation with relevant operators and, as appropriate, licensees, and **take into account** the internal emergency response plans of the **existing or planned installations or connected infrastructure** in the subject area. Any update **by an operator** to the internal **emergency response** plans **shall** 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. When **making available** their **external** emergency response plans the Member States **shall** ensure that disclosed information does not pose risks to safety and security of offshore oil and gas installations and their operation.
4. Member States **concerned** 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 records of emergency response **equipment and services pursuant to Annex V Section II (2)** . Those records shall be available to the other **potentially affected** Member States **and the Commission** and, on a reciprocal basis, **to neighbouring third countries** .
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 // shall include the circumstances of the // situation and its // potential major consequences.**¹¹
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 **investigation** of the **major** accident.

¹¹ 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 **relevant** information available to the Commission and potentially affected Member States **[]** and take identified risks into account **[] in internal and [] external emergency response plans**. 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 reciprocal basis, to the third countries.**
2. Member States **concerned** shall coordinate **between themselves** 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 **potentially affected** third countries. The Commission may contribute to exercises focused on the test of **[] transboundary** 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 **[] accident or threat thereof occurs** shall, without delay, notify the Commission and those Member States **or third countries** which may be affected by the emergency.

CHAPTER VIII CLOSING PROVISIONS

Article 33

Penalties

Member States shall establish penalties applicable to infringements of this Regulation by the industry and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. **Member States shall notify these provisions to the Commission by [...] and shall notify it without delay of any subsequent amendment effecting them.**¹²

Article 34¹³

Delegated powers of the Commission¹⁴

1. The Commission shall be empowered to adopt delegated acts in accordance with Article 35 [] **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 [] to precise application of the requirements of Regulation in relation to:
 - (a) details to be submitted in a Design notification or a [] **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;

¹² This article will be re-examined once all obligations in the draft Regulation/Directive are finalised.

¹³ The text of Articles 34-35 will be revised once the examination of the nature of the elements (essential or non-essential elements) in the provisions of the annexes is finalised.

¹⁴ For delegations' consideration, the use of delegated acts should take into account Member States with no offshore oil and gas operations under their jurisdiction.

- (c) requirements related to verification by **the** independent **[] verifier** as specified in Annex II, point 5;
- (d) requirements for functioning and organisation of competent authority**[]** as specified in Annex III and;
- (e) requirements related to the prevention of major hazards by operators as specified in Annex IV.

Article 35

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The **[] 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. **That** 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 damage¹⁵

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;'

¹⁵ OJ L 154, 30.4.2004, p. 56

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

- (a) Operators for non-production installations [] shall comply [] with this Regulation within [...] of it coming into effect [].
- (b) Operators of planned **production** installations shall comply [] 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 [] with this Regulation within [...] of it coming into effect [].

Article 39

Entry into force

1. This Regulation shall enter into force on the [] **twentieth day** following that of its publication in the Official Journal of the European Union.

[] 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 **the** following information:

- (1) the name and address of the operator of the installation;
- (2) a description of the [] design **// process 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 **contributes to reducing** major hazard risks to an acceptable [] 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 // schemes 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 **the** following information:

- (1) a description of the account taken of the competent authority's response to the design notification;
- (1a) 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 **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 an acceptable [] **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 relating to the prevention of major accidents resulting in significant or serious damage to the environment relevant to other requirements under this Regulation, obtained pursuant to Directive 2011/ 92/EU.**

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 **the** following information:

- (1) the name and address of the operator of the installation;
- (2) a summary of any worker involvement in the preparation of the **[] 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 an acceptable **[] 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 **[] operations** the installation is capable of performing, and that the risks of a major hazard event to persons and the environment are reduced to an acceptable **[] 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) [] **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 relating to the prevention of major accidents resulting in significant or serious damage to the environment relevant to other requirements under this Regulation, obtained pursuant to Directive 2011/92/EU.**

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

[] **Notification of well operations** pursuant to Article **11 9** 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 [] operator of the installation**;
- (3) details that identify the well and any association with [] **installations and connected infrastructure**;

- (4) information on the well work programme, including the period of its operation, **details and 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 **including any environmental, meteorological and sea-bed limitations on safe operations;**
 - (b) the subsurface hazards;
 - (c) any surface or subsea **[] operations** 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 2011/92/EU relating to the prevention of major accidents resulting in significant or serious damage to the environment.**

[4A 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 well 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.]¹**

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 operator** []:
 - (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;
 - (b) suitable allocation of tasks by the [] **independent verifier** to staff qualified to undertake them;

¹ Insertion of this point 4A will be discussed.

- (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 **material** 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 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.

Material changes **shall** be referred to the independent **verifier** for **him to undertake** further verification, and the outcomes of further verification **shall** be **communicated** to the competent authority, **if requested**.

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 information:

1. the name and address of the operator of the installation;
2. a summary of any worker involvement in the preparation of the revised [] **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 an acceptable [] **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 **the** following information:

- (1) the name and address of the operator **submitting** 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 an acceptable 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 **operation** 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 the competent authority 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 **operations**. The competent authority **shall** 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 // operations under their jurisdiction [] shall** 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 **[] operations**, 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 **licensees or** 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 of reports on major hazards and notifications shall be prepared by the competent authority // and made 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 foreseeable hazards with the potential to cause a major accident, including to the environment have been identified, their risks evaluated and measures identified, including emergency responses, 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 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 an acceptable // level;**
 - (e) in determining the necessary measures to achieve // acceptable levels of risk, the operator[] 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.**

[]

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 **[] shall** be taken of the following:
 - (a) the major accident prevention policy **[] shall** 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 **[] shall** 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 **take appropriate measures to** 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 authorit[ies] 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 **[] shall** include:

- (a) improving well integrity, well control equipment and barriers and monitoring their effectiveness;
- (b) improving primary containment [];
- (c) improving secondary containment that restricts escalation of an incipient major accident, including well blow-outs;
- (d) reliable decision making [];
- (e) management and supervision of major hazard **[] operations**;
- (f) competency of key post holders;
- (g) effective risk assessment [];
- (h) reliability assessment for safety critical systems;
- (i) key performance indicators [];
- (j) effectively integrating safety management systems between operators [] and other[] **entities** involved in [] **oil and gas** operations.

ANNEX V

Requirements related to emergency preparedness and response

I INTERNAL EMERGENCY RESPONSE PLANS

1. Internal emergency **response** plans [] shall 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) **a description of []** 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), 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 [] shall 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 **shall** 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 **shall** identify measures in place to ensure equipment and procedures are maintained in operable condition.

II EXTERNAL EMERGENCY RESPONSE PLANS

1. External emergency **response** plans shall include but not be limited to:
- (a) names **and** 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 **[] shall [] prepare** the following **[] in respect of their territory or jurisdiction**:
- (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 **[] shall** 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 [] transboundary level the** inventories of response assets **of** both industry and **[] Member States []** 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 transboundary 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 // operations 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 **[] oil and gas** 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 **[]** personnel;
 - (j) a major accident to the environment.

2a. The annual reports to be submitted by Member States pursuant to Article 24 shall contain as a minimum the following information:

(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.

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 [] **shall** 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.