

26 September 2013

The Commission for Energy Regulation,  
The Exchange,  
Belgard Square North,  
Tallaght,  
Dublin 24.

Attn: Ms. Roisín Cullinan

Re: **CER Consultation Paper 13/187 – Petroleum Incident Regulations**

Dear Ms. Cullinan,

IOOA has reviewed the recently published Petroleum Incident Regulations Consultation Paper, CER/13/187 and has a number of detailed responses as given below. At the outset, we wish to state that we are concerned with the level of proposed changes from existing reporting requirements prescribed under current Irish legislation.

Our comments in relation to the latest document are given below.

**1. Consultation Paper**

- 1 Section 13U of the PEES Act qualifies the reporting of a petroleum incident to those which may materially increase the risk of the following events occurring;
- 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.*

We recommend that the qualifications listed in a), b) and c) above are included in the definition of a “prescribed occurrence” within the regulations.

- 2 The reporting requirements of these draft regulations are significantly more demanding than those required under current Irish legislation. The HSA operates a well-established system of reporting occupational injuries under the Safety, Health & Welfare at Work (General Applications) Regulations, 1993. Similarly Schedules 7 & 8 of the Seveso Regulations (SI74 of 2006) clearly sets out criteria for notification of incidents to the Competent Authorities. Implementation of these draft regulations would lead to a 2 tier system of reporting by industry in Ireland, and inconsistency of reporting requirements nationally.
- 3 We are concerned about the wording “CER shall be entitled to rely on any notification purported to be made on behalf of a petroleum undertaking” (ref. Section 3.1). The use of the word “purported” in this context is extremely vague – surely CER must seek some form of verification/confirmation before acting on any notification?

## 2. Draft Regulations

### Interpretation

“Prescribed Occurrence”: 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. We recommend inclusion of qualifying text from Section 13U-(1) of the PEES Act, as outlined in comment 1 above.

It would be helpful if the term ‘uncontrolled’ was defined in relation to each of the prescribed occurrences.

### Section 3(1) ii. “Uncontrolled release of hydrocarbon vapour exceeding 1kg”.

It is not clear why a value of 1kg of gas released is chosen as the threshold for a prescribed occurrence. It is important that the timeframe of the release is specified and that fugitive emissions are excluded. Please provide clarification.

### Section 3(1)iii. “Uncontrolled release of hydrocarbon liquids exceeding 100 litres”.

It is not clear why a value of 100 litres of liquid released is chosen as the threshold for a prescribed occurrence. The current wording does not take into consideration the properties of different hydrocarbon liquids. For comparison the Seveso Regulations and API754 2010 (Process Safety Performance Indicators for the Refining and Petrochemical Industries) set threshold quantities for reporting based on the hazardous properties of releases.

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).

It is understood that the CER’s remit is in relation to ‘petroleum’ therefore we would propose that the term ‘hydrocarbon’ in these points is changed to ‘petroleum.’

### Section 3(1)iv: “Uncontrolled release of non-hydrocarbon hazardous substances”.

It is not clear that the CER has the remit to require reporting of non-hydrocarbon hazardous substances. Also, there is no quantification in relation to this requirement, so it could encompass minor volumes of e.g. lab chemicals, cleaning fluid, etc.

We recommend 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.

### Section 3(1)v: “Loss of mooring, stability or buoyancy of a vessel, or loss of position of a dynamically positioned vessel”.

The text ‘where it has the potential to impact on petroleum infrastructure’ should be added to the end of the sentence.

### Section 3(1)ix: “Inability of the stand-by vessel to remain on location”.

For the purpose of this regulation, the text ‘to remain on location’ requires clarification.

There may be occasions, for example during adverse weather conditions, that the Standby vessel would move off location for the purposes of reducing the risk to the Standby vessel and its personnel. This is currently defined as a petroleum incident that requires reporting to the CER. However allowing the vessel take shelter decreases the risk of 13(U)-1(c) of the Act (criteria c: “Damage to property, the ownership of which is held by a person other than the petroleum undertaking concerned”) from occurring. We recommend that qualifying criteria be provided for prescribed occurrence 3(1)ix.

Section 3(1) xii: "An event or occurrence which results in mustering on an offshore site, other than when resulting from planned drills".

We would suggest that the text 'or false alarms' is added to the end of this point.

"Well control event" means:

*"(vi) 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".*

It is our view that this text should be replaced by the following: '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.'

### **3. Petroleum Incident Notification Form**

Incident Classifications B(1), B(2) and B(3) specify reporting of personal injuries- the HSA already have a well-established system of reporting occupational injuries under the SH&W@Work (General Applications) Regulations, 1993 (SI 44/1993). Please provide clarification why the CER consider it necessary to have different and more stringent criteria than those of the HSA.

Incident Classification C '*Damage to structural integrity of petroleum infrastructure*': This is a very vague statement, and gives no guidance as to the parts of the petroleum infrastructure are of concern, or the degree of structural damage required before reporting. Damage to structural integrity may not necessarily cause a material increase in risk unless there is a compromise of the structural integrity. We recommend that this classification be removed as classification D '*Compromise of structural integrity of petroleum infrastructure*' is more appropriate.

Incident Classification E "Failure or malfunction of plant and equipment": This is an extremely vague and wide ranging statement and requires significant clarification. The reporting of 'Dangerous Occurrences' to the HSA is clearly specified in Schedule 12 of SI44 of 1993 and includes the failure of equipment. We suggest that the CER should use this well established process, which would provide consistency in reporting to the different agencies.

IOOA has previously expressed concern that the CER, in implementing the PSF, is duplicating reporting requirements and/or varying from established standards used by other regulatory agencies. The proposed Petroleum Incident Regulations appear to increase this trend, without any clear technical justification. We note in particular that CER now proposes duplicate reporting of occupational injuries, with different reporting metrics, when the HSA already has a functioning system for all industries operating in Ireland – surely both agencies can use the same statistics? We also query why the CER proposes to establish hydrocarbon release thresholds which vary significantly from those established under the Seveso regulations and we suggest that it would far be more helpful if reporting requirements for hazardous substances were consistent on a national basis.

IOOA confirm that they would like to meet with CER to discuss these points further.

Yours sincerely,  
For IOOA  
FB Cahill, Chair

