



Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

**Petroleum Incident Regulations Consultation
Response Paper**

**Part of the
Petroleum Safety Framework**

DOCUMENT TYPE:	Consultation Response Paper
REFERENCE:	CER/14/016
DATE PUBLISHED:	21st January 2014

*The Commission for Energy Regulation,
The Exchange,
Belgard Square North,
Tallaght,
Dublin 24.
www.cer.ie*

Table of Contents

1. Introduction.....	2
1.1 Petroleum Safety Framework.....	2
1.2 Consultation Paper on the Petroleum Incident Regulations.....	2
1.3 Structure of this Paper	3
1.4 Guidance for Notification of Petroleum Incidents.....	3
2. Consultation Responses.....	4
2.1 Consultation Question 1.....	4
2.1.1 Summary of responses	4
2.1.2 CER Response	6
2.2 Consultation Question 2.....	10
2.2.1 Summary of responses	10
2.2.2 CER Response	11
2.3 Consultation Question 3.....	11
2.3.1 Summary of responses	11
2.3.2 CER Response	12
2.4 General Comments.....	13
2.4.1 Summary of general comments	13
2.4.2 CER Response	13
3. Petroleum Incident Regulations	15

1. Introduction

1.1 Petroleum Safety Framework

The Electricity Regulation Act 1999, as amended inter alia by the Petroleum (Exploration and Extraction) Safety Act 2010 (the 'Act') gives the CER responsibility for the safety regulation of petroleum exploration and extraction activities in Ireland, including specifically a requirement for the CER to establish and implement a risk-based petroleum safety framework (referred to in this document as the Framework). The Framework is the overall system that the CER uses to regulate the safety of petroleum activities, and in particular designated petroleum activities, carried out by petroleum undertakings. The Framework required by the Act is permissioning and risk-based, recognising that hazards may be presented by the activities to be regulated. It requires petroleum undertakings to obtain permission from CER to undertake their operations by submission and approval of a safety case that describes how the risk has been reduced to a level that is as low as is reasonably practicable (ALARP).

1.2 Consultation Paper on the Petroleum Incident Regulations

As part of the establishment of the above Framework, the CER has been given powers to make regulations that set out classes of events or occurrences that petroleum undertakings must report to the CER. These regulations are in addition to the reporting requirements as set out in section 13A of the Act.

On August 15th 2013, the CER published the *Petroleum Incident Regulations Consultation Paper* (the 'Consultation Paper').

The Consultation Paper invited respondent comments on the following:

1. the additional classes of events and occurrences proposed to be prescribed by the CER under section 13V, in particular the definition of:
 - a. a prescribed occurrence; and
 - b. a well control event.
3. the specific text of the Regulations; and
4. the form to be used by petroleum undertakings to notify the CER of a petroleum incidents and the information to be included therewith.

The CER received submissions¹ from the following 5 respondents to the Consultation Paper:

- National Standards Authority of Ireland;
- PSE Kinsale Energy;
- Shell Exploration and Production Ireland Limited;
- Senergy; and
- Irish Offshore Operators Association (IOOA).

Three respondents (Senergy, PSE Kinsale and IOOA) also requested to meet the CER to

¹ Consultation responses are available on the CER website: www.cer.ie

discuss their submission. Respondent submissions and meeting minutes² are published alongside this Consultation Response Paper on the CER website.

This Consultation Response Paper sets out the CER's response to the submissions received to the Consultation Paper.

1.3 Structure of this Paper

The Consultation Paper proposed 3 consultation questions for respondents in respect of:

1. The additional classes of events and occurrences proposed to be prescribed by the CER under section 13V, in particular the definition of:
 - a. a prescribed occurrence; and
 - b. a well control event.
2. the specific text of the draft Petroleum Incident Regulations (the 'Draft Regulations'); and
3. the form to be used by petroleum undertakings to notify the CER of a petroleum incidents and the information to be included therewith.

The remainder of this Consultation Response Paper is structured around respondents comments to each of the 3 consultation questions posed and CER's response to those comments.

The finalised *Petroleum Safety (Petroleum Incident) Regulations 2014* (the 'Regulations') are set out in Section 3.

1.4 Guidance for Notification of Petroleum Incidents

CER has also developed *Guidance for Notification of Petroleum Incidents* document (the 'Guidance'), which will be published alongside the Regulations. The Guidance sets out the CER's view as to events and occurrences which may be considered petroleum incidents and the process by which petroleum undertakings must notify the CER of petroleum incidents in line with the requirements in the Regulations and the Act.

² Respondent meeting minutes are available on the CER website: www.cer.ie

2. Consultation Responses

2.1 Consultation Question 1

Respondents comments were requested on the following:

The additional classes of events and occurrences proposed to be prescribed by the CER under section 13V, in particular the definition of:

- a. a prescribed occurrence; and
- b. a well control event.

Respondent comments in relation to the definition of *petroleum incident* under section 13A of the Act are addressed in section 2.2.

2.1.1 Summary of responses

In relation to the definition of a “well control event”:

Respondents stated that the definition of the term ‘Well Control Event’ in the draft Regulations is not consistent with industry’s understanding of the term. For example the detection of hydrogen sulfide and the separation between well will not necessarily lead to a well control event. Likewise, mechanical failure of a safety critical element that could cause or contribute to an unintentional release is not generally considered to be a ‘well control event’. It was proposed that these terms could fit better in the list of prescribed occurrences.

Respondents suggested replacing “*The mechanical failure of any safety critical element of a well whose failure would cause or contribute to, or whose purpose is to prevent or limit the effect of the unintentional release of fluids from the associated well or reservoir*” with “*The mechanical failure of any safety critical element of a well resulting in less than two barriers being in place to prevent the unintentional release of fluids from the associated well or reservoir.*”

Respondents stated that “*Any event associated with a well that results in activation of the blow-out prevention or diversion system*” should be reworded to include only “unplanned events that result in closure of a BOP”.

Respondents suggested that “*Any uncontrolled release from a well*” should exclude backflow from the well due to formation ballooning effects and that associated guidance should be provided.

In relation to the definition of a “prescribed occurrence”:

Respondents commented that a number of “prescribed occurrences” as currently drafted are very prescriptive in nature, and are not linked to the level of risk associated with the occurrence.

Uncontrolled releases thresholds

Respondents stated that the technical basis of the specification of threshold levels of "Uncontrolled release" of fluids should be consistent with other Irish regulations, such as values contained in Safety, Health and Welfare at Work (General Application) Regulations 1993 (S.I. No. 44 of 1993, the '1993 Regulations').

In relation to paragraph (ii) of the definition of prescribed occurrence: "*Uncontrolled release of hydrocarbon vapour exceeding 1kg*", respondents stated it was not clear why a value of 1kg of gas released was chosen as the threshold for a prescribed occurrence.

Respondents also stated that the timeframe of the release should be specified and that fugitive emissions should be excluded.

Respondents requested clarification of the term "uncontrolled release" and requested clarification on whether a chemical spill to drain, or a release that can be contained with minimal risk of personal injury would be considered a controlled release.

One respondent stated that in relation to paragraph (iii) of the definition of prescribed occurrences, "*Uncontrolled release of hydrocarbon liquids exceeding 100 litres*", the threshold quantity for reporting releases of hydrocarbon liquids should take into consideration the properties of different hydrocarbon liquids. Respondents also stated that it was not clear why a value of 100 litres of liquid released was chosen as the threshold for a prescribed occurrence. They went on to state that the current wording does not take into consideration the properties of different hydrocarbon liquids.

Respondents stated that the reporting threshold values of 1 kilogram of gas and 100 litres of liquid are out of line with those of the other countries whose requirements were reviewed. Respondents recommended that the reporting requirements regarding hazardous substances should be consistent with the requirements of the countries reviewed as part of CER's international best practice review of incident reporting requirements (outlined in section 2.1 of the Consultation Paper), as these countries have seen recent moves to simplify reporting requirements.

Respondents also commented that the HSE UK criteria distinguishes between onshore and offshore releases, whether the release is indoors or in the open air and use 'potential' or 'results in the taking of action to prevent or limit fire or explosion' as a measure of potential consequence and that the CER may wish to consider a similar approach.

Respondents stated that the value of 100 litres does not align with any of the threshold values quoted in Table 3 of the draft Compliance Assurance System Guidelines (ref CER 13/167).

Uncontrolled releases – other

Respondents proposed that as the CER's remit is in relation to 'petroleum', the term

'hydrocarbon' paragraphs (ii) and (iii) of the definition of prescribed occurrence should be changed to 'petroleum.'

In relation to paragraph (iv) of the definition of prescribed occurrence, "*Uncontrolled release of non-hydrocarbon hazardous substances*", respondents stated that it is not clear that the CER has the remit to require reporting of non-hydrocarbon hazardous substances. It was also stated that there is no quantification in relation to this requirement. A respondent suggested the requirement be removed from the regulations.

One respondent recommended that 'irritant' and 'harmful' be excluded from the definition of "Hazardous substances" in the regulations. The definition of "Hazardous substances" would then more accurately reflect the reduced level of risk of a broad range of substances that are classed under these 2 categories.

Other

In relation to paragraph (v) of the definition of prescribed occurrence, "*Loss of mooring, stability or buoyancy of a vessel, or loss of position of a dynamically positioned vessel*", respondents proposed that the text 'where it has the potential to impact on petroleum infrastructure' should be added to the end of the sentence.

Respondents requested clarification on the text '*to remain on location*' in relation to paragraph (ix) of the definition of prescribed occurrence, "*Inability of the stand-by vessel to remain on location*".

In relation to paragraph (xii) of the definition of prescribed occurrence, "*An event or occurrence which results in mustering on an offshore site, other than when resulting from planned drills*", respondents proposed the text "*or false alarms*" is added.

Respondents stated that the word "*uncontrolled*" should be defined more precisely when related to fires and explosions as per paragraph (i) of the definition of prescribed occurrence "*Uncontrolled fire or explosion*". Respondents suggested the CER review its approach with consideration for other reporting regimes such as that of the Health and Safety Authority (HSA) (through Schedule 12 of the 1993 Regulations) and the UK *Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013*, (S.I. 1471 of 2013, "RIDDOR", which requires consideration of the consequences rather than a purely prescriptive scenario.

Respondents requested clarification on what is reportable under paragraph (vii) of the definition of prescribed occurrence "*Any collapse of any petroleum infrastructure or 'any part' thereof*".

Respondents requested clarification on what is reportable under 3 paragraph (xi) of the definition of prescribed occurrence, "*Any instance of a person falling into water*".

2.1.2 CER Response

In relation to the definition of a "well control event":

The points listed under the definition of ‘well control event’ are appropriate as reportable petroleum incidents and align with the reportable incidents associated with ‘wells’ under RIDDOR³. That said the CER accepts that the terminology ‘well control event’ used in the Consultation Paper does not fully align with the points listed below the term. This has been addressed in the final Regulations where these points have been included within the revised definition of ‘prescribed occurrence’.

The CER has, for clarity of drafting, updated the text “*The mechanical failure of any safety critical element of a well whose failure would cause or contribute to, or whose purpose is to prevent or limit the effect of the unintentional release of fluids from the associated well or reservoir*” to “*failure of any equipment associated with a well being worked on whose purpose is to prevent or limit the effect of the unintentional release of fluids from the associated well or reservoir, or whose failure would cause or contribute to such a release*”. Following consideration of respondents’ comments, the CER does not consider it appropriate to limit the scope of this petroleum incident. The inclusion of this type of failure as a reportable incident reflects the potential for a serious incident to result from a failure of such equipment where a well is being worked on.

The CER has updated the point: ‘*Any event associated with a well that results in activation of the blow-out prevention or diversion system*’ to “*Activation of a blow-out prevention or diversion system, or activation of any other emergency shutdown device, in each case to provide well control*” with the latter section of text ‘*to provide well control*’ included to reflect respondent comments. The updated text also addresses well control incidents that are controlled in a different emergency manner.

The point ‘*Any uncontrolled release from a well*’ has been removed from the Regulations as such occurrences are already captured under (e) of the definition of petroleum incident (an event or occurrence that results in the failure or malfunction of plant and equipment used as part of or in a manner closely associated with petroleum infrastructure).

In relation to the definition of a “prescribed occurrence”:

Responses in relation to the prescribed occurrences are addressed below. In making Regulations, the CER had regard to the requirements of Section 13V of the Act.

Uncontrolled releases – thresholds

Following consideration of all respondent comments relating to the uncontrolled releases of hydrocarbon vapour or liquid, the CER has set out in the Regulations that releases are notifiable where they could have resulted in a fatality or a serious injury. Moreover the Guidance provides for additional categorisation of such emissions when reporting petroleum

³ Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013, 1471 of 2013. The text in the Consultation Paper aligns with the previous version which was current at the time of the Consultation Paper development.

incidents as per the following Table 1:

Table 1: Guidance for uncontrolled liquid and gas petroleum releases

<p>An uncontrolled release of petroleum gas that could have resulted in a fatality or a serious injury</p>	<p>Serious injury is defined in the <i>Petroleum Safety (Petroleum Incident) Regulations 2014</i>.</p> <p>This class of incident includes events or occurrences in, at, or in the precincts of petroleum infrastructure which might have resulted in death, whether immediate or delayed (within one year), or a confirmed missing person.</p> <p>Petroleum gas releases must be categorised as either:</p> <ul style="list-style-type: none"> • Major (≥ 300 kg); • Significant (≥ 1 kg and < 300 kg); or • Minor (0.1 kg and < 1 kg). <p>All incidents that could have resulted in a fatality or a serious injury are notifiable. The CER expects that a petroleum gas release at a rate in excess of 3 kg/hour is likely to be notifiable on the basis that it would usually be capable of giving rise to a serious injury.</p>
<p>An uncontrolled release of petroleum liquid that could have resulted in a fatality or a serious injury</p>	<p>Serious injury is defined in the <i>Petroleum Safety (Petroleum Incident) Regulations 2014</i>.</p> <p>This class of incident includes events or occurrences in, at, or in the precincts of petroleum infrastructure which might have resulted in death, whether immediate or delayed (within one year), or a confirmed missing person.</p> <p>Petroleum liquid releases must be categorised as either:</p> <ul style="list-style-type: none"> • Major (≥ 300 litres); • Significant (≥ 60 litres and < 300 litres); or • Minor (≥ 5 litres and < 60 litres). <p>All incidents that could have resulted in a fatality or a serious injury are notifiable. The CER expects that a petroleum liquid release at a rate in excess of 100 litres/hour is likely to be notifiable on the basis that it would usually be capable of giving rise to a serious injury.</p>

The above thresholds were developed having regard to information gained from the international review of reporting requirements⁴ for petroleum incidents. While variations exist internationally, the CER is of the view that this represents international best practice and is appropriate for the Framework.

Uncontrolled releases – other

In relation to the respondent comment concerning consistency with the requirements of the

⁴ Information on the review is provided in the Petroleum Incident Regulations Consultation Paper, CER 13187

Compliance Assurance System, the thresholds specified in the Guidance correspond to the performance reporting element in the Compliance Assurance System.⁵

In relation to paragraphs (ii) and (iii) of the definition of prescribed occurrence, the Regulations now reference 'petroleum'.

The CER is of the view that hazards created by non-hydrocarbon hazardous substances are firmly within its remit. Moreover the CER is of the view that the uncontrolled release of such substances in, at or in the precincts of petroleum infrastructure may materially increase the risk of loss of human life, personal injury or damage to property the ownership of which is held by a person other than the petroleum undertaking concerned. As such, the CER is satisfied that such an event or occurrence should be reportable.

The definition of hazardous substance is clarified in the Regulations. It has been updated to align with HSE UK guidance. The corresponding paragraph (iv) has been updated to '*an uncontrolled release of a non-petroleum hazardous substance that could have resulted in a fatality or a serious injury*'. The CER is satisfied that the range of hazardous substances as defined should be reportable where an uncontrolled release of same could have resulted in a fatality or a serious injury.

Other

Guidance has been provided in relation to paragraph (v) of the draft Regulations ("*Loss of mooring, stability or buoyancy of a vessel, or loss of position of a dynamically positioned vessel*"), which states that any instance of a loss of mooring, stability or buoyancy are required to be notified to the CER.⁶ It is the CER view that all such losses, in, at or in the precincts of petroleum infrastructure have the potential to impact petroleum infrastructure as proposed by the respondent.

Paragraph (ix) of the draft Regulations, "*Inability of the stand-by vessel to remain on location*", has been updated to '*Any instance of a stand-by vessel not being able to be in a position to provide rescue to persons on offshore petroleum infrastructure*'. The availability of stand-by vessels is essential to maintain risks to safety at a level that is ALARP. The non-availability of such vessels (even for a limited amount of time) may materially increase the risk of loss of life or personal injury. As such the absence of a stand-by vehicle is notifiable.

False alarms have not been excluded from paragraph (xii) of the definition of prescribed occurrence, ("*An event or occurrence which results in mustering on an offshore site, other than when resulting from planned drills*"). False alarms may indicate another issue, that is not possible to define well in regulation.

In relation to paragraph (i) of the definition of prescribed occurrence ("*Uncontrolled fire or explosion*"), the CER is of the opinion that an 'uncontrolled' in relation to a fire or explosion is

⁵ CER/13/254 Compliance Assurance System Decision Paper

a commonly understood term and such events are commonly required to be reported internationally. The Guidance further clarifies that this applies in cases where the fire is subsequently brought under control after any period of time by emergency action. Intentional fires (e.g. flaring) are not notifiable, insofar as they are controlled, but will be notifiable where a failure in a system occurs such that the flare (fire) becomes uncontrolled.

With regard for respondent comments in respect of paragraph (vii) of the definition of prescribed occurrence (“*Any collapse of any petroleum infrastructure or ‘any part’ thereof*”), the provision has been replaced with the following: ‘*The collapse, overturning, or failure of any load-bearing part of any lift, hoist, crane, or derrick*’. This aligns, in so far as is appropriate for petroleum infrastructure, with HSA reporting requirements.

“*Any instance of a person falling into water*” has been amended to ‘*A person falling into the sea*’ to provide clarity as to the CER’s view that this event or circumstance may materially increase the risk of loss of life or personal injury.

The list of prescribed occurrences in the Regulations have been developed, as required, with regard for section 13V of the Act which states that the CER may make regulations ‘*prescribing a class of event or occurrence...which in the opinion of the Commission may materially increase the risk of an event or occurrence referred to in section 13U...*’ where 13U refers to incidents which:

- a) result in the loss of human life;
- b) results in personal injury being suffered by a person;
- c) result in damage to property the ownership of which is held by a person other than the petroleum undertaking.

2.2 Consultation Question 2

Respondent comments were requested on the specific text of the Regulations

2.2.1 Summary of responses

Respondents requested the definition of petroleum incidents from Section 13A(1) of the Act to be included in the Regulation text for clarity.

Respondents recommended that the following, from section 13U of the Act, should be included in the definition of a prescribed occurrence;

- a) *Loss of human life*
- b) *Personal injury being suffered by a person, or*
- c) *Damage to property, the ownership of which is held by a person other than the petroleum undertaking concerned.*

Respondents requested clarification on whether paragraph (e) of the definition of petroleum incident in section 13A of the Act, “*Results in a failure or malfunction of plant or equipment used as part of or in a manner closely associated with petroleum infrastructure*”, refers to the failure or malfunction of safety critical elements.

One respondent stated that the Department of Communication, Energy and Natural Resources Rules and Procedures Manuals should be updated to remove any overlap with the reporting requirements for petroleum undertakings.

2.2.2 CER Response

The Regulations do not include the definition of petroleum incident from section 13A of the Act as the Regulations have been developed to prescribe only the *additional* classes of event or occurrence for the purposes of defining a petroleum incident, albeit it is acknowledged that certain events or occurrences could fall within more than one limb of the definition of petroleum incident.

The list prescribed as an event or occurrence under ‘prescribed occurrence’ in the regulations comprises events or occurrences that in the opinion of the CER may materially increase the risk of:

- a) Loss of human life*
- b) Personal injury being suffered by a person, or*
- c) Damage to property, the ownership of which is held by a person other than the petroleum undertaking concerned.*

Therefore the proposal to explicitly include the points from section 13U in the definition of a prescribed occurrence is not required.

The Guidance document provides the CER view on what is reportable under paragraph (e) of the definition of petroleum incident in section 13A of the Act.

The reporting requirements to the CER are set out in the Act and the Petroleum Incident Regulations. The CER will continue to engage with the relevant statutory agencies to avoid duplication of reporting where possible.

2.3 Consultation Question 3

Respondent comments were requested on the form to be used by petroleum undertakings to notify the CER of a petroleum incidents and the information to be included therewith.

This section includes points made by respondents in relation to the definition of petroleum incident under section 13A of the Act.

2.3.1 Summary of responses

Respondents commented on the April 2012 changes to the UK reporting system, RIDDOR, which changed the reporting requirements from over three days to over seven days. Respondents also requested that the CER should review point B(3) “*Worker – absence from work not exceeding 3 days—*”.

Respondents suggested that the text '*excluding the day of the injury but including any days which would not have been working days*' should be added to incident classification: 'B(1) Personal injury Worker', to align with the requirements of 1993 Regulations.

Respondents commented that incident classification C '*Damage to structural integrity of petroleum infrastructure*': is very vague and gives no guidance as to the parts of the petroleum infrastructure which are of concern, or the degree of structural damage required before reporting. Respondents recommended that the classification be removed as classification D '*Compromise of structural integrity of petroleum infrastructure*' is more appropriate. The criterion for reporting this type of incident needs additional clarification, as the current statement is very vague and wide-ranging. Respondents also stated that the definition of failure should require consideration of the consequences, reflecting the scale of the incident in the context of level of risk. Respondents also commented that damage to structural integrity may not necessarily cause a material increase in risk unless there is compromise of the structural integrity.

Respondents commented that the incident classification E '*Failure or malfunction of plant and equipment*' is extremely vague and wide ranging and requires significant clarification. Respondents also stated that the definition of failure should require consideration of the consequences, reflecting the scale of the incident in the context of level of risk.

Respondents suggested that the CER should follow the established process of "Dangerous Occurrences" as reported to the HSA in Schedule 12 of the 1993 Regulations.

2.3.2 CER Response

It should be noted that the form for notifying the CER of a petroleum incident will no longer be set out in Regulation. The form will be available for download on the Petroleum Safety section of the CER website.

Petroleum undertakings are required to comply with the reporting requirements of the Act for petroleum incidents, as defined under section 13A of the Act. The CER may not amend the provisions of the Act in these Regulations.

Following consideration of respondent comments, in order to assist petroleum undertakings in the discharge of their duties under the Act, the CER will publish a *Guidance for Notification of Petroleum Incidents* document, which sets out the CER view in relation to events and occurrences which may be petroleum incidents. This Guidance document is not a substitute for the Act or the Regulations and petroleum undertakings will be required to comply with the Act and the Regulations in all cases.

In relation to the adoption of the existing established reporting requirements under Schedule 12 of the 1993 Regulations, "Dangerous Occurrences", the CER considers that list of reportable incidents under "dangerous occurrences" is not sufficiently specific to petroleum activities.

2.4 General Comments

2.4.1 Summary of general comments

Respondents stated they are concerned that the proposed reporting requirements are inconsistent with, and more onerous than those currently required by the HSA. Respondents stated that the reporting requirements nationally should be aligned so that the CER can avoid duplication with the other agencies, as required by the Act, and achieve its objectives of 'avoiding regulatory burden' and 'delivering a consistent regulatory system in Ireland for petroleum activities' as stated in the High Level Design. Respondents proposed that the CER carry out a Regulatory Impact Assessment prior to introducing these reporting requirements.

Respondents stated their concern that the reporting requirements of these draft regulations are significantly more demanding than those required under current Irish legislation. Respondents commented that the reporting in respect of petroleum incidents resulting in personal injury would lead to a two tier system of reporting by industry and inconsistency of reporting requirements nationally with the HSA, with the CER having more stringent requirements. Respondents requested clarification on why the CER required this information.

Respondents suggested aligning reporting requirements for hydrocarbon release thresholds with those required under Seveso to ensure consistency on a national basis. Respondents also suggested consideration be given to using the reporting criteria as outlined in API754 '*Process Safety Performance Indicators for the Refining and Petrochemical Industries*' 2010, which are more appropriate for the reporting of uncontrolled releases of hydrocarbon vapours, hydrocarbon and non-hydrocarbon liquids.

Respondents stated that the use of the word "purported" in the following statement "*CER shall be entitled to rely on any notification purported to be made on behalf of a petroleum undertaking*" (ref. Section 3.1) is extremely vague and stated that the CER should verify any notifications.

2.4.2 CER Response

Petroleum undertakings are required to comply with the petroleum incident reporting requirements of the Act under section 13S of the Act. The CER has endeavoured, where possible and appropriate, to align with existing reporting requirements in the development of the Regulations. However, the definition of petroleum incidents is, for the most part, prescribed by the Act.

The Petroleum Incident Regulations have been developed following a review of international reporting requirements. The 'prescribed occurrences' in the Regulations reflect international norms where appropriate, and in the opinion of the CER are appropriate and do not impose a disproportionate regulatory burden on petroleum undertaking in Ireland versus other countries.

The points under 'prescribed occurrences' relating to hydrocarbon releases have been updated with regard for all respondent comments relating to this issue.

The CER notes the comment concerning verification of notifications. CER remains of the view that it shall be entitled to rely on notifications which appear, on their face to be made on behalf of a petroleum undertaking. CER notes that where a notification is made which purports to be on behalf of a petroleum undertaking and (1) a petroleum incident did not in fact occur or (2) two notifications are received in respect of the same incident, the CER will investigate and seek to reconcile the reports. However CER considers that any formal 'verification procedure' might otherwise impose an unnecessary burden on persons to demonstrate their authority to report on behalf of a petroleum undertaking. Given the requirement for timely notification, the CER considers that a presumption of proper notification is not unreasonable.

3. Petroleum Incident Regulations

S.I. No. 4 of 2014

PETROLEUM SAFETY (PETROLEUM INCIDENT) REGULATIONS 2014

The Commission for Energy Regulation in exercise of the powers conferred on it by Section 13V of the Electricity Regulation Act 1999 (as inserted by Section 3(c) of the Petroleum (Exploration and Extraction) Safety Act 2010) (No. 4 of 2010), hereby makes the following regulations:

Citation

1. These Regulations may be cited as the Petroleum Safety (Petroleum Incident) Regulations 2014.

Commencement

2. These Regulations shall come into operation on 13th January 2014.

Interpretation

3. (1) In these Regulations, unless the context otherwise requires—

“Act of 1999” means the Electricity Regulation Act 1999 (No. 23 of 1999), as amended;

“hazardous substance” means a substance or a mixture fulfilling the criteria relating to physical hazards, health hazards or environmental hazards, laid down in Parts 2 to 5 of Annex I of Regulation 1272/2008 as amended from time to time, including prior to the date of these Regulations⁷

“prescribed occurrence” means, in connection with the carrying on of a designated petroleum activity:

- i. an uncontrolled fire or explosion;

⁷ Official Journal L 353, 31/12/2008 p. 1

- ii. an uncontrolled release of petroleum gas that could have resulted in a fatality or a serious injury;
- iii. an uncontrolled release of petroleum liquid that could have resulted in a fatality or a serious injury;
- iv. an uncontrolled release of a non-petroleum hazardous substance that could have resulted in a fatality or a serious injury;
- v. loss of mooring, stability or buoyancy of a vessel;
- vi. a collision by a vessel, vehicle, crane, helicopter or aircraft with any petroleum infrastructure;
- vii. an instance of a stand-by vessel not being in a position to provide rescue to persons on offshore petroleum infrastructure;
- viii. a person falling into the sea;
- ix. mustering on onshore or offshore petroleum infrastructure, other than for planned drills;
- x. evacuation of onshore or offshore petroleum infrastructure, other than for planned drills;
- xi. activation of a blow-out prevention or diversion system, or activation of any other emergency shutdown device, in each case to provide well control;
- xii. a positive flow indication from a well as a result of an unplanned fluid influx;
- xiii. the detection of hydrogen sulfide in the course of operations at a well or in samples of well-fluids from a well where the presence of hydrogen sulfide in the reservoir being drawn on by the well was not anticipated;
- xiv. failure to maintain a planned minimum separation distance between two or more wells;
- xv. the collapse, overturning, or failure of any load-bearing part of any lift, hoist, crane, or derrick;
- xvi. failure of any equipment associated with a well being worked on whose purpose is to prevent or limit the effect of the unintentional release of fluids from the associated well or reservoir, or whose failure would cause or contribute to such a release;
- xvii. any incident that leads to third party property damage outside the boundary fence of the relevant onshore petroleum infrastructure or within 500 metres of the relevant offshore petroleum infrastructure; or
- xviii. the dropping of an object that could have resulted in an outcome specified in (a) to (e) of the definition of petroleum incident contained in section 13A(1) of the Act

of 1999 or could have resulted in an occurrence specified in (i) to (xvii) of the definition of prescribed occurrence under these Regulations.

“serious injury” means :

- (a) 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 non-working days); or
- (b) any injury to a person that requires admittance to a hospital for more than 24 hours.

‘Third party property’ means property other than property in the ownership of the petroleum undertaking(s) concerned, or of contractors or subcontractors to that petroleum undertaking that are carrying out work in connection with a designated petroleum activity.

(2) In these Regulations —

(a) a word or expression that is used in these Regulations and is also used in the Act of 1999 has, unless the contrary intention appears, the same meaning in these Regulations as it has in the Act of 1999.

(b) where a word or expression is given a meaning in the Act of 1999 or in these Regulations then, except where the context otherwise requires, any cognate word or expression used in these Regulations shall be construed accordingly.

(c) a reference to an article or schedule is to an Article of, or Schedule to, these Regulations, unless it is indicated that reference to some other provision is intended, and

(d) a reference to a paragraph is a reference to a paragraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended.

Prescription of Classes of Event or Occurrence

4. Any event or occurrence which is a prescribed occurrence is prescribed as an event or occurrence for the purposes of paragraph (f) of the definition of petroleum incident contained in section 13A(1) of the Act of 1999.

Form of Notification of Petroleum Incidents

5. A petroleum undertaking(s) shall notify the Commission of a petroleum incident in writing.
6. In addition to complying with Regulation 5, in the case of a petroleum incident resulting in the loss of a human life, or as a result of which persons are missing, the petroleum undertaking(s) shall supply the Commission by the quickest practicable means with the name of the deceased or missing person(s), brief particulars and the location of the petroleum incident.

Sealed with the common seal of the Commission for Energy Regulation on the 13th January 2014.

Dermot Nolan

Chairperson of the Commission