



Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

Petroleum Safety Framework

Update for Petroleum (Exploration and Extraction) Safety Act 2015

Round 2

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1 Introduction

1.1 Background

On 27th November 2015, the CER published a number of consultation documents as part of the second round of the consultation process for the update of the Petroleum Safety Framework (the “Framework”) in accordance with the requirement of the *Petroleum (Exploration and Extraction) Safety Act 2015*. The papers were:

1. *Petroleum Safety Framework, Round 2 Consultation (CER15276)*;
2. *Guidance for Notification of Incidents (CER15277)*; and
3. *Compliance Assurance System (Section 3: Safety Performance Reporting) (CER15278)*

The Petroleum Incident Notification Form was also published for information but was not subject to consultation.

The *Petroleum Safety Framework Round 2 paper (the “Consultation Paper”)* provides the full details on the background to this consultation process.

As outlined in the Consultation Paper, the CER has updated the list of events or occurrences that form the definition of a petroleum incident and the Petroleum Incident Notification Form to incorporate the minimum incident reporting requirements outlined in the Commission Implementing Regulation (EU) No1112/2014 (Implementing Regulation). CER’s Guidance for Notification of Incidents has also been updated accordingly and also with regard to the EU Guidance Document on Commission Implementing Regulation (EU) No1112/2014 (EU Guidance). The remaining reportable petroleum incidents set out in the Petroleum Incident Regulations are those incidents, which, in the opinion of the CER, may materially increase the risk of an event or occurrence, referred to in section 13U(1)(a) to (d) of the Act, occurring.

1.2 Purpose of this Paper

The purpose of this paper is to set out the CER response to responses received with regard to the updates to the Framework pursuant to the requirements of the 2015 Act. Responses were received in relation to the two consultation documents:

1. *Guidance for Notification of Incidents*; and
2. *Compliance Assurance System (Section 3: Safety Performance Reporting)*.

1.3 Respondents

The CER received 2 responses from:

- Irish Offshore Operators Association (IOOA); and
- Shell Exploration and Production Ireland Limited (SEPIL).

The individual responses are published as part of this consultation process and are available to view on the Petroleum Safety section of the CER website.

1.4 Reading this document

Where alternative views were provided on topics set out in consultation papers, CER responses are provided below. Where multiple comments were received on the same topic, these comments have been merged to avoid repetition.

1.5 Document Structure

The structure of the remainder of this document is:

Section 2	Responses to the <i>Guidance for Notification of Incidents</i> Consultation Paper;
Section 3	Responses to the <i>Compliance Assurance System</i> (Section 3: Safety Performance Reporting);
Section 4	Next Steps

2 Responses to the Guidance for Notification of Incidents Consultation Paper

2.1 Comment 1

Respondents noted that in section 2.2 *Fatalities or missing persons*, there is a requirement to report to CER by quickest possible means, for instance phone or email, the name of the deceased or missing person. It is of the respondent's view that the name of the deceased or missing person should only be given to the CER following notification of NOK (by Gardaí).

It was also noted that under emergency response procedures, the missing person's family must take priority for first notification. It was suggested that 'by the quickest possible means' is replaced with 'as early as possible' following a fatality or missing person's report.

2.1.1 CER Response

It is the CER view that the reporting requirements remain appropriate. Therefore, the text in the decision paper will remain i.e. the name of the deceased or missing person, the particulars of the incident and the location of the incident shall be reported to the CER by the "*quickest practicable means*". The CER acknowledges that the order in which this information becomes available shall depend on the circumstances of the incident. It should be noted also that any information submitted to the CER shall be treated confidentially. The existing reporting requirements in place since 2014 align with the reporting requirements of the HSA for fatalities or missing persons.

2.2 Comment 2

A3. The unintentional release or escape of any non-petroleum hazardous substance

Respondents noted that this is qualified in the EU Document by including '*--- hazardous substance, for which the major accident risk has been assessed in the report on major hazards--- which would lead to significant potential to cause fatalities or serious injury*'. The CER give no lower reporting thresholds which means that all releases/spillages, even minor ones with no significant harm potential, would have to be reported. It was suggested to revert to EU Guideline.

2.2.1 CER Response

As the text in the EU Guidance states that this "...**includes** the release of any dangerous/hazardous substance ...which would lead to a significant potential to cause fatalities or serious personal injury", the CER can only take this qualification as an example. As the title stands in the Implementing Regulation, there are no lower reporting thresholds, therefore, the CER cannot prescribe a lower limit. However, the CER acknowledges the validity of the points made and has split the category into two criteria. The first shall align with the Implementing Regulation i.e:

"The unintentional release or escape of any hazardous substance, for which the major accident risk has been assessed in the safety case"; and

the second criterion shall be as follows:

*"The unintentional release or escape of any hazardous substance for which the major accident risk has **not** been assessed in the safety case and which would lead to a significant potential*

to cause fatalities or serious personal injury”.

2.3 Comment 3

C. Failure of a safety and environmentally critical element:

Respondents noted that the requirement to report under this section includes “(1) The S(E)CE condition is identified by anyone”. This is not in the EU Guidance as it qualifies reporting to those identified by an Independent Verifier. It was suggested to keep this section consistent with the EU Guidance and to refer to the same reportable and non-reportable examples.

Respondents also suggested changing ‘C Failure of a safety and environmentally critical element’ to ‘C Failure of a safety and environmentally critical element (where environmentally critical element requirement only applies offshore)’.

2.3.1 CER Response

Due to the nature of the independent verifier’s third party role and the operator / owner’s daily encounters with the plant, CER deems that it is more appropriate to allow for a condition to be detected by anyone working for the owner / operator. The operator / owner are required to carry out maintenance activities and inspections to assure themselves that the reliability criteria within the performance standards are being met for active systems. Any failure to a S(E)CE can potentially be detected by the operator/ owner sooner than the independent verifier. The term “anyone” will be clarified in the decision paper to be “*anyone under the employment of or on contract with the operator / owner*”.

Reportable and non-reportable examples similar to those in the EU Guidance will be provided in this section.

On review of the criterions to be met in order for the incident to be reportable, the text in the guidance has been updated. As the failure of a S(E)CE can be reported to the operator/ owner by anyone, there are now two requirements that have to be met for determining when this petroleum incident must be reported. These are as follows:

1. *It is reported to the owner/ operator that the S(E)CE has failed to meet its performance standard; **and***
2. *The operator/owner had to take Immediate Remedial Action to reduce risks to an acceptable level.*

No change is required to the title *C. Failure of a safety and environmentally critical element* as the definition of S(E)CE set out in the glossary includes the statement that “*The environmental term is only applicable offshore...*”

2.4 Comment 4

D. Significant loss of structural integrity or loss of station keeping in relation to a mobile installation

A respondent suggested reinserting the word ‘detected’ into ‘Any condition that....’ to align with the Implementing Regulation, which would read “*Any detected condition that*”.

2.4.1 CER Response

It is CER's opinion that both the text in the Implementing Regulation and the list of proposed petroleum incidents set out in CER's guidance will result in the same incidents being reported because a condition can only be reported after it is detected. The text was updated to avoid any confusion over what 'detected' could infer e.g. only visual or instrumentation. The CER text in the guidance document will remain.

2.5 Comment 5

E. Potential and actual vessel collisions with an offshore installation

In relation to the guidance stating that *"A report is required where a vessel enters the safety zone of offshore petroleum infrastructure without authorisation"*, respondents noted that this is more than what is required in the EU guidance document and believe it adds no safety reporting value to the process.

2.5.1 CER Response

When considering what constitutes a potential collision for the purposes of reporting, CER deems that a vessel entering the 500 metres (safety zone) of offshore petroleum infrastructure without authorisation is an example of a potential collision, as it is an incident *"with a significant risk for the installation"*, as per the EU Guidance.

It should be noted that in accordance with section 6 of Continental Shelf Act 1968 - *protection of installations in designated areas* as amended by Petroleum (Exploration and Extraction) Safety Act 2015, ships will be prohibited (subject to exceptions) *"from entering within a distance of 500 metres from any part of an installation"*.

2.6 Comment 6

H. Any Serious Injury

Respondents noted that the CER requirements are not consistent with the Implementing Regulations, EU Guidance or the HSA requirements and suggested the CER criteria be aligned with the EU guidance which states: 'Any serious injuries to five or more persons in the same accident to be reported under the requirements of Directive 92/91/EEC' and also recommended aligning the definition of serious injury with HSA.

It was also suggested to remove the additional criteria "any injury to a person that requires admittance to a hospital for more than 24 hours" as this exceeds the definition as per the Implementing Regulations and EU Guidance.

2.6.1 CER Response

As it has been acknowledged in previous papers, the CER and the HSA have overlapping safety responsibilities given their respective legislative remits. The reporting of any "serious injury" to CER is a separate reporting requirement to the HSA's accident reporting requirements under Directive 92/91/EEC

The existing definition of ‘serious injury’ as set out in the Petroleum Safety (Petroleum Incident) Regulations S.I No. 4 of 2014 is deemed appropriate for the CER regulatory remit and will remain. This definition was developed following a review of international petroleum incident reporting requirements with which it aligns.

“serious injury means:

- *an injury to a person where the person cannot perform all of their normal work activities for more than 7 consecutive days (not including the day of the petroleum incident, but including subsequent nonworking days); or*
- *any injury to a person that requires admittance to a hospital for more than 24 hours.”*

It can be noted that this criteria eliminates the reporting of minor injuries to the CER.

2.7 Comment 7

I. Any evacuation of personnel:

Respondents suggested that the reporting of medivacs should be limited to reporting of work-related medevacs associated with an accident reportable under another category (as per EU Guidance) as there may be medivacs that are not work-related, or precautionary.

2.7.1 CER Response

This point has been accepted. The reporting of any evacuation of personnel shall be limited to work related medivacs. This will be reflected in the Decision Paper.

2.8 Comment 8

L. Instance of a standby vessel not being within its defined geographical area:

Respondents recommended to include the following exception: ‘*Except when prevailing weather and climate conditions may endanger the crew, passengers of vessel*’ as it is in accordance with SI 14 1991(Offshore Installations)(Emergency Response) Regulations. This would limit reporting to those occasions when the Stand-by boat was not available in circumstances where it could have been deployed in an emergency.

2.8.1 CER Response

On review of this reportable incident, the wording of L shall be revised to the following:

“Instance of a standby vessel not being within its defined geographical area, except when prevailing weather and climate conditions may endanger the crew, passengers or vessels”

The number of instances of a stand-by vessel not being within its defined geographical position, irrespective of whether the absence was due to prevailing weather or climate conditions, shall be required under safety performance indicator L of the safety performance reporting system.

For clarity, the term “defined geographical area” has been defined, for the purpose of this incident, as the following:

“the standby vessel’s assigned area of operation which allows the standby vessel to provide rescue and recovery arrangements within the required response times, as set out in the performance standards.”

2.9 Comment 9

N. Mustering on onshore or offshore petroleum infrastructure other than for planned drills:

Respondents stated that this should only require reporting of those musters if there was an immediate danger to human health or significantly increases the risk of a petroleum incident as this is the qualification used in Section 13(S) 2 of the Act.

2.9.1 CER Response

The CER has found the reporting of this class of incident very useful in CER’s ongoing compliance assurance activities. For example, repeated spurious alarms can also be an indicator of further issues and may feed into the identification of future areas of audit and inspection. This petroleum incident will continue to be required.

2.10 Comment 10

Section 4.1

A respondent noted that the 1st paragraph specifies that *Immediate Danger to Human Health/Significant Increase in the Risk of a Petroleum Incident* is to be reported no later than 24 hours. It was suggested making this “preliminary notification” within 24 hours, followed by report within 3 days to cover where an incident occurs over a weekend/holiday?

2.10.1 CER Response

CER have developed a short form for the reporting of this type of incident. This form will only require the information that is expected to be available at the time of it being filled out. It must be completed within 24 hours as per the 2015 Act. The CER will follow up, on a case by case basis, for further information and may require the submission of a more detailed report.

3 Responses to the *Compliance Assurance System* (Section 3: Safety Performance Reporting)

3.1 Comment 1

C3 – Number of activations of an S(E)CE

A respondent suggested that it would be useful to clarify the intent as previously provided in CER 14/146 2014. It was also noted that it is important, however, that the Safety Performance Indicator (SPI) intent should be confined to “genuine activations” only .i.e. a Hardware barrier activation to prevent a top event or prevent escalation.

3.1.1 CER Response

To clarify the requirements of the CER, the wording of this safety performance indicator will be revised to exclude any activations of an S(E)CE during the testing or maintenance of equipment. Safety Performance Indicator C3 will be changed to “*Number of activations of an S(E)CE except where testing and maintenance is being carried out*”.

3.2 Comment 2

H3 - Number of injuries to workers where...

A respondent noted that the criterion is specified for 3 days. It was proposed that H3 reflects the criteria outlined in the EU Directive, “Any serious injuries to five or more persons in the same accident to be reported under the requirements of Directive 92/91/EEC”.

3.2.1 CER Response

This CER safety performance reporting requirement is not linked to the reporting criteria under the Implementing Regulation.

The CER will require the number of these injuries to workers to be reported on a quarterly basis for the purpose of trending information. This criteria aligns with the HSA’s reporting i.e. under the SHWW Act, a reportable accident is where “the person is absent from work for more than 3 consecutive days.”

3.3 Comment 3

L6 - Number of live operational risk assessments at the end of the quarter

A respondent noted that this metric should relate to open HAZOP action items, given the number of live operational risk assessments at the end of a quarter is a very open indicator. Risk assessments are an ongoing part of daily work activities, therefore explicit tie back to open HAZOP provides clarity and is the more effective approach to take.

3.3.1 CER Response

In the case of this safety performance indicator, “*operational risk assessment*” means the process carried out to take account of any impairment, loss or non-availability of a safety and environmental critical element (S(E)CE), where the risks arising from an impaired S(E)CE are identified and

evaluated, followed by the implementation of effective risk control and mitigation measures to manage the risks. The purpose of this indicator is to form part of demonstrating the effectiveness of the owner/operator's management of S(E)CEs. This indicator does not link to the outputs of HAZOP studies.

3.4 Comment 4

C2 - Number of losses or non-availability of S(E)CEs e.g. S(E)CEs not meeting their performance standard, not reportable under C1

A Respondent proposed that the C2 reporting requirements reflect the EU guidance as stated below i.e.

1. A failure of a SECE causing a major accident or during a major accident;
2. A SECE reported by the independent verifier as failing to meet the required Performance Standard for that SECE; **And**
3. the operator/owner had to take immediate action to reduce risks to an acceptable level.

3.4.1 CER Response

In addition to C1, where the criteria includes taking immediate remedial action to reduce risks to an acceptable level, safety performance indicator C2 is also to be reported to capture the number of losses or non-availability of S(E)CEs that did not require immediate remedial action, but may, for example, require an action plan to be put in place. C2 shall be retained.

4 Next Steps

The decision papers on the two CER documents referenced in section 1 are published alongside this response paper, along with the responses received and the minutes of the response meetings.