

Health and Safety Commission Paper		HSC/03/127	
Meeting Date:	16 September 2003	Open Gov. Status:	Fully open
Type of Paper:	Below the line	Paper File Ref:	
Exemptions:	No exemptions		

HEALTH AND SAFETY COMMISSION

REVIEW OF THE OFFSHORE INSTALLATIONS (SAFETY CASE) REGULATIONS 1992 (OSCR) – OUTLINE PROPOSALS FOR CHANGE

A Paper by Graham Collins, Hazardous Industries Policy Division

Cleared by Nick Starling on 20 August 2003

Issue

1. To agree the way forward on revising the Offshore Installations (Safety Case) Regulations 1992.

Timing

2. Routine.

Recommendation

3. That the Commission agrees the way forward for revising the OSCR proposed in paragraphs 5 -10 and the Annex.

Background

4. The OSCR came into effect, for most purposes and subject to transitional arrangements, on 31 May 1993. They require operators and owners of offshore oil and gas installations to submit safety cases to HSE for acceptance as a condition of operating in UK waters. The OSCR were the first regulatory output of the HSC/E's review of offshore safety legislation following Lord Cullen's 1990 report on the Piper Alpha disaster. They remain the cornerstone of the offshore health and safety regime. They have been amended several times, most importantly in 1996 to add a requirement for an independent check that the safety critical parts of the installation are suitable and remain in good condition and repair (which is outside the scope of this review). They are now in need of reform.

Argument

Evaluation of the Regulations

5. After 10 years in operation it is legitimate to review the purpose and effectiveness of the OSCR. They have already been subject to independent evaluation. An interim evaluation of the OSCR in 1994/5 found that the Regulations had a positive impact on offshore safety, but there was criticism of excessive bureaucracy. These findings were endorsed by a full evaluation of the offshore regime, including the OSCR, published in 1999 by Aberdeen University. Most stakeholders felt that the new legal framework aided effective management risks, but again there were doubts about excessive regulatory complexity. This paper reports on the further work identified in earlier Commission papers on evaluating the offshore regime (HSC/02/47) and on the review of permissioning regimes (HSC/03/01 and HSC/02/83).
6. HSE followed up the evaluation studies with detailed examination of the processes and outputs of the system for assessment and acceptance of safety cases – prompted also by the recommendations of Lord Cullen’s 2001 report on the Ladbroke Grove Rail Accident. HSE has done much to streamline the processes, but operational experience indicates that further improvements require changes to the Regulations themselves. Problems of excessive bureaucracy remain, in part because legal advice has shown the scope for flexibility in HSE’s assessment processes to be less than anticipated.
7. It is clear that much of the benefit derived from introducing the OSCR was achieved in the early stages. The regime is now in its fourth cycle of safety case submissions and each cycle has shown a diminishing return in improvements. Much of the effort currently required of duty holders by the Regulations to prepare safety cases – and therefore of the effort required of HSE to assess them – is not directed at useful safety objectives. There is a danger of the safety case being seen as intended purely for HSE, with limited benefit to the duty holder. The challenge now is to revitalise the safety case process. It will not be possible to do this without amending the existing Regulations.
8. The HSE Evaluation Committee has emphasised the importance of feeding the results of evaluation into regime improvements. HSE has therefore looked closely at areas where the OSCR might be improved, to relieve unnecessary burdens, to enhance the safety case’s value to the duty holder and to provide a greater stimulus for continuous improvement. The Head of OSD regards these changes as critical to the future effectiveness of OSD. As a minimum, HSE wants to redeploy a significant proportion of resources currently devoted to safety case assessment to related inspection and verification, with expected greater benefits for safety. During 2002 HSE sought the views of offshore stakeholders (eg through a safety case practitioners workshop in May) on what improvements they might like to see to the Regulations. Those views were taken into account in producing a paper on the key issues (expanded in the attached Annex), which was circulated to the main offshore stakeholders. The issues we consider appropriate for reform are:

Key Issues

- Do the Regulations identify the correct duty holders, particularly the “operator” in respect of fixed installations?

- Is it clear what a safety case is and what it is for? Does it need to be “accepted” and what does that mean? What exactly is an ALARP (as low as is reasonably practicable) demonstration and what is its value?
- Are specific safety cases needed for combined operations and for abandonment? Are the requirements for Design Safety Cases right?
- Is there any value in routine resubmissions of safety cases? What could be done to enhance the value?
- Is there scope to simplify or improve the requirements for Operational Safety cases, management systems and overlap with the Offshore Installations (Prevention of Fire and Explosion, and Emergency Response) Regulations 1995 (PFEER) and other regulations?

Secondary issues

- Are the various notification requirements still needed? Are the various submission periods valid and consistent?
- Is a statutory right of appeal needed in the event of HSE refusing to accept a safety case?
- Should electronic safety cases or notifications be acceptable with or without conditions?

Should the Regulations be retained?

9. We have also considered the fundamental question of whether the OSCR are still needed. HSE’s view is that the original rationale for the regulations remains valid. While offshore safety standards have greatly improved since Piper Alpha, the potential for a major incident remains. This is evident from other offshore provinces, for example the loss of the P36 off Brazil in 2001 in which 11 died. To control that potential, and to ensure public confidence that it is being controlled, demands constant close attention from duty holders and from HSE. The benefits of a safety case approach to controlling activities with such a potential were endorsed by the 1999 Aberdeen University evaluation and more recently by Lord Cullen’s 2001 report. The OSCR still meet the key criteria set out in the HSC’s recent Policy Statement on Permissioning Regimes, though there is scope for better alignment with the principles.
10. HSE therefore considers the OSCR approach to be still fundamentally sound, though it needs to be updated to meet the circumstances of a mature regime.

Consultation

11. In developing this paper the Offshore Industry Advisory Committee (OIAC) and other key offshore stakeholders have been consulted. These stakeholders have generally endorsed an approach to reforming the OSCR on the lines set out in the Annex, though we can expect considerable debate on points of detail. Subject to HSC’s agreement, HSE proposes to work up these ideas into a first draft of revised regulations with a view to publishing a consultation document (CD) in Spring 2004. This would allow the outcome of a major safety case conference planned for November 2003 to be taken into account and for participants to contribute to the composition of, rather than only commenting on, a completed document. If HSC agrees, therefore, HSE proposes to

present a draft CD to this conference, before submitting it to HSC for approval to publish.

12. HSE's Divisions responsible for other safety case regimes (eg Control of Major Accident Hazards Regulations (COMAH) and rail) are also being kept informed to ensure any read across to their regimes is identified.

Presentation

13. There is a potential for considerable interest within the offshore industry, though some stakeholders may see this as an opportunity to raise questions about charging rather than about safety cases (see paragraph 14 below). There could also be Parliamentary and Ministerial interest. The consultation document will be distributed widely to offshore stakeholders for comment and will be available on the HSE web site. The consultation document will be announced by means of a suitably directed press release.

Costs and Benefits

14. Any proposals to amend the regulations will be subject to a full Regulatory Impact Assessment (RIA) taking into consideration the likely costs and benefits. HSE is already seeking stakeholders' help in refining cost and benefit assessments and identifying measures that would help to evaluate the impact of the changes. At this stage the most likely area for cost savings to duty holders (and HSE) should be in removing the requirements for routine 3 yearly resubmissions of safety cases. We expect to be able to quantify these savings. Redirecting effort to areas of greater priority will achieve benefits for safety, though these will be harder to quantify. Our preliminary consideration of the costs and benefits makes us confident that the RIA, when drafted, will clearly support the reform option.

Financial/Resource Implications for HSE

15. The cost of taking the reform work forward can be met from existing resources. However there could be resource implications arising from the implementation of any new regulations. A reduction in safety case work could have an impact on HSE's income from safety case evaluation. However we intend that more resource will be devoted to inspection work, which is also chargeable, and do not expect much decline in income. However, as indicated in paragraph 14 above, charging is a sensitive issue for some offshore stakeholders and this may lead to comment.

Environmental Implications

16. None.

Other Implications

17. None.

Action

18. The Commission is asked to agree:

- the way forward in revising OSCR proposed in paragraphs 5-10 and the Annex;
- that the HSE should trial a draft CD at the safety case conference planned for November 2003 (paragraph 11).