

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.

Please send the filled response form to the [ENER-CONSULT-OFFSHORE mailbox](#)

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)

It is recommended that EU consider the revisions to regulatory requirements being imposed by the US post Macondo to identify key supplementary requirements which are being brought about in the US have relevance or not in the already existing goal setting requirements. The latter is the current basis for securing authorisations for exploration activities but perhaps the safety case regime reinforced by specific prescriptive requirements in critical areas may well provide the necessary package of measures that would enhance the safety of authorised activities.

ISO has developed set of standards that apply to petroleum activities which it is understood are adopted through CEN as the set of standards applicable to petroleum activities in the EU. It is suggested that third party assurance of the implementation of these standards in all EU petroleum activities be a mandatory requirement in maintaining the authorisation for offshore E&P activities.

There is also some advantage to be gained by unifying the “authorisation” body or approach. Currently different EU member countries have different bodies which issue authorisations for E&P operations (e.g. HSE in the UK; PSA in Norway etc.) By unifying these organisations, not only would information and knowledge get transferred across EU member nations but also the requirements become transparent to rig owners and oil companies as to what is required to achieve the necessary levels of safety without having to modify procedures and equipment as they cross national boundaries. It may be that this central body delegates the authority to the country bodies as they are, but fundamental standards are established across the EU.

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
- b) Similarly, what key elements should the financial capability requirement include in your view? (Please limit your response to maximum 500 words)
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? Should neighbouring EU Member States be consulted on the award of authorisations? (Please limit your response to maximum 1000 words)

The response to question 1 covers some of this. It is not optimal to have award of authorisation on specific cases is approved or influenced by neighbouring countries. What is needed is prior unification or harmonisation with approved country bodies responsible for issuing the authorisations supported by accredited third parties providing the proof that the unified/harmonised requirements are being satisfied by the venturer to continue to keep the authorisation valid.

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)

Post Piper Alpha, the UK regulatory environment changed with the Health and Safety Executive taking regulatory responsibility, the introduction of the Safety Case legislation, goal-setting and the need for independent verification. This framework is now very mature and is being adopted in many other oil and gas provinces. It is even implemented voluntarily by Operators where no such legal requirement exists. Furthermore similar approaches are established in other sectors across Europe and it should be considered that within these frameworks 'best practices' can be defined. It is recommended that a review across the individual approaches is undertaken to evaluate if these best practices can become a consistent approach to be followed across the EU.

From a recent internal review of some of the European Regulatory practices we feel that the following could be considered as possible 'best practices':

- Safety Cases that are reviewed by the regulator and either have to be approved, or accepted.*
- Goal setting regulations whereby the Operator, who is in the best place to identify and mitigate hazards, identifies the safety goals that need to be achieved and the*

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.

way that this is done. Although goal setting is advantageous, within all the goal-setting regulations, there is some prescription where there is no economic, or safety advantage to goal-setting e.g. helidecks offshore

- *A verification process whereby a third party reviews an Operator's processes for design and operations. In some cases, this process has to be approved by the regulator and in others, the regulator only has the right to view this review.*
- *Use of the ALARP principle is considered to be best practice whereby mitigation measures are undertaken to make a risk as low as reasonably practicable. The concept recognises that not all measures can be taken due to economic and time pressures, but that the Operator has to understand the hazards and make a balanced assessment as to whether the mitigation measures proposed are reduce the risk to ALARP.*

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)

*The Macondo event has challenged a number of existing perceptions about drilling risk. The US situation is such that those who are involved in E&P are developing more comprehensive spill containment solutions than ever before. (In the US, containment solutions include having large floating, processing and storage facility available to come on stream at short notice). This is an implicit admission that even though drilling risks may be managed through focus on the barriers that **prevent** the spill, the industry ought to be prepared to **contain** the spill as we cannot reduce the probability of spill to levels which will make preparation for this degree of containment unnecessary. However such a comprehensive spill containment approach is not currently considered by the operators in the EU member countries.*

It is recommended that a comparative study/review is conducted to establish the need or otherwise for comprehensive spill containment when considered together with spill prevention measures and their successes so that a rational recommendation is reached as to whether or not EU member countries should also embark upon joint comprehensive spill containment solutions of the type proposed in US waters.

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)

*Even in the relatively light touch regulation area of the US waters, “Recommended Practices” are now being strengthened to **mandatory** status. Coupled with this comes the requirement for significant independent third party assessment, surveillance, verification and approval of critical procedures and equipment. For instance, post Macondo requirements for third party activity of the above type is being proposed at a number of stages of BOP procurement and use in the US. Strong consideration should be given to instituting such requirements in the EU such that compliance with well established and accepted legislation is implemented with vigour.*

Compliance assessment also needs to increase its focus on procedural compliance rather than solely focus on hardware. It is of little benefit having barriers in place if they can be avoided by the Operator by either weak procedures, or procedural violation. The EU should consider how best practice in the area of hardware, where regulators are traditionally more comfortable, can be extended to procedures.

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)

At present there does not appear to be any “qualification” process for the independent third party competent body or person who will assure that supervision and verification is carried out to the required standard. Consideration should be given to establishing the requirement for accreditation of independent third party competent body or persons so that such activities are seen to have been performed to the required standard. Indeed US legislation post Macondo seems to be recognising this through the imposition of approval by “P.E - Professional Engineer” but such requirements and control do not appear to be present in the current thinking within EU.

Other industrial sectors also adopt the above approach and it is recommended to review how this is implemented in for example the Civil engineering sector.

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)
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? If not, how would you recommend improving it? (Please limit your response to maximum 1000 words)
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)

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)
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? How should it best be shared? (Please limit your response to maximum 1000 words)
13. What information should the national regulators share with each other and how to improve offshore safety across the EU? (Please limit your response to maximum 1000 words)

Accident statistics put in the context of all operations is required to establish the level of risk being run. All too often, only the accident data is available but the underlying number of activities is not available to decide whether the failures are at the right probability level or not. Existing data published by OGP should be enhanced and made available and regularly updated to all parties so that incidents can be put in their right context.

In addition, there are a number of techniques to measure near misses, or failures of safety equipment that have not led to an incident. Collection of this data shows how well the industry is managing the hazard and due to the greater number of barrier failures compared to incidents, provides a broader basis on which to compare performance of different countries, or operations. Further data can be collected from verifiers, or other bodies, who have knowledge of the types of failure that are a precursor, or contributory factor to an incident.

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? (Please limit your response to maximum 1000 words)

In our experience the establishment of industry networks which brings together all parties, government, Regulator, Operators, Contractors and Specialist Service providers increases the awareness and adoption of best practices. A network is established amongst people with a common interest in a particular subject matter, Verification for example and 3 to 4 meeting are held per annum to share issues and innovations within the subject matter. Hosting the meeting is shared amongst the group to create a mutual ownership and transfers from meeting to meeting. Topics for presentation may include new legislative requirements, advances in processes and methodologies, new technologies and the host typically presents how they address the subject matter within their organisation.

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? (Please limit your response to maximum 1000 words)

The same approach to question 14 will apply.

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? (Please limit your response to maximum 1000 words)

It is recommended that the role of the EU would be to review the current approaches within the individual sectors and look for the opportunity to harmonise processes. Initiatives such as the formation of OSPRAG in the UK could be considered for other sectors with the oversight of all managed by EU. Best practices can be identified to be considered to roll out EU wide. JIGSAW in the UK for example where a number of helicopters are maintained in the field for emergency response.

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? (Please limit your response to maximum 1000 words)

It would be advisable for an EU delegation consisting of EU, Regulator, Operator and Verification Body members to visit on a regular basis the HSE governing bodies for oil & gas geographies around the world. This could be a 2 way sharing process of regulatory frameworks and compliance approaches which would give value to both parties. This could be considered a proactive step in improvement cooperation on this matter on a global scale.

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)
