

PUBLIC CONSULTATION
Improving offshore safety, health and environment in Europe

Questions for the public

Please use this response form for your replies. Thank you for respecting the maximum length for the replies as indicated after each question. This will ensure that your responses are taken into account in their entirety.
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Authorisations

As described in the consultation document, the competent authorities of the EU Member States define the concrete regulatory requirements and conditions for starting, pursuing and terminating offshore activities within the broader boundaries of EU legislation. These authorities govern also the authorisations for offshore activities in a given area (both in terms of access to exploit a certain geographical area, and in terms of approval to perform concrete activities), regulatory requirements on ongoing activities and closing of operations.

1. Which changes, if any, would you recommend to the [authorisation conditions for offshore prospection or exploration or production activities](#)? Please specify which authorisations your recommendations concern (all authorisations, those in a specific country, those authorising only a certain stage(s) such as prospection, exploration or production etc) (Please limit your response to maximum 1000 words)

We would recommend to establish a framework which allows the member states to assure the authorisation conditions to be similar and structured to other member states. This way individual countries can still assure local legislative particulars can be brought in for the different stages of offshore activities.

2. European law ¹foresees that the competent national authorities shall ensure that authorisations are granted on the basis of selection criteria which consider, among other things, the financial and technical capability of the companies wishing to carry out offshore oil or gas operations.
 - a) What key elements² should this [technical capacity](#) requirement include in your view? Please limit your response to maximum 500 words

The key element for Health and Safety as criteria to be brought in to the technical capacity is the implementation of a health and safety management system. This implementation criteria could include e.g. management commitment, management review, presence in Health and Safety meetings, practical input to assure a safe work place.

- b) Similarly, what key elements should the [financial capability](#) requirement include in your view? (Please limit your response to maximum 500 words)

The key elements for financial capability should be focused on budgets in the past for similar endeavours and the structure of how the spending of these budgets are guided by the organisation as to ensure Health and Safety aspects are brought in.

¹ Directive 94/22/EC of the European Parliament and of the Council of 30 May 1994 on the conditions for granting and using authorizations for the prospection, exploration and production of hydrocarbons

² Focus is only on the main elements of this capability as opposed to detailed requirements which vary according to the different geological, geophysical, technical and other circumstances of each individual case.

3. How (such as through legislation or voluntary measures at international, EU or national levels or by industry) should the adoption of state-of-the-art authorisation practices be best achieved throughout the EU?

State of art authorisations practices are to be measured against those who have been proven to be effective. Not all state of art makes an authorisation or consultation process more safe. By building on what is effective and 'fit for purpose' should prevail to what is 'fit for use'.

Should neighbouring EU Member States be consulted on the award of authorisations? (Please limit your response to maximum 1000 words)

With e.g. Hardanger agreement expansion the neighbouring countries should be able to adapt those effective authorisation structures that could be useful for them. The consultation of neighbouring states should be fitted in to existing communications structures between neighbouring countries.

Prevention of accidents

4. Please describe here any recommendations or changes (to the current regulatory framework or practices) - if any - that you consider important to improve the prevention of accidents affecting the health or safety of workers on offshore oil and gas installations in the EU: (Please limit your response to maximum 1000 words)

The focus on prevention of accidents should be on awareness structures and training of all levels in organisations. A recommendation is to establish a member state wide registration system of incidents and hazardous observations (Ice berg theory) strictly limited to situational awareness instead of individual or company awareness. The ALARP principle (As Low As Reasonable Practicable) should be defined as minimum bases.

5. Please describe here any recommendations or changes (to the current regulatory framework or practices) – if any – that you consider important in order to better prevent damage to the natural environment from accidents on offshore oil and gas installations: (Please limit your response to maximum 1000 words)

Not those companies that buy the components to assure damage to environmental is prevented (BOP systems) but the companies that are selling the components should be given more structure as to assure a company buying the component will not take cheaper and more unsafe components. By assuring regulatory frame works are established from the incident prevention point of view instead of reactive point of view the before could be implemented.

Verification of compliance and liability for damages

The enforcement of offshore health and safety regulations is the general responsibility of national public authorities. The enforcement measures include various activities such as on-site inspections, safety audits and reporting requirements for companies. The organisation, scope and frequency of these measures vary in the different Member States depending on national practices, laws and the local conditions.

While focus on compliance should prevent accidents, a robust liability regime needs also to be in place as accidents resulting in major oil spills may cause extensive environmental, economic and social damage. The financial consequences on the entities found liable for the accident may be significant. EU legislation defines the common principles (e.g. 'polluter pays - principle') and goals for ensuring liability for environmental damages while national laws and courts put them in practice. Concerning environmental liability, the applicable EU law (Directive 2004/35/EC) addresses pure ecological damage in terms of protected species and natural habitats (biodiversity damage), water pollution damage and land damage. As regards affected

waters, the ELD covers the territorial waters (up to 12 nautical miles off the shoreline), but not all marine waters under the jurisdiction of EU Member States (up to 200 or 370 nautical miles).

Responsibilities for traditional damage (such as loss of life; personal injury, health defects; damage to property and economic loss affecting for example fishermen) are usually determined by civil courts or tribunals in accordance with national laws and/or case law following goals and principles defined at national level.

Closely linked with the liability is the competence of the liable parties to actually stand up to their obligations. Insurance coverage in the offshore oil and gas sector is partial, with some companies insuring risks to a certain degree and others not. The insurance market does not currently provide products sufficient to cover damages of the magnitude seen in the Deepwater Horizon accident.

Moreover, there are no international or EU-wide funds similar to those in maritime transport that would cover environmental or traditional liability.

6. Please describe here any recommendations you would like to make on how to improve compliance of the offshore oil and gas industry with applicable offshore safety legislation and other regulatory measures in the EU. (Please limit your response to maximum 1000 words)

To improve the compliance of the oil and gas industry with applicable offshore safety legislation is to establish a 'gate' model from cradle (financing and permitting) to final closure of the well itself. All involved parties should get 'responsibilities'. The institutes (companies and banks) that finance initial seismic survey till drilling activities until the companies (special purpose or other legal entities) should all have criteria (milestones) to be reached before they can continue further to the next 'gate'. These criteria or milestones should all be inter linked in such a way that those 'entities' that do not succeed in reaching these criteria are 'forced' to go back one gate or give up.

7. In your view, which are the key measures to supervise and verify compliance of the industry with offshore health, safety and environmental rules and who should do the supervision and verification? (Please limit your response to maximum 1000 words)

The key measures to supervise and verify compliance should at minimum and not limited to the below given examples contain:

Management (employee) 'competence' in the applicable industry (verification by financing party e.g. Company A does request for financing to Institute Z for initial seismic surveying. Institute Z is obliged to verify the competence of the management with organizing such activity. Criteria could be; previous experience and incident rates.

Emergency Response: Covering all involved parties as to assure an "emergency" can be declared when a party is willing or in breach of a gate and wants to continue while not adequately have mitigated the needed input for the previous gate. The Emergency response is to be extended from what we have in execution level to the finance level.

Time factor: The time between the seismic survey, well calculations and the first initial exploratory drilling. This should be explicitly defined to exclude any form of time pressure that will have potential to lead to incidents. Verification by third party.

Supplier of crucial components: The party that manufactures a component likely to be working preventive to incidents and sells it to a other party (EU or Non-EU) should verify and accept the before points in this activity also. If the before gates are not approved the buyer should be made aware.

Third party verification: Third party verification of the above. Third party to be experienced in field of the activity. When verified next gate when not verified or verifiable return.

Local or EU authority supervision: The local authority should have than sufficient information and verification (the company executing the activity, the financing party and the third party) to provide an permit consent. All parties mentioned above are responsible and liable.

Insurance: The insurance of the activity can add a last and final verification criteria to assure the 'gates' are clear and activity can start,

The above mentioned key measures and criteria should be so defined that those who have or declare to have expertise are aware of their individual liabilities.

8. In your view, should the existing [environmental liability](#) legislation (Directive 2004/35/EC) be extended to cover environmental damage to all marine waters under the jurisdiction of the EU Member States? (Please limit your response to maximum 1000 words)

No. This is practical not feasible.

9. In your view, is the current legislative framework sufficient for treating compensation or remedial claims for [traditional damage caused by accidents on offshore installations](#)? No. If not, how would you recommend improving it? (Please limit your response to maximum 1000 words)

To improve on the current legislative framework for treating compensation or remedial claims it must become possible for the citizens that suffer damage (direct or indirectly) to claim directly from those who are in charge for the decisions that have led to the incident under claim. The funding to pay the claim can come out of the legal entity and all those parties involved at forehand of the activity that caused the incident.

10. In your view what would be [the best way\(s\)](#) to make sure that the costs for remedying and compensating for the environmental damages of an oil spill are paid even [if those costs exceed the financial capacity](#) of the responsible party? (Please limit your response to maximum 1000 words)

See before suggestions.

Transparency, sharing of information and state-of-the-art practices

Transparency of an offshore regulatory regime means the policy and practices on how the regulatory authorities and offshore industry share information with each other, between peers or with the civil society. The degree of transparency affects the awareness of the public authorities, the industry and the civil society, i.e. on offshore oil and gas activities and the way they are managed and controlled. It may also affect the nature of communication, commercial interests of companies, spreading of technologies, lessons learned and cross-border cooperation. An example of transparency in the offshore sector is the practice of some EU national regulatory authorities to publish information such as accident statistics and license award decisions concerning offshore operations.

11. What information on offshore oil and gas activities do you consider most important to make available to citizens and how? (Please limit your response to maximum 1000 words)

Incident statistics. The total number of Incidents, accidents, near misses and hazardous observations should become public. Results of audits and third party inspections should become available to those involved in the by us recommended processes. The way to make this available is on companies open websites and not on their internal websites as is mostly now the situation.

12. What is the most relevant information on offshore oil and gas activities that the offshore companies should in your view share with each other and/or with the regulators in order to improve offshore safety across the EU? They should share that information in the suggested gate model so it is verifiable for those parties interested to participate (and take responsibility) that the party is competent to execute the activity. How should it best be shared? (Please limit your response to maximum 1000 words)

Make it mandatory to share this specific information prior to commencement to another gate.

13. What information should the national regulators share with each other and how to improve offshore safety across the EU?

The information shared by regulators should at minimum be that information that the involved regulators of the country where the activity is taking place can perform their part as mentioned and suggested at point 8 of this document.

14. Which means, if any, would you recommend using to promote, across the EU, the use of state of the art practices to protect occupational health and safety during offshore oil and gas operations?

In the before and above mentioned and limited written down gate model the companies and parties involved are to announce in such a way there undertaking an activity that those possible effected of their part of the activity when an incident occurs are aware and able to pro-actively respond.

The sharing of state of the art practices a.k.a. Best Industry Practice Solution (BIPS) a.k.a. "lessons learned" should become noted down in a internet accessible register and publicly available for all those involved in their current roles (be it management or employee level) and not restricted to their level and available for those possibly effected when an incident occurs. This register can easily be set up and kept up to date by all involved when rights to access and change are clearly set.

15. Which means, if any, would you recommend using to promote, across the EU, the use of state of the art practices to protect the environment against accidents caused by offshore oil and gas operations?

See before mentioned.

Emergency response and International activities

The emergency response capacity at present consists of resources and contingency plans on the level of the industry, national administrations and of the EU. In general, contingency plans are required for all offshore installations and are complemented by national and EU contingency plans to respond to large scale accidents. Adequacy of resources and their coordination, both affect the effectiveness of response to offshore accident. In response to

recent accidents, particularly the one of the Deepwater Horizon drilling rig in the Gulf of Mexico, the emergency capacities are being strengthened. For instance, new response devices are being developed for use in deepwater conditions.

In the Mediterranean and the Black Sea offshore, oil and gas activities are underway both on EU and adjacent non-EU waters. This causes a risk for cross-border environmental damages from a possible offshore accident, not only across internal EU borders, but also across EU's external border. Apart from an interest in promoting high offshore safety practices also in adjacent regions, the EU participates in international activities to increase safety of offshore activities.

In response to the differing regulatory requirements both within the EU and internationally, some oil and gas companies have adopted company practices or standards that they apply to their activities in the EU and outside. Others adjust their practices more substantially to suit local conditions in the given country.

16. [In your view what should be the role of the EU in emergency response to offshore oil and gas accidents within the EU?](#)

To be brought in to the before mentioned gate model at point 8 in this document. Emergency response should be a specific key factor as described at point 8 in this document.

17. [Please describe any recommendations you may have concerning cooperation with non-EU countries to increase occupational safety and/or environmental protection in offshore oil and gas operations internationally?](#)

Those non-EU countries are most likely one way or another involved with a party that e.g. finances an operation or an major component. If they do not pass the criteria they should be moved back to a gate and be denied buying the component. Example given: Company A, not an EU member, want to purchase an component crucial to an oil and gas activity from company Y and does not want it to full specification thus creating the possibility of a "incident". Company Y in this example should deny the selling of the component in that configuration as the penalty (being liable as company and as individual) exceeds the earning by selling the component in the requested configuration.

18. [Please describe here any recommendations you may have on how to incentivise oil and gas companies with headquarters in the EU to apply European offshore safety standards and practices in all their operations worldwide: \(Please limit your response to maximum 1000 words\)](#)

When you do good and have no incidents (seriousness to be set as criteria) and have a high level of health and safety the company and its employees should be able to enjoy tax reductions or increase of EU subsidies. Companies acting bad and having many incidents should be able to improve and when the bad or increased negative behaviour continuous should have an increase in tax (the company and its employees) and get higher EU contributions.

This way the company and its employees are pushing themselves to a higher level. The costs for increasingly good safety behaviour that the EU will have will outweigh the costs in case an incident as mentioned will occur.

Note: The above is brief description of the suggested method of preventing incidents and increasing the standards for Health and Safety across the oil and gas industry in the EU