

Commission Regulation (EU) No 1286/2011 of 9 December 2011
adopting a common methodology for investigating marine casualties and
incidents developed pursuant to Article 5(4) of Directive 2009/18/EC of
the European Parliament and of the Council (Text with EEA relevance)

COMMISSION REGULATION (EU) No 1286/2011

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and incidents developed pursuant to Article 5(4) of Directive
2009/18/EC of the European Parliament and of the Council

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2009/18/EC of the European Parliament and of the Council of 23 April 2009 establishing the fundamental principles governing the investigation of accidents in the maritime transport sector and amending Council Directive 1999/35/EC and Directive 2002/59/EC of the European Parliament and of the Council⁽¹⁾, and in particular Article 5(4) thereof,

Whereas:

- (1) Directive 2009/18/EC requires the Commission to adopt a common methodology for investigating marine casualties and incidents to be followed by investigative bodies when carrying out safety investigations.
- (2) The common methodology for investigating marine casualties and incidents should provide for common standards applicable in principle to all investigations carried out in accordance with Directive 2009/18/EC in order to achieve a high level quality investigation.
- (3) The general rules as provided for by the common methodology should be directly used by the investigative bodies of the Member States.
- (4) The measures provided for in this Regulation are in accordance with the opinion of the Committee on Safe Seas and the Prevention of Pollution from Ships⁽²⁾,

HAS ADOPTED THIS REGULATION:

Article 1

The common methodology for investigating marine casualties and incidents as provided for in Article 5(4) of Directive 2009/18/EC is set out in the Annex to this Regulation.

Changes to legislation: Commission Regulation (EU) No 1286/2011 is up to date with all changes known to be in force on or before 27 December 2020. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Article 2

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, 9 December 2011.

For the Commission

The President

José Manuel BARROSO

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ANNEX

COMMON METHODOLOGY FOR INVESTIGATING MARINE CASUALTIES AND INCIDENTS

A. PURPOSE, SCOPE AND APPLICATION

The purpose of safety investigations into marine accidents is to reduce the risk of future casualties and incidents and reduce their serious consequences including loss of life, loss of ships and pollution of the marine environment.

The purpose of this document is to provide a common methodology for investigative bodies of the Member States to conduct marine safety investigations in accordance with Directive 2009/18/EC. It is based on the scope and definitions of Directive 2009/18/EC, taking into account the IMO instruments referred to in the Directive.

The methodology aims to establish common approach in principle applicable in all investigations carried out in accordance with the Directive and it outlines the characteristics of a good safety investigation. It is not a check list. The investigators shall exercise their professional judgment and training to take into account the circumstances of each case.

In this way, through application of this common methodology and an objective and systemic approach to the investigation, the investigative body should best be able to draw lessons from each accident and so enhance maritime safety.

Proper identification of the causes of a marine casualty or incident requires timely and methodical investigation, going beyond the immediate evidence and looking for underlying conditions which may cause other future occurrences. Investigation may therefore be seen as a means of identifying not only immediate causes, but also issues in the total environment from regulation and policy through to implementation.

B. CONTENT

1. Operational readiness

1.1. Each investigative body shall plan in advance in order to ensure that unnecessary delays, after the notification and during the initiation of any investigation, do not occur as a result of a lack of relevant/prerequisite information, preparedness or knowledge. Such preparedness plan shall ensure resources and procedures are, as far as possible, immediately available to meet the requirements, including sufficient suitably qualified investigators and any necessary co-ordination, nationally and internationally, to enable initial actions to be taken promptly, after notification of a casualty or incident is first received.

1.2. Arrangements shall be put in place to ensure prompt receipt of casualty and incident notifications by the accident investigation body on a twenty-four hour basis.

2. Initial assessment and response

2.1. On being notified, the investigative bodies shall assess the situation. The initial assessment is critical for investigative bodies to gather an overview as quickly as possible, minimise the potential loss of evidence, and determine the scope of information required to decide the appropriate action.

2.2. This assessment shall include, as far as possible, an understanding of

- the overall events,
- key timings,
- the personnel involved, and

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- the category of the event.

In addition to the factors listed in Article 5(2) of Directive 2009/18/EC, the following may amongst others also be considered in deciding which non very serious casualties or incidents to investigate:

- the potential safety value that may be gained by conducting an investigation
- the public profile of the casualty
- whether the casualty is part of an identifiable trend
- the potential consequences of the casualty
- the extent of resources available and projected to be available in the event of conflicting priorities and the extent of any investigation backlog
- any risks associated with not investigating
- serious injuries occurring on-board to crew and/or passengers
- the pollution of environmentally sensitive areas
- ships subject to significant structural damages
- casualties which disrupt, or have the potential to disrupt, major port operations

2.3. After a decision is taken to investigate a serious casualty or another marine casualty or incident, the investigation shall normally be conducted with the same immediacy as that for a very serious casualty.

Where an investigation is to be carried out, the investigative bodies shall take immediate action as far as practicable to ensure preservation of evidence, coordination with other substantially interested parties and the appointment of a lead investigating state.

3. Strategy and evidence collection

3.1. The investigative body of the lead investigating Member State, in close liaison with those of the other substantially interested States, shall expeditiously develop a strategy for the scope, direction and timing of the investigation.

3.2. The investigative body shall keep the plan under review during the course of the investigation; by the end of the evidence collection phase the investigative body shall, as far as practicable, have ensured the completeness of evidence from all areas that could have influenced the casualty or incident.

3.3. The scope of a safety investigation and the procedure to be followed shall be sufficient as to eliminate uncertainty and ambiguity to the maximum extent possible and so enable robust logical assessments to be made of what led to the marine casualty or incident.

3.4. Investigative bodies of substantially interested Member States shall provide support to the lead investigating Member State, in a timely fashion, to the extent practicable.

3.5. The lead investigative body shall nominate an investigator to carry out the investigation, deploy appropriate resources and start the collection of evidence as soon as possible, as the quality of evidence, particularly that relying on the accuracy of human recollection, can deteriorate rapidly with time; and also in recognition that any ship involved in a marine casualty or incident should not be delayed more than is absolutely necessary by the need to gather evidence.

3.6. During the initial stage of every investigation, investigators shall collect as much of the relevant evidence as possible which may help understanding the incident and determining its causes, keeping in mind the possible breadth of any investigation.