ELD Financial security in Spain

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Environmental Quality and Assessment
Principles on which Directive 2004/35/EC is based

- Prevention principle
- Polluter pays principle

Main objectives of Directive 2004/35/EC

- Prevent significant environmental damage when there is an imminent threat
- Remedy such damage when it occurs
ELD PRINCIPLES AND OBJECTIVES

FIRST LINE OF DEFENSE IN ELD

“PREVENTION” PRINCIPLE

RISK MANAGEMENT MEASURES

PREVENTION MEASURES

“LIMITATION” MEASURES

“POLLUTER PAYS” PRINCIPLE

REMEDIATION MEASURES

First pilar = Directive

Entered into force in 2007

Second pilar. Not in Directive

ENVIR. RISK ANALYSIS

Reduction of costs

Reduction of FP cost/exempt

FINANCIAL PROVISION

In force
2018 (P1)
2019 (P2)
2021-2022 (P3)

Normal activity

Threat of damage

Environmental Damage

Normal activity

Threat of damage

Environmental Damage
Some Annex III operators must ensure they have the financial security to cover the environmental liability inherent in their intended activity/s.

✓ Seveso, industrial emissions, and waste management from mining

Will be determined based on an environmental risk analysis (based on ISO 150.008 Standard)

20 M € limited coverage (prevention, avoidance and primary remediation costs)

Exemptions mechanisms (art. 28 Law 26/2007):

• Operators likely to cause damage remediation estimated to be less than 300,000€
• Or between 300,000 € and 2,000,000 € and are associated to EMAS and/or ISO 14001 Standard

Benefits of the mandatory financial security system + environmental risk analysis

• Benefits for operators
  - Lower operational risks and greater viability in case of accident
  - Environmental risk analysis help in corporate decision-making, enabling global risk management of the facilities
  - Makes them aware of their risks (environmental and in terms of costs)

• Benefits for society
  - It promotes the culture of environmental risk management, contributing to a reduction in the number of accidents affecting the environment and minimising their consequences
  - In case of environmental damage the costs are not borne by society but transferred to the operator
Environmental risk analysis

Esquema metodológico norma UNE 150.008

Figura 6. Árbol consecuencial para el suceso S.A.1y2b: fuga/derrame de catalizador líquido 1 desde depósito fijo aéreo o por colisión
Annex III operators obliged to carry out an **Environmental Risk Analysis** in order to:

- Determine if are under the obligation to have a FS or are exempted, and calculate its amount
- It is a **prevention tool** (risk management decision-making tool)

Sectorial environmental risk analysis tools to help operators carry out the individual ERA and share the costs between operators:

- MIRAT
- Methodological guides
- Scale charts

They must be approved by the Technical Commission for the prevention and remediation of environmental damages
**IMPLEMENTATION / APLICATION OF LAW 26/2007**

### “PREVENTION” PRINCIPLE
- **RISK MANAGEMENT MEASURES**
- **SUPPORT TO SECTORS IN SRA/ERA**
  - Help desk to sectors
  - ARS guidance document
  - Development of 10 SRA and 1 ERA
  - Doc quantification models
  - 38 ERA approved
- **DOCUMENT FOR SIMPLIFIED RISK ANALYSIS FOR RISK MANAGEMENT**
- **ENVIRONMENTAL RISK ANALYSIS TOOL (ARM)**
- **ENVIRONMENTAL DAMAGE INDEX TOOL (IDM)**
- **ECONOMIC EVALUATION TOOL (MORA)**

### “POLLUTER PAYS” PRINCIPLE
- **PREVENTION MEASURES**
- **“LIMITATION” MEASURES**
- **REMEDIATION MEASURES**
- **MANDATORY FINANCIAL PROVISION**
  - M.O. ARM 1783/2011
  - MOD. LAW 26/2007 AND ROYAL DECREES: exclusion of low risk activities and simplification
  - Ministerial Orders Priority 1, 2 and 3
- **ECONOMIC EVALUATION TOOL (MORA)**
- **SIGNIFICATIVITY GUIDANCE DOCS.**
- **ELD CASES**
- **PROTOCOL IN CASE OF ACCIDENT AND ADMINISTRATIVE PROCEDURE**
- **CATALOGUE OF PREVENTION, LIMITATION AND REMEDIATION TECHNIQUES**
- **REMEDIATION PROJECTS**
- **GUIDANCE DOCUMENT ON FINANCIAL SECURITY IN SPAIN**
- **GUIDANCE DOCUMENT ON THE IMPLEMENTATION OF EL REGULATIONS IN SPAIN / BROCHURE**

- Normal activity
- Threat of damage
- Damage
Environmental Liability Information System (SIRMA)

- Free access (registration required). Available in Spanish and English
- User’s guide available in Spanish and English

Link to SIRMA (English)

SIRMA user’s guide (English version)
Annexes (English version)
Environmental Liability Information System (SIRMA)

- Gathers all the documents, guides, protocols and tools developed.
- Access to ARM, IDM and MORA computer applications, developed for helping operators to carry out the environmental risk analysis and determine the mandatory financial security.

**Information on Law 26/2007 on environmental liability**

- Legal basis
- Risk Analysis
- Financial Security
- Implementation reports and environmental liability enforcement
- Publications
- FAQs

**ARM-IDM-MORA computer applications**

- Global ARM-IDM-MORA project
- ARM application
- IDM application
- MORA application
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Environmental Liability Information System (SIRMA)

- 10 Sectorial environmental risk analysis, 1 Scale Chart and 1 individual ERA funded. All available on MITERD webpage

<table>
<thead>
<tr>
<th>Sector-specific risk analysis instrument or rate table</th>
<th>Date of creation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rate table for the paint and printer ink manufacturing sector, created for the Asociación Española de Fabricantes de Pinturas y Tintas de Imprimir (ASEFAPI).</td>
<td>2011</td>
</tr>
<tr>
<td>Guide to methodology for the polymetallic sulphide and sodium and potassium salts mining industry, created for the Confederación Nacional Empresarios Minería y Metalurgia (CONFEDEM).</td>
<td>2012</td>
</tr>
<tr>
<td>MIRAT for the olive oil and oilseed industry, created for the Federación Española de Industrias de la Alimentación y Bebidas (FIAB).</td>
<td>2012</td>
</tr>
<tr>
<td>Guide to methodology for hazardous and non-hazardous waste management activities, created for the Asociación Nacional de Gestores de Residuos de Automoción (AN-GEREA), Asociación de Empresas Gestoras de Residuos y Recursos Especiales (ASEGRE) and Federación Española de la Recuperación y el Reciclaje (FER).</td>
<td>2015</td>
</tr>
<tr>
<td>MIRAT for road freight transport activities, created for the Confederación Española de Transporte de Mercancías (CTEM).</td>
<td>2015</td>
</tr>
<tr>
<td>MIRAT for the smelting industry, created for the Federación Española de Asociaciones de Fundidores (FEAF).</td>
<td>2016</td>
</tr>
<tr>
<td>MIRAT and rate table for the poultry meat and egg sector.</td>
<td>2018</td>
</tr>
<tr>
<td>MIRAT and rate table for the pig sector.</td>
<td>2019</td>
</tr>
</tbody>
</table>

- 38 Sectorial environmental risk analysis developed and approved
Environmental Liability Information System (SIRMA)

- Gathers all the documents, guides, protocols and tools developed.
- Access to ARM, IDM and MORA computer applications, developed for helping operators to carry out the environmental risk analysis and determine the mandatory financial security.

Information on Law 26/2007 on environmental liability

- Legal basis
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ARM-IDM-MORA computer applications

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Procedure for mandatory financial security determination in Spain

➢ Environmental Risk Analysis
➢ Determination of financial security:

1. Identification of risk scenarios and their probability
2. IDM calculation: reference scenario determination
3. Risk of each scenario (IDM * probability of occurrence)
4. Selection of scenarios that represent 95% of total risk
5. Environmental damage cost of reference scenario

A. Quantification

B. Cost

Financial security: Cost of primary remediation + 10% prevention measures
Environmental Risk Analysis (ARM)

**ARM-IDM-MORA computer applications**

- Helps in the elaboration of the ERA, creating the “events trees”: selection of sources of danger; determination of initiating events; introduction of conditioning factors; and obtaining the accident scenarios with their probability and, where appropriate, the amount of pollutant released.

- Identifies high risk scenarios (high probability of occurrence, or the magnitude of the agent involved) allowing the implementation of risk management decisions.
Environmental Damage Index (IDM)

**ARM-IDM-MORA computer applications**

- It allows to estimate the **order of magnitude of the damage** of each risk scenario.
- It gives a semi-quantitative result that allows to **classify the risk scenarios** by the potential damage they can cause.
- It is based on cost **estimations of primary recovery costs**, but IDM is non-dimensional (no units)
Calculates **primary, compensatory and complementary remediation costs** of scenarios

- Primary remediation costs of the reference scenario = financial security (adding to it the costs of prevention and avoidance measures)

- Provides the **best available remediation techniques** to restore the resources damaged (and their services) to their baseline condition
Projects that sequentially incorporate all the phases of the ERA in an assisted way through the ARM, IDM and MORA applications.

Provides with a very useful tool for implementing risk management measures:
- Identification of accident scenarios with higher probability of occurrence / higher potential environmental damage.
- Simulate changes in their probability of occurrence or environmental consequences.
SIRMA provides operators with a risk management tool for their facilities, contributes to the prevention of damages and helps in the implementation of Law 26/2007.
Environmental Liability Information System (SIRMA)

- Free access (registration required). Available in Spanish and English
- User´s guide available in Spanish and English

**Link to SIRMA (English)**

**SIRMA user’s guide (English version)**

**Annexes (English version)**
Guidance document and brochure on the implementation of environmental liability regulations in Spain

Spanish report on the Information on implementation and evidence base pursuant to article 18(1) in conjunction with Annex VI of Directive 2004/35/EC

Link to Guidance document
Link to Brochure

Link to report
IMPLEMENTATION / APLICATION OF LAW 26/2007

La Ley 26/2007, de 23 de octubre, de Responsabilidad Medioambiental, que incorpora el enmiende jurídico al Decreto 2004/28/CE, del Parlamento Europeo y del Consejo, de 21 de abril de 2004, ha instituido un régimen administrativo de responsabilidad medioambiental de carácter objetivo e infinito, basado en los principios de "prevención de daños" y de "cuidado a tercero".

Esta Ley, desarrollada parcialmente por medio del Real Decreto 381/2008, establece un régimen de reparación de daños medioambientales de acuerdo con el cual las empresas que causan daños a los recursos naturales o amenazan con un daño, deberán adoptar las medidas necesarias para prevenirlas, o cuando el daño se haya producido, para limitar o impedir mayores daños medioambientales, así como devolver los recursos naturales dañados al estado en que se encontraban antes de que se produjera el daño.

La responsabilidad por daños medioambientales se refiere a los daños a los recursos naturales causados por la actividad económica, independientemente de si el daño se produjo con la intención o con la negligencia.

En los diferentes apartados de esta sección se recoge la siguiente información sobre la normativa de responsabilidad medioambiental:

Base legal:
Indica todas las fuentes normativas, tanto originales como consolidadas con sus modificaciones y/o adiciones que se han llevado a cabo desde la aprobación de la Ley 26/2007.

Sistema de Información Ambiental de Responsabilidad Ambiental (SIRMA)
Integra toda la información relativa a la normativa de responsabilidad medioambiental, así como de las herramientas y documentos desarrollados para facilitar su implementación en España, estructurada en dos apartados principales: Información sobre la Ley 26/2007, y Aplicaciones Informáticas (ARM, IDM y MORA).

THANK YOU FOR YOUR ATTENTION!!

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