

Regulation (EC) No 1406/2002 of the European Parliament
and of the Council of 27 June 2002 establishing a European
Maritime Safety Agency (Text with EEA relevance)

CHAPTER I

OBJECTIVES AND TASKS

F1 Article 1

Objectives

1 This Regulation establishes a European Maritime Safety Agency ('the Agency') for the purpose of ensuring a high, uniform and effective level of maritime safety, maritime security, prevention of, and response to, pollution caused by ships as well as response to marine pollution caused by oil and gas installations.

2 To that end, the Agency shall cooperate with the Member States and the Commission and provide them with technical, operational and scientific assistance in the fields mentioned in paragraph 1 of this Article within the limits of the core tasks set out in Article 2 and, as and when applicable, the ancillary tasks set out in Article 2a, in particular in order to help the Member States and the Commission to apply the relevant legal acts of the Union properly. As regards the field of response to pollution, the Agency shall provide operational assistance only upon the request of the affected State(s).

3 By providing the assistance referred to in paragraph 2, the Agency shall, where appropriate, contribute to the overall efficiency of maritime traffic and maritime transport as set out in this Regulation, so as to facilitate the establishment of a European Maritime Transport Space without Barriers.

Textual Amendments

- F1** Substituted by [Regulation \(EU\) No 100/2013 of the European Parliament and of the Council of 15 January 2013 amending Regulation \(EC\) No 1406/2002 establishing a European Maritime Safety Agency \(Text with EEA relevance\).](#)

Article 2

Core tasks of the Agency

1 In order to ensure that the objectives set out in Article 1 are met in the appropriate manner, the Agency shall perform the core tasks listed in this Article.

2 The Agency shall assist the Commission:

- a in the preparatory work for updating and developing relevant legal acts of the Union, in particular in line with the development of international legislation;
- b in the effective implementation of relevant binding legal acts of the Union, in particular by carrying-out visits and inspections as referred to in Article 3 of this Regulation and by providing technical assistance to the Commission in the performance of the inspection

Status: Point in time view as at 31/01/2020.

Changes to legislation: There are currently no known outstanding effects for the Regulation (EC) No 1406/2002 of the European Parliament and of the Council, CHAPTER I. (See end of Document for details)

- tasks assigned to it pursuant to Article 9(4) of Regulation (EC) No 725/2004 of the European Parliament and of the Council of 31 March 2004 on enhancing ship and port facility security⁽¹⁾. In this regard, it may address suggestions to the Commission for any possible improvements of those binding legal acts;
- c in the analysis of ongoing and completed research projects relevant to the objectives of the Agency; this may include the identification of possible follow-up measures resulting from specific research projects;
 - d in the performance of any other task assigned to the Commission in legislative acts of the Union regarding the objectives of the Agency.
- 3 The Agency shall work with the Member States to:
- a organise, where appropriate, relevant training activities in fields which are the responsibility of the Member States;
 - b develop technical solutions, including the provision of relevant operational services, and provide technical assistance, to the building up of the necessary national capacity for the implementation of relevant legal acts of the Union;
 - c provide, at the request of a Member State, appropriate information resulting from the inspections referred to in Article 3 in order to support the monitoring of the recognised organisations that carry out certification tasks on behalf of the Member States in accordance with Article 9 of Directive 2009/15/EC of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations⁽²⁾ without prejudice to the rights and obligations of the flag State;
 - d support with additional means in a cost efficient way pollution response actions in case of pollution caused by ships as well as marine pollution caused by oil and gas installations, when a request has been presented by the affected Member State under the authority of which the cleaning operations are conducted, without prejudice to the responsibility of coastal States to have appropriate pollution response mechanisms in place while respecting existing cooperation between Member States in this field. As appropriate, requests for mobilisation of anti-pollution actions shall be relayed through the EU Civil Protection Mechanism established by Council Decision 2007/779/EC, Euratom⁽³⁾.
- 4 The Agency shall facilitate cooperation between the Member States and the Commission:
- a in the field of traffic monitoring covered by Directive 2002/59/EC, the Agency shall in particular promote cooperation between riparian States in the shipping areas concerned, as well as develop and operate the European Union Long-Range Identification and Tracking of Ships European Data Centre and the Union Maritime Information and Exchange System (SafeSeaNet) as referred to in Articles 6b and 22a of that Directive as well as the International Long-Range Identification and Tracking information data exchange system in accordance with the commitment made in the International Maritime Organisation ('IMO');
 - b by providing, upon request and without prejudice to national and Union law, relevant vessel positioning and Earth observation data to the competent national authorities and relevant Union bodies within their mandate in order to facilitate measures against threats of piracy and of intentional unlawful acts as provided for in applicable Union law or under internationally agreed legal instruments in the area of maritime transport, subject to applicable data protection rules and in accordance with administrative procedures to be established by the Administrative Board or the High Level Steering Group established in accordance with Directive 2002/59/EC, as appropriate. The provision of

- long-range identification and tracking of ships data shall be subject to the consent of the flag State concerned;
- c in the field of the investigation of marine casualties and incidents in accordance with 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⁽⁴⁾; the Agency shall, if requested by the relevant Member States and assuming that no conflict of interest arises, provide operational support to these Member States concerning investigations related to serious or very serious casualties and it shall carry out analysis of safety investigation reports with a view to identify added value at Union level in terms of any relevant lessons to be drawn. On the basis of data provided by the Member States, in accordance with Article 17 of that Directive, the Agency shall compile a yearly overview of marine casualties and incidents;
 - d in providing objective, reliable and comparable statistics, information and data, to enable the Commission and the Member States to take the necessary steps to improve their actions and to evaluate the effectiveness and cost-efficiency of existing measures. Such tasks shall include the collection, recording and evaluation of technical data, the systematic exploitation of existing databases, including their cross-fertilisation, and, where appropriate, the development of additional databases. On the basis of the data collected, the Agency shall assist the Commission in the publication of information relating to ships pursuant to Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control⁽⁵⁾;
 - e in gathering and analysing data on seafarers provided and used in accordance with Directive 2008/106/EC of the European Parliament and of the Council of 19 November 2008 on the minimum level of training of seafarers⁽⁶⁾;
 - f in improving the identification and pursuit of ships making unlawful discharges in accordance with Directive 2005/35/EC of the European Parliament and of the Council of 7 September 2005 on ship-source pollution and on the introduction of penalties for infringements⁽⁷⁾;
 - g regarding marine oil pollution caused by oil and gas installations, by using the European Satellite Oil Monitoring Service (CleanSeaNet) to monitor the extent and environmental impact of such pollution;
 - h in providing technical assistance necessary for the Member States and the Commission to contribute to the relevant work of the technical bodies of the IMO, the International Labour Organisation as far as shipping is concerned, and the Paris Memorandum of Understanding on Port State Control ('Paris MoU') and relevant regional organisations to which the Union has acceded, with regard to matters of Union competence;
 - i with regard to the implementation of Directive 2010/65/EU of the European Parliament and of the Council of 20 October 2010 on reporting formalities for ships arriving in and/or departing from ports of the Member States⁽⁸⁾, in particular by facilitating the electronic transmission of data through SafeSeaNet and by supporting the development of the single window.

5 The Agency may, upon the request of the Commission, provide technical assistance, including the organisation of relevant training activities, as regards relevant legal acts of the Union, to States applying for accession to the Union, and, where applicable, to European Neighbourhood partner countries and to countries taking part in the Paris MoU.

The Agency may also provide assistance in case of pollution caused by ships as well as marine pollution caused by oil and gas installations affecting those third countries sharing a regional sea basin with the Union, in line with the EU Civil Protection Mechanism established by Decision 2007/779/EC, Euratom, and by analogy with the

Status: Point in time view as at 31/01/2020.

Changes to legislation: There are currently no known outstanding effects for the Regulation (EC) No 1406/2002 of the European Parliament and of the Council, CHAPTER I. (See end of Document for details)

conditions applicable to Member States as referred to in paragraph (3)(d) of this Article. These tasks shall be coordinated with the existing regional cooperation arrangements related to marine pollution.

Textual Amendments

- F1** Substituted by [Regulation \(EU\) No 100/2013 of the European Parliament and of the Council of 15 January 2013 amending Regulation \(EC\) No 1406/2002 establishing a European Maritime Safety Agency \(Text with EEA relevance\)](#).

Article 2a

Ancillary tasks of the Agency

1 Without prejudice to the core tasks referred to in Article 2, the Agency shall assist the Commission and the Member States, as appropriate, in the development and implementation of the Union activities set out in paragraphs 2 and 3 of this Article related to the Agency's objectives, in so far as the Agency has established and recognised expertise and tools. The ancillary tasks set out in this Article shall:

- a create substantiated added value;
- b avoid duplication of efforts;
- c be in the interest of the Union maritime transport policy;
- d not be detrimental to the Agency's core tasks; and
- e not infringe upon Member States' rights and obligations, in particular as flag States, port States and coastal States.

2 The Agency shall assist the Commission:

- a in the context of the implementation of Directive 2008/56/EC of the European Parliament and of the Council (Marine Strategy Framework Directive)⁽⁹⁾, by contributing to the objective of achieving good environmental status of marine waters with its shipping-related elements and in exploiting the results of existing tools such as SafeSeaNet and CleanSeaNet;
- b providing technical assistance in relation to greenhouse gas emissions from ships, in particular in following up ongoing international developments;
- c as concerns the Global Monitoring for Environment and Security programme (GMES), in promoting the use of GMES data and services for maritime purposes, within the GMES governance framework;
- d in the development of a Common Information Sharing Environment for the EU maritime domain;
- e with respect to mobile offshore oil and gas installations, in examining IMO requirements and in gathering basic information on potential threats to maritime transport and the marine environment;
- f by providing relevant information with regard to classification societies for inland waterway vessels in accordance with Directive 2006/87/EC of the European Parliament and of the Council of 12 December 2006 laying down technical requirements for inland waterway vessels⁽¹⁰⁾. This information shall also be part of the reports referred to in Article 3(4) and (5) of this Regulation.

3 The Agency shall assist the Commission and the Member States:

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- a in the examination of the feasibility and the implementation of policies and projects supporting the establishment of the European Maritime Transport Space without Barriers, such as the Blue Belt concept and e-Maritime, as well as Motorways of the Sea. This shall be done in particular by exploring additional functionalities to SafeSeaNet, without prejudice to the role of the High Level Steering Group established in accordance with Directive 2002/59/EC;
- b by exploring with competent authorities for the River Information Services System the possibility of sharing information between this system and maritime transport information systems on the basis of the report provided for in Article 15 of Directive 2010/65/EU;
- c by facilitating voluntary exchange of best practices in maritime training and education in the Union and by providing information on Union exchange programmes relevant to maritime training while fully respecting Article 166 of the Treaty on the Functioning of the European Union (TFEU).

Textual Amendments

- F1** Substituted by [Regulation \(EU\) No 100/2013 of the European Parliament and of the Council of 15 January 2013 amending Regulation \(EC\) No 1406/2002 establishing a European Maritime Safety Agency \(Text with EEA relevance\).](#)

[^{F2}Article 2b

European cooperation on coast guard functions

1 The Agency shall, in cooperation with the European Border and Coast Guard Agency, established by Regulation (EU) 2016/1624 of the European Parliament and of the Council⁽¹¹⁾, and the European Fisheries Control Agency, established by Council Regulation (EC) No 768/2005⁽¹²⁾, each within their mandate, support national authorities carrying out coast guard functions at national and Union level and, where appropriate, at international level by:

- a sharing, fusing and analysing information available in ship reporting systems and other information systems hosted by or accessible to those agencies, in accordance with their respective legal bases and without prejudice to the ownership of data by Member States;
- b providing surveillance and communication services based on state-of-the-art technology, including space-based and ground infrastructure and sensors mounted on any kind of platform;
- c building capacity by drawing up guidelines and recommendations and by establishing best practices as well as by providing training and exchange of staff;
- d enhancing the exchange of information and cooperation on coast guard functions including by analysing operational challenges and emerging risks in the maritime domain;
- e sharing capacity by planning and implementing multipurpose operations and by sharing assets and other capabilities, to the extent that these activities are coordinated by those agencies and are agreed to by the competent authorities of the Member States concerned.

2 Without prejudice to the powers of the Administrative Board of the Agency set out in Article 10(2), the precise forms of cooperation on coast guard functions between the Agency, the European Border and Coast Guard Agency and the European Fisheries Control Agency shall be determined in a working arrangement, in accordance with their respective mandates and the financial rules applicable to those agencies. Such an arrangement shall be approved by

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the Administrative Board of the Agency, the Administrative Board of the European Fisheries Control Agency and the management board of the European Border and Coast Guard Agency.

3 The Commission shall, in close cooperation with the Member States, the Agency, the European Border and Coast Guard Agency and the European Fisheries Control Agency, make available a practical handbook on European cooperation on coast guard functions. That handbook shall contain guidelines, recommendations and best practices for the exchange of information. The Commission shall adopt the handbook in the form of a recommendation.

4 The tasks set out in this Article shall not be detrimental to the Agency's tasks referred to in Article 2 and shall not infringe upon Member States' rights and obligations, in particular as flag States, port States or coastal States.]

Textual Amendments

- F1** Substituted by [Regulation \(EU\) No 100/2013 of the European Parliament and of the Council of 15 January 2013 amending Regulation \(EC\) No 1406/2002 establishing a European Maritime Safety Agency \(Text with EEA relevance\).](#)
- F2** Inserted by [Regulation \(EU\) 2016/1625 of the European Parliament and of the Council of 14 September 2016 amending Regulation \(EC\) No 1406/2002 establishing a European Maritime Safety Agency \(Text with EEA relevance\).](#)

Article 3

Visits to Member States and inspections

1 In order to perform the tasks entrusted to it and to assist the Commission in fulfilling its duties under the TFEU, and in particular the assessment of the effective implementation of relevant Union law, the Agency shall carry out visits to Member States in accordance with the methodology established by the Administrative Board.

2 The Agency shall inform the Member State concerned in good time of the planned visit, the names of the authorised officials, and the date on which the visit starts and its expected duration. The Agency officials delegated to carry out such visits shall do so on presentation of a decision in writing from the Executive Director of the Agency specifying the purpose and the aims of their mission.

3 The Agency shall carry out inspections on behalf of the Commission as required by binding legal acts of the Union regarding organisations recognised by the Union in accordance with Regulation (EC) No 391/2009 of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations⁽¹³⁾, and regarding the training and certification of seafarers in third countries in accordance with Directive 2008/106/EC.

4 At the end of each visit or inspection, the Agency shall draw up a report and send it to the Commission and to the Member State concerned.

5 Where appropriate, and in any case when a cycle of visits or inspections is concluded, the Agency shall analyse reports from that cycle with a view to identifying horizontal findings and general conclusions on the effectiveness and cost-efficiency of the measures in place. The Agency shall present this analysis to the Commission for further discussion with Member States in order to draw any relevant lessons and facilitate the dissemination of good working practices.]

Status: Point in time view as at 31/01/2020.

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Textual Amendments

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Article 4

Transparency and protection of information

[^{F3}1 Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents⁽¹⁴⁾ shall apply to documents held by the Agency.]

2 The Agency may communicate on its own initiative in the fields within its mission. It shall ensure in particular that the public and any interested party are rapidly given objective, reliable and easily understandable information with regard to its work.

[^{F1}3 The Administrative Board shall adopt the practical arrangements for the application of paragraphs 1 and 2, including, where appropriate, arrangements regarding consultation with Member States before the publication of information.

4 The information collected and processed in accordance with this Regulation by the Commission and the Agency shall be subject to Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data⁽¹⁵⁾ and the Agency shall take the necessary measures to ensure the safe handling and processing of confidential information.]

[^{F4}5 Decisions taken by the Agency pursuant to Article 8 of Regulation (EC) No 1049/2001 may form the subject of a complaint to the Ombudsman or of an action before the Court of Justice of the European Communities, under Articles 195 and 230 of the EC Treaty respectively.]

Textual Amendments

- F1** Substituted by Regulation (EU) No 100/2013 of the European Parliament and of the Council of 15 January 2013 amending Regulation (EC) No 1406/2002 establishing a European Maritime Safety Agency (Text with EEA relevance).
- F3** Substituted by Regulation (EC) No 1644/2003 of the European Parliament and of the Council of 22 July 2003 amending Regulation (EC) No 1406/2002 establishing a European Maritime Safety Agency.
- F4** Inserted by Regulation (EC) No 1644/2003 of the European Parliament and of the Council of 22 July 2003 amending Regulation (EC) No 1406/2002 establishing a European Maritime Safety Agency.

Status: Point in time view as at 31/01/2020.

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- (1) [^{F1}OJ L 129, 29.4.2004, p. 6.]
- (2) [^{F1}OJ L 131, 28.5.2009, p 47.]
- (3) [^{F1}OJ L 314, 1.12.2007, p. 9.]
- (4) [^{F1}OJ L 131, 28.5.2009, p. 114.]
- (5) [^{F1}OJ L 131, 28.5.2009, p. 57.]
- (6) [^{F1}OJ L 323, 3.12.2008, p. 33.]
- (7) [^{F1}OJ L 255, 30.9.2005, p. 11.]
- (8) [^{F1}OJ L 283, 29.10.2010, p. 1.]
- (9) [^{F1}OJ L 164, 25.6.2008, p. 19.]
- (10) [^{F1}OJ L 389, 30.12.2006, p. 1.]
- (11) [^{F1} [^{F2}Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC (OJ L 251, 16.9.2016, p. 1).]]
- (12) [^{F1} [^{F2}Council Regulation (EC) No 768/2005 of 26 April 2005 establishing a Community Fisheries Control Agency and amending Regulation (EEC) No 2847/93 establishing a control system applicable to the common fisheries policy (OJ L 128, 21.5.2005, p. 1).]]
- (13) [^{F1}OJ L 131, 28.5.2009, p. 11.]
- (14) [^{F3}OJ L 145, 31.5.2001, p. 43.]
- (15) [^{F1}OJ L 8, 12.1.2001, p. 1.]

Textual Amendments

- F1** Substituted by Regulation (EU) No 100/2013 of the European Parliament and of the Council of 15 January 2013 amending Regulation (EC) No 1406/2002 establishing a European Maritime Safety Agency (Text with EEA relevance).
- F2** Inserted by Regulation (EU) 2016/1625 of the European Parliament and of the Council of 14 September 2016 amending Regulation (EC) No 1406/2002 establishing a European Maritime Safety Agency (Text with EEA relevance).
- F3** Substituted by Regulation (EC) No 1644/2003 of the European Parliament and of the Council of 22 July 2003 amending Regulation (EC) No 1406/2002 establishing a European Maritime Safety Agency.

Status:

Point in time view as at 31/01/2020.

Changes to legislation:

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