

Procedure:

Sharing and Assessment of Loss of Primary Containment data

Background

At the December 2024 Environmental Regulators and Refinery Emissions Committee Meeting the Environment Agency (EA) indicated that it is being scrutinised by the media on incidents. Environmental Regulators have concerns over reporting losses of containment and the environmental performance of the refining sector. As a result, the EA considered making changes to their regulatory approach by employing extremely low reporting thresholds.

In April 2025 Fuels Industry UK received a proposal from EA for refineries to “trial” reporting losses of primary containment (LOPC) of more than 5l. The Competent Authority collects loss of containment information via the auditable management systems employed through Reporting of Injuries, Diseases and Dangerous Occurrences (RIDDOR), Control of Major Accident and Hazard (COMAH) and Environmental Permitting (EPR) Regulations. However, the EA would like industry to demonstrate that there are robust investigations, reporting and systems in place to assess the root cause of minor as well as major incidents/releases. Therefore, Fuels Industry UK agreed to develop a counter proposal to the “trial” due to the concerns that it is not in line with permit regulation and the reporting burden.

Agreement

Fuels Industry UK has agreed with the Environmental Regulators that Loss of Primary Containment is an important concern. Fuels Industry UK and its Members have also agreed with the Environmental Regulators that they are willing to voluntarily follow the procedure below to enable the assessment of Loss of Primary Containment. However, Fuels Industry UK’s view remains that the EA’s desire for refineries to report minor loss of primary containment is not in line with permit conditions. Fuels Industry UK have not yet received adequate legal rationale that justifies the gathering and sharing of non-significant minor LOPC information. Therefore, we maintain our appeal to see the legal rationale behind the EA’s request.

Principles

1. This voluntary procedure does not negate the need for:
 - Dialogue with EPR Regulator Officers around specific events;
 - EPR Schedule Notifications;
 - Or any other requirement under other legislation such as RIDDOR and COMAH Notifications.

2. If an incident has the potential for environmental consequence and is deemed to be RIDDOR reportable then it will be reported to the EA.
3. Under Environmental Permitting Regulations a release is reportable if it is "significant".
4. This voluntary procedure is risk based.

Procedure

1. Each site will continue to be responsible for its own legal compliance. This includes RIDDOR, COMAH and Environmental Permit conditions as appropriate.
2. API tier 1 and tier 2 releases, that are reported to HSE already via Fuels Industry UK, will also be sent to EA. This dataset includes data from all four UK refineries, not just the English ones.
3. The EA will share CICS 1 and CICS 2 events for the refining sector regularly to compare the trends in performance.
4. A subset of LOPC incidents of hydrocarbon releases (excluding releases to atmosphere) of more than 200kg are recorded (not notified to the regulator) within the management system of operators. This does not negate the need to "notify", under condition 4 of EPR and the permit on notifications. This will be gathered by Fuels Industry UK and reported to EA over all four refineries anonymously.
5. Recordings of these events will be maintained on site and EA inspectors will request that they be available for inspection. Once inspected the inspector will advise the Energy & Manufacturing Industries - Refinery and Fuels Senior Advisor of their findings.
6. Refinery operators will demonstrate on request that they hold fully certified management systems against ISO standards or equivalent, all of which contain a continuous improvement clause showing a commitment to augment good and better practise.