

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

Attention: Mr. Eamonn Murtagh (Project Manager – Petroleum Safety Framework)

Our Ref: COR-01-SH-GE-1674

26th September 2011

**Re: CER/11/137 - Consultation Paper on the High Level Design of the
Petroleum Safety Framework**

Dear Mr Murtagh,

Shell E&P Ireland Limited (SEPIL) welcomes the opportunity to comment on the proposed design of the Petroleum Safety Framework. The International Review Report¹ and the Status Analysis Review² were of great assistance as reference documents in drafting our comments. We support the goal setting approach outlined in the consultation paper to achieve ALARP risk levels.

We outline below our main comments on the key elements of the framework. We have used the numbering system adopted in the consultation paper.

Our detailed comments regarding the consultation questions can be found in the attachment to this letter.

6 ALARP

SEPIL notes that there is no direct mention of qualitative risk assessment in the ALARP section of the document. This is a technique used extensively by SEPIL and we are of the opinion that it merits inclusion as a possible technique for demonstrating achievement of ALARP.

As illustrated in Figure 1, qualitative risk assessment involves identifying hazards, assessing the risks and identifying measures which could reduce the risks, without the use of elaborate numerical models. For each potential event that may go wrong, the risk is

¹ International Review Report is the terminology used in the Framework for GL Noble Denton's 'Review and Comparison of Petroleum Safety Regulatory Regimes' and is used throughout our cover letter and detailed comments.

² Status Analysis Review is the terminology used in the Framework for the CER's 'Status Analysis Review of the Existing Legislative and Regulatory System for Petroleum Exploration and Extraction in Ireland' and is used throughout our cover letter and detailed comments.

assessed using a matrix to enable the potential likelihood and consequence severity to be judged and, from this, the risk is classed as 'high', 'medium' or 'low'. The objectives of a qualitative risk assessment are to ensure that all of the risks are known and assessed, are effectively managed and that suitable and sufficient control measures are in place such that the risks are reduced to ALARP levels. This is very similar to the process described in section '6.1.6 Risk Management' in the consultation paper; however there is no direct reference to qualitative risk assessment there.

Regarding its role in ALARP demonstration, we propose that an initial qualitative ranking of risk (prior to QRA of the most significant risks) should be described in Section 6.3 of the consultation paper. The role of qualitative risk assessment is illustrated in Figures 1 and 2 attached to this letter. Qualitative risk assessment is referenced in the International Review Report (i.e. in Canadian (Nova Scotia) Safety Plan Guidelines and in UKOOA's ALARP guidance in the UK) as being one of a number of means through which ALARP can be demonstrated.

The UK HSE also refers to the role of qualitative risk assessment in its Guidance on ALARP Decisions in COMAH and this is shown in Figure 3 attached to this letter.

We recognise that the CER may include qualitative risk assessment in its more detailed ALARP demonstration or Safety Case Guidelines documents; however we believe that it is such a key part of a Safety Case and an ALARP demonstration that it should be referred to in section '6.1.6 Risk Management' and included as one of the risk based analysis methods in section '6.3 Demonstrating ALARP'.

7 Permissioning and Designated Petroleum Activities

SEPIL is of the opinion that a consultation phase prior to submission of a Well Design Safety Case would be more effective and efficient than a Provisional Well Design Safety Case approval process (as described in section 7.3.2.2).

By definition, neither the petroleum undertaking nor the regulator will be in a position to approve the provisional version as it will not be complete. A single Well Design Safety Case is, we believe, sufficient and will address all design issues regarding the well. In practice, all 'provisional' items are working documents and should not be part of the CER's Safety Case approval process.

Similarly, it is our opinion that consultation and dialogue during the concept selection phase would be more appropriate and efficient than the submission for approval of a Concept Safety Case in order to obtain a Pre-Construction Safety Permit (see section 7.3.3.1). In order to meet the requirements of the CER and other regulators, e.g. An Bord Pleanála, DCENR, etc., we believe that submission for approval of a Design Safety Case to obtain a Pre-Construction Permit would be more appropriate. More detailed information would be available for inclusion in the Design Safety Case and a clear explanation could be given regarding the concept selection process.

Consultation with the CER would be an important input into the decision making process during the concept selection phase. It is also easier to table alternatives outside of a formal permitting process, thereby achieving better outcomes.

It is essential that, as proposed in section 7.5, the CER seeks to co-ordinate the issuance of safety permits with other regulatory processes and regulators. We would welcome the development of a permissioning process map in conjunction with other relevant regulators, e.g. An Bord Pleanála, DCENR, HSA, etc., so that there is clarity regarding roles and responsibilities, sequencing, interfaces and the management of overlaps. The map should also identify any ‘memorandum of understanding’ requirements to ensure efficient working between regulators. It is important that the CER’s requirements align, as far as possible, with those of other regulators who have jurisdiction over the safety of the same infrastructure, e.g. HSA regarding COMAH sites. In order to prevent duplication, in the situation that a petroleum undertaking is required to submit a Safety Report to the HSA (under the COMAH regulations) and a Safety Case to the CER, we recommend that the same report satisfies both regulators.

10 Agreed Regulatory Interfaces and Co-operation

We support the CER’s objectives to avoid unnecessary duplication and regulatory burden, and to facilitate co-operation and assistance between the various authorities and the delivery of a consistent regulatory system. We fully agree with the statement in the CER’s Status Analysis Review regarding the establishment of clear lines of jurisdiction and responsibility between the relevant regulatory authorities to minimise and effectively manage the overlaps identified.

In our view, the key interfaces will be with the HSA, An Bord Pleanála and the DCENR. In particular, there will be a significant interface and overlap with the HSA in terms of major accident hazards in relation to its remit under the COMAH regulations. We agree with the statement in the Status Analysis Review:

“The broad management of interactions is likely to take the form of Memoranda of Understanding. However, where the number of interfaces is complex, such as between the CER and HSA with respect to safety, there may be benefit in the additional development of detailed procedures for the two authorities. The CER will engage with all such statutory authorities as required, to manage such interfaces in order for all parties to have a clear understanding of their respective roles.”

There is clearly an opportunity in relation to documentation review, audit and inspection activities to co-ordinate activities with other agencies, e.g. HSA.

Corrib facilities

SEPIL is interested in the specific application of the Permissioning, Audit and Inspection (and possibly Verification) activities to a development like Corrib that is already in progress. It is our understanding that the CER’s permissioning system will apply forward from the point that the relevant sections of the PEES Act are commenced. It would be helpful if there was clarity about how the transfer of safety responsibility from the DCENR to the CER will be managed.

Regarding Audit and Inspection activities, and as required by the Corrib Plan of Development approval, we have implemented a system of independent third party verification for the entire Corrib development including subsea facilities, pipelines and the gas terminal. The verification scheme includes a combination of document reviews, simplified or advanced independent

analysis, audits, inspections and quality control, and witnessing of tests. The verification approach is similar to that proposed by the CER and requires the identification of Safety Critical Elements (SCEs) within systems and the preparation of Performance Standards (PSs) for each SCE. For the Corrib facilities, clarity is required regarding the CER's approach to, and acceptance of, the current verification work.

Discussion of submission

Regarding the opportunity to discuss this submission with the CER, we confirm that we wish to have a meeting with the CER between Monday October 3rd and Friday October 14th 2011 (as advised by the CER). We also welcome the opportunity to continue working with the CER as the Framework develops.

Please do not hesitate to contact me should you have any queries in relation to our comments.

Yours sincerely

Gerry Costello
Senior Project Management Adviser

Encl.
Figures 1, 2 and 3
CER questionnaire

Figure 1 Illustration of initial qualitative ranking of risk (prior to QRA of the most significant risks)

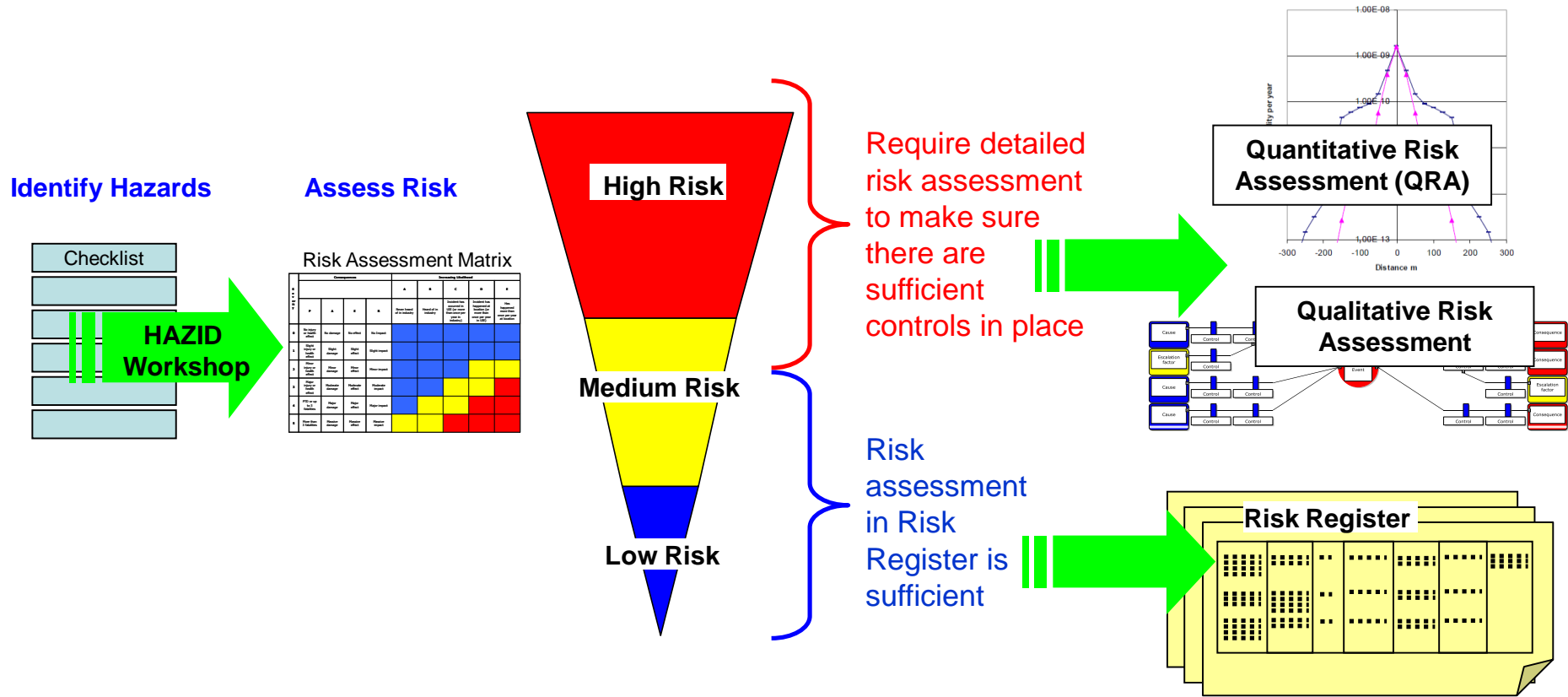


Figure 2 An ALARP assessment which starts with a qualitative approach before considering QRA/CBA

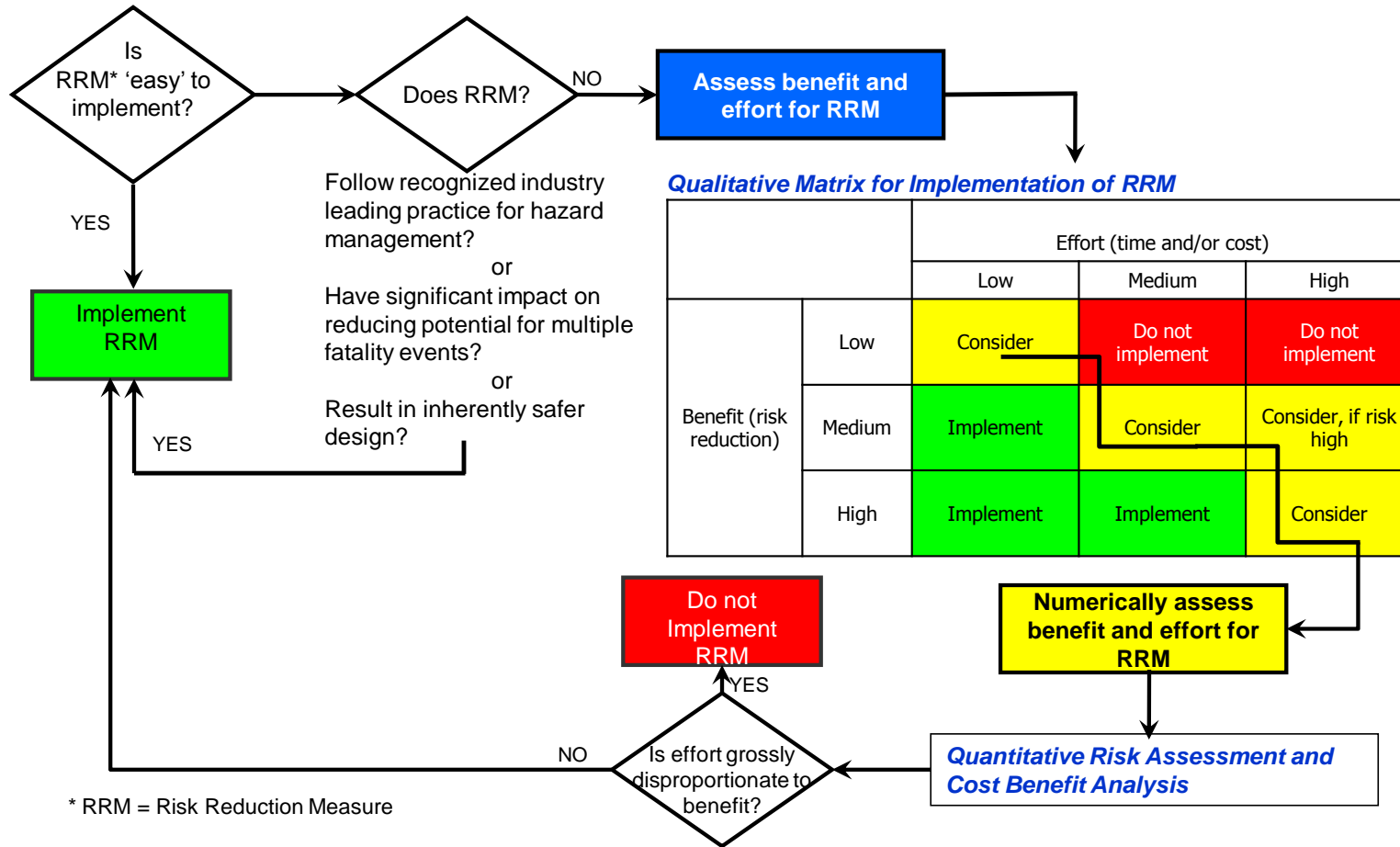
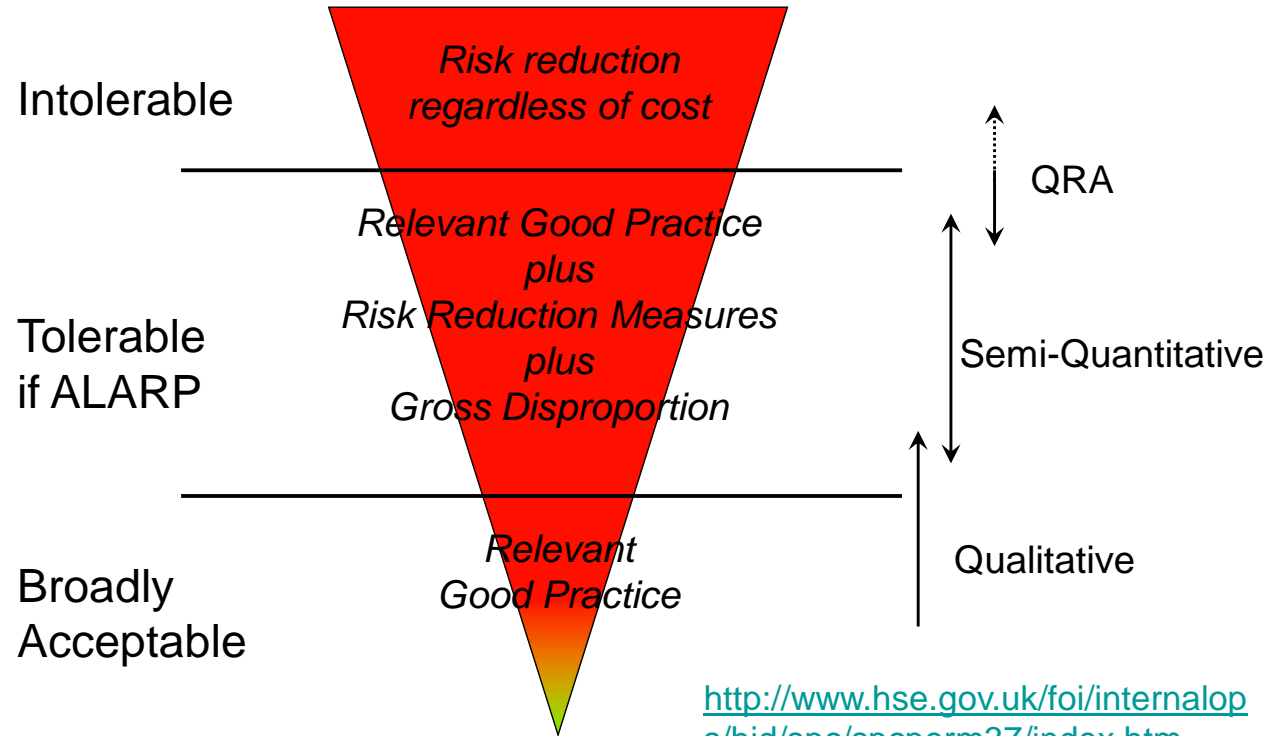


Figure 3

UK HSE's Guidance on ALARP Decisions in COMAH

ALARP Demonstration Proportional to Risk





Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

**Shell E&P Ireland Limited Responses to
Consultation Questions from the Consultation Paper
on the High Level Design of the Petroleum Safety
Framework**

Date: 26th Sept. 2011

DOCUMENT TYPE:	Consultation Paper Questionnaire
REFERENCE:	CER/11/137B
DATE PUBLISHED:	August 25 th 2011
RESPONSES TO:	Eamonn Murtagh

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The Exchange,
Belgard Square North,
Tallaght,
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Question/ Proposal		Do you agree?		Comments
		Yes	No	
Section 4. Proposed Scope & Components of the Framework				
1.	Please comment on the CER proposal to define the scope of the Petroleum Safety Framework to include all of the CER's functions under Part IIA of Act?	Yes		
2.	Please comment on the CER proposals to have a specific focus upon major accident hazards for the safety regulation of designated petroleum activities under Part IIA of the Act.	Yes		We agree with the CER proposals to have a specific focus upon major accident hazards. Regarding major accident hazards, under the PEES Act the CER's remit is the safety of the public, process safety and asset integrity. The HSA is the competent authority with respect to Control of Major Accident Hazards (COMAH) regulations and therefore it also has a public safety role via the provision of land use planning advice for COMAH sites. While process safety and asset integrity (part of the CER's remit) could impact on workplace safety, it is our view that occupational safety is solely within the HSA's remit.
3.	Do you agree with the proposed definition of major accident hazard, set out in section 3.2.2.3, in the context of the CER safety regulation of designated petroleum activities? Please comment.	Yes		In section 3.2.2.3, with regard to the definition of safety, in our view, the word 'danger' should be replaced with 'harm'. Regarding the definition of major accident hazard in section 3.2.2.3, we welcome the further clarification provided in section 6.1.2. This is helpful in terms of clarifying the scenarios which need to be included in the risk assessments, e.g. qualitative

Question/ Proposal		Do you agree?		Comments
		Yes	No	
				<p>(see comments regarding Q.13) or quantitative risk assessments.</p> <p>We note that there is a potential for an environmental impact from a major accident hazard. It is important that the interfaces between the DCENR, the CER and the Department of Transport are well understood in terms of handling environmental aspects and the follow up activities.</p>
4.	Do you agree with the CER's proposed approach to carry out its function to monitor compliance by petroleum undertakings' with their general duty in co-operation with other existing statutory authorities?	Yes		It is essential that there is co-operation with existing statutory authorities. We fully support the following statement in section 4.2 regarding co-operation and co-ordination: 'This approach is proposed in order to avoid unnecessary duplication of regulatory activities across the various aspects of safety of petroleum activities.'
5.	<p>Please comment on CER proposals for the main components of the Framework as:</p> <ul style="list-style-type: none"> a) A Statement of Strategic Intent; b) ALARP Demonstration Guidance; c) Agreed Interfaces, Co-operation & Co-ordination with Regulatory Authorities; d) A Permissioning System; e) A Compliance Assurance System; 	Yes		

Question/ Proposal		Do you agree?		Comments
		Yes	No	
	f) An Incident Investigation System; g) An Enforcement System; h) A Safety Reporting and Published Safety Information System; and i) A Continuous Improvement System.			
6.	Are there additional high level components which the CER should consider for inclusion within the Framework?		No	
Section 5: Strategic Intent of Petroleum Safety Framework				
7.	Do you agree that the proposed vision for the Framework should be: <i>A safe Irish petroleum exploration and extraction industry.</i>	Yes		
8.	Do you agree that the proposed mission statement for the Framework should be: <i>To independently regulate petroleum exploration and extraction activities to protect life.</i>	Yes		
9.	Please comment on the proposed five key roles of the CER under the Framework as follows: <ol style="list-style-type: none"> 1. <i>Foster and encourage safety in petroleum exploration and extraction activities;</i> 2. <i>Actively monitor & enforce compliance of petroleum undertakings with their obligations;</i> 3. <i>Promote a regulatory framework that encourages continuous</i> 	Yes		Regarding point 5 in this question, this should as far as possible align with Regulation 18 ('Information for the safety of the public') referred to in the Control of Major Accident Hazards (COMAH) regulations. With regard to Section 5.1.3, point 3 'Promote a regulatory framework that encourages continuous

Question/ Proposal		Do you agree?		Comments
		Yes	No	
	<p><i>improvement of safety;</i></p> <p>4. <i>Work with other authorities to achieve our vision; and</i></p> <p>5. <i>Provide safety information to the public.</i></p>			improvement of safety', this section could also include 'consultation with petroleum undertaking'. It is our understanding that the term 'good practice' has a similar meaning to that of the UK HSE, i.e. "good practice is the generic term for those standards for controlling risk which have been judged and recognised by HSE as satisfying the law when applied to a particular relevant case in an appropriate manner." (Ref. 'Assessing compliance with the law in individual cases and the use of good practice' (May 2003)).
10.	Are there additional CER roles which should be set out in defining the strategic intent of the Framework?		No	
11.	<p>Please comment on the proposed three regulatory goals for the Framework:</p> <p>1. <i>That petroleum undertakings reduce risks to safety to a level that is ALARP;</i></p> <p>2. <i>That petroleum undertakings achieve safety performance commensurate with the best internationally; and</i></p> <p>3. <i>Engender confidence that the regulatory framework is protecting the public.</i></p>	Yes		In point 2, we propose to change the wording to 'That petroleum undertakings achieve safety performance commensurate with levels in the European Union; and'
12.	Are there additional high level regulatory goals which should be set out in defining the strategic intent of the Framework?		No	

Question/ Proposal		Do you agree?		Comments
		Yes	No	
Section 6: ALARP				
13.	<p>Please comment on whether you consider the proposed basis of assessment that risk has been reduced to a level that is ALARP (as summarised in Figure 7) to be appropriate.</p>	Yes		<p>In general, we agree with the proposed basis of assessment. However we propose that section ‘6.1.6 Risk Management’ should directly reference the ‘elimination of risk’ and also Qualitative Risk Assessment. In our view, Qualitative Risk Assessment should also be described in a sub-section of ‘6.3 Demonstrating ALARP’ as a key risk assessment method in ALARP demonstration and so that risks can be categorised and then the highest risks can be analysed by QRA. To align with this addition, insert Qualitative Risk Assessment between Application of Engineering Judgement and QRA in Figure 7.</p> <p>In section ‘6.3.4 QRA, Quantified Risk Assessment’, in line with the focus on major accident hazards in the consultation paper, it is our expectation that the scope of the QRA will be major accident hazards. Please confirm that this interpretation is correct.</p>
14.	<p>Please comment on whether you consider it appropriate to set upper limits of tolerability for the following risk metrics relating to petroleum activities:</p> <ul style="list-style-type: none"> • Individual risk to workers; and • Individual risk to members of the general public. 	Yes		<p>It is appropriate to set upper limits of tolerability. As stated in section 6.4, there needs to be consultation on appropriate values. We would support alignment with the HSA criteria in ‘Policy & Approach of the Health & Safety Authority to COMAH Risk-based</p>

Question/ Proposal		Do you agree?		Comments
		Yes	No	
				<p>Land-use Planning (19 March 2010)' for individual risk to members of the general public.</p> <p>It is not clear that the CER's remit extends to setting limits of tolerability for individual risk to workers as we would expect that occupational safety aspects would be part of the HSA's remit. Clarification is required about this point.</p> <p>We note the findings of the International Review Report where it states regarding the UK: "The legislation does not directly define risk limits and in theory these can be set by the Operator. However, they are contained in the important guidance document, R2P2, which is derived from research on the public perception of risk in the nuclear industry and the tolerability of risk." The report also says "It is recognised that the upper boundary is more open to variation depending upon prevailing circumstances, but, following the work carried out in the nuclear industry an upper limit for workers of one in a thousand per year and an equivalent level of risk of one in ten thousand per year for members of the public is suggested."</p>
15.	Should societal risk be addressed within the Petroleum Safety Framework? If so, should it be treated implicitly and/or explicitly?	Yes		It should be explicitly included and align with the H.S.A. criteria in 'Policy & Approach of the Health &

Question/ Proposal		Do you agree?		Comments
		Yes	No	
				Safety Authority to COMAH Risk-based Land-use Planning (19 March 2010)' for the off-site population. The F-N curve that shows the intolerability threshold and region where ALARP must be demonstrated should be advised by CER. There should be consultation regarding this topic.
16.	Are there any other risk metrics which you consider should be adopted for the control of risks generated by designated petroleum activities?		No	
17.	Do you consider it reasonable for the CER to align proposed risk criteria introduced under the Petroleum Safety Framework with criteria adopted by the HSA for land-use planning purposes?	Yes		It is essential that the proposed risk criteria align, as far as possible, with the HSA's land-use planning risk criteria.
18.	<p>Please comment on whether you consider the Petroleum Safety Framework should introduce a lower ALARP limit in terms of individual and societal risk. If so, whether the lower limit should be:</p> <ul style="list-style-type: none"> • left to the petroleum undertaking to set; or • advisory? 	Yes		<p>We agree that there should be a lower ALARP limit which is advisory and set by the CER. There should be consultation on appropriate criteria values.</p> <p>We note the findings of the International review report where it states regarding the UK: "The [R2P2] guidance suggests the lower boundary for individual risk as being of the order of one in a million per year for both workers and the public following the premise that this represents a very small level of risk that is typically less than most people accept in their daily lives."</p>

Question/ Proposal		Do you agree?		Comments
		Yes	No	
19.	<p>If upper limits are introduced for either individual or societal risk, please comment on whether the limits should be:</p> <ul style="list-style-type: none"> ▪ left to the petroleum undertaking to set; ▪ advisory; or ▪ mandatory? 	Yes		<p>The limits should be advisory, clearly defined and set by the CER with consultation on the upper limits for individual and societal risk and alignment with HSA limits. The limits should be accepted by all of the relevant regulators.</p> <p>For individual risk, in accordance with the focus of the Framework, we propose that the upper limit should relate to major accident hazard risk only.</p>
Section 7: Permissioning System and Designated Petroleum Activities				
20.	<p>Having regard to the requirements of the Act, please comment on the CER's proposed criteria for the designation of petroleum activities and associated infrastructure as follows:</p> <p>In order to be designated, a petroleum activity is required to meet each of the following criteria:</p> <ul style="list-style-type: none"> (i) the activity and associated infrastructure requires a petroleum authorisation. (ii) the activity has the potential to generate petroleum related major accident hazards. (iii) the activity and associated infrastructure is connected to, or has the potential to be physically connected to, the reservoir; and (iv) The petroleum activity is not entirely regulated by or 	Yes		<p>In general, we agree with the designation criteria.</p>

Question/ Proposal		Do you agree?		Comments
		Yes	No	
	under another Act of the Oireachtas and its designation allows for the optimum operation of the permissioning regime			
21	Respondents' views are invited as to the specific application of the designation criteria to the construction and installation of petroleum infrastructure.	Yes		We agree with the proposal that construction and installation are not designated.
22.	Please comment on the application of the proposed designation criteria to exploration activities.	Yes		Add 'Well abandonment' to Section 7.1.3.2 Exploration and Appraisal Activities.
23.	Please comment on the application of the designation criteria to extraction activities.	Yes		Shale well should be removed from the list as it falls under a subsea well or a land well.
24.	Please comment on application of the designation criteria to conveyancing activities.	Yes		
25.	Please comment on application of the designation criteria to decommissioning activities.	Yes		
26.	Please comment on the CER's proposed approach to dealing with connected activities within the appropriate safety case rather than designation of such supporting activities.	Yes		We agree with the proposed approach but it is important that the scope/boundaries of safety cases, the level of detail and activities to be contained in them are clearly defined or that there is clear guidance about them. This could be done in consultation with the CER.

Question/ Proposal		Do you agree?		Comments
		Yes	No	
27.	Please comment on the six proposed principles underpinning the design of the permissioning system.	Yes		<p>We agree the six proposed principles but, in our view, consultation during the concept selection phase would be more appropriate and efficient than the submission for approval of a Concept Safety Case in order to obtain a Pre-Construction Safety Permit. Also, from the International Review Report it appears that submission for approval of a Concept Safety Case is not common international practice. It is our opinion that submission for approval of a Design Safety Case to obtain a Pre-Construction Permit would be more appropriate. More detailed information would be available for inclusion in the Design Safety Case and a clear explanation could be given regarding the concept selection process. We anticipate that consultation with the CER would be an important consideration in the decision making process during the concept selection phase.</p> <p>Regarding section 7.2.2.6, we welcome the focus on co-ordination with other regulatory authorities and the intent to avoid duplication and unnecessary burdens on petroleum undertakings and stakeholders. In order to prevent duplication for sites which come under both the COMAH regulations and the PEES Act, we would support an aligned approach for the sites where, as far as possible, the same document, e.g. Safety report and Safety Case, would satisfy both regulators.</p>

Question/ Proposal		Do you agree?		Comments
		Yes	No	
				Add to this list as 7.2.2.7 'The permissioning system should have clearly defined timelines and deadlines for submission and approval of the various safety cases, which fits with industry requirements'.
28.	Please comment on the proposed approach for a Well Work Safety Permit and supporting safety cases.	Yes	No	<p>In general, we agree with the proposal that a Well Work Safety Permit will cover all significant operations associated with a well including drilling, interventions, workovers and abandonment.</p> <p>Regarding the proposal for a Provisional Well Design Safety Case, in our view, it would be more effective to have consultation prior to submission of the Well Design Safety Case rather than submission for approval of a Provisional Well Design Safety Case. By definition, neither the petroleum undertaking nor the regulator will be in a position to approve a provisional version as it will not be complete. A single Well Design Safety Case is, we believe, sufficient and will address all design issues related to the well. In practice, all 'provisional' items are working documents and should not form part of the CER's Safety Case approval process. This is similar to the approach followed by the DCENR in relation to the 'Generic Well' proposal which is generally viewed as a consultation document and does not require approval.</p>

Question/ Proposal		Do you agree?		Comments
		Yes	No	
29.	Please comment on the proposed approach for a Pre-Construction Safety Permit and supporting safety case.		No	<p>While we agree with the proposal for a Pre-Construction Safety Permit, we disagree that a Concept Safety Case should be submitted and approved in order to obtain a Pre-Construction Safety Permit. It is our view that submission and approval of a Design Safety Case would be more appropriate in order to obtain a Pre-Construction Safety Permit. More detailed information would be available for inclusion in the Design Safety Case. See also the initial comment regarding Q.27.</p> <p>Clarity is needed regarding the safety input required by the other regulators, e.g. An Bord Pleanála, DCENR, etc. so that there is a cohesive and efficient process. This would also help avoid conflicting regulatory processes which could result in potential legal issues.</p>
30.	Please comment on the proposed approach for a Production Safety Permit and supporting safety cases.	Yes	No	<p>Regarding the proposed approach, we believe that a Design Safety Case should not be one of the Safety Cases submitted to obtain a Production Safety Permit, i.e. a Production Safety alone should be sufficient. As stated in our comments regarding Q.29, it is our view that a Design Safety Case should be submitted for approval regarding a Pre-Construction Safety Permit.</p> <p>We agree that a Production Safety Case should be</p>

Question/ Proposal		Do you agree?		Comments
		Yes	No	
				<p>submitted to obtain a Production Safety Permit.</p> <p>As stated in the comments to Q.27, there is a potential for duplication here if both the COMAH regulations and PEES Act apply to a site. In that case the site could be required to submit a Safety Report to the HSA and also a Production Safety Case to the CER. In order to prevent duplication, we would support that, as far as possible, the same document would satisfy both regulators.</p> <p>In accordance with the focus of the Framework, it is our understanding that the scope of the Safety Case risk assessment will be on major accident hazards.</p>
31.	Please comment on the proposed approach for a Combined Operations Safety Permit and supporting safety case.	Yes		
32.	Please comment on the proposed approach for a Decommissioning Safety Permit and supporting safety case.	Yes		Initially there may be insufficient information available to fully describe the planned decommissioning activities. We would support submitting an initial high level decommissioning safety case which would then be updated, when further details were available, closer to the reservoir isolation and hydrocarbon freeing of the plant/equipment stages.

Question/ Proposal		Do you agree?		Comments
		Yes	No	
33	Comments are welcome on how the CER should approach safety case assessments.			<p>Given the current size of the oil and gas industry in Ireland, it is expected that the CER would mainly utilise external expertise. In some disciplines, this could involve HSA experts. In our view, one relevant Safety Case expert should review the entire Safety Case and only if necessary would seek advice from discipline experts. Using this approach should improve consistency.</p> <p>If the CER decides to use a large number of assessors then it is important their assessment is consistent. This would be helped by clear and detailed guidance regarding the criteria against which the Safety Case will be assessed.</p>
34.	Respondents' views are invited on how the 5 year safety case review process should be implemented, including comment on the options presented for the review process, and suggested alternatives.			<p>We support the adoption of an approach similar to that outlined in (iv) in section 7.4.3.1, i.e. similar to the UK, as it would give advance notice to operators of potential changes required to the safety case.</p> <p>It is important that 'independent party' is clearly defined. In terms of 'independence', we note that in the UK HSE's 'A guide to the Offshore Installations (Safety Case) Regulations 2005', it states that "duty holders may find it beneficial to appoint review team members, or at least a leader, from staff who are independent of those responsible for routinely</p>

Question/ Proposal		Do you agree?		Comments
		Yes	No	
				<p>maintaining and revising the safety case. Such staff could be in-house or from an external body. The guidance on 'independence' in paragraphs 112-113 may be helpful, though independence is not a specific requirement of regulation 13."</p> <p>Is a formal approval of the safety case by the CER required every 5 years?</p>
35.	Please comment on the above proposals regarding co-ordination of the CER permissioning system with other statutory processes.	Yes		<p>It is essential that there is co-ordination between the CER permissioning system and other statutory processes. We would welcome a permissioning process map which would outline the sequence and interfaces between the various safety permits and licences across statutory agencies and what the appropriate sequence and interfaces should be. It is important that the linkage between the PEES Act, COMAH regulations and the Strategic Infrastructure Act, Section 40 of the Gas Act and the Foreshore Act processes is clearly identified and agreed between the statutory authorities.</p>
Section 8: Compliance Assurance				
36.	Please comment on the CER's proposed broad scope and approach to audit and inspection of petroleum undertakings?	Yes		<p>The broad scope and approach seem reasonable. We are interested in the specific application to a development that is already in progress.</p>

Question/ Proposal		Do you agree?		Comments
		Yes	No	
37.	Please comment on the proposal that CER's inspectors can be a mixture of both in-house staff and third party independent competent persons.	Yes		We support the proposal that the CER's inspectors can be a mixture of both in-house staff and third party independent competent persons. However, there would need to be clear scope, rigorous audit procedures and competence criteria to ensure consistency, especially where a mixture of people is used or where successive audits are undertaken by different personnel. Also the scope would need to be well defined if different experts will be utilised.
38.	Should the CER seek to co-ordinate its audit and inspection activities with other statutory bodies where possible?	Yes		It is very important that there is co-ordination of audit and inspection activities with other statutory bodies to ensure that there is no overlap of audit scope between the various bodies. Co-ordination should also seek to minimise disruption from, and improve the effectiveness of, the auditing activities.
39.	The CER is interested in respondents views on whether the audit and inspection schedule should be risk-based and involve a few visits per facility per year, or should be undertaken on a prescriptive frequency and, if so, what frequency?	Yes		We would recommend an initial prescriptive audit followed by risk based inspections based on the initial findings.
40.	Please comment on the CER proposal that a Verification Scheme should form part of the Compliance Assurance system of the Petroleum Safety Framework.	Yes		We agree with the proposal that a Verification Scheme should form part of the Compliance Assurance system of the Petroleum Safety Framework. We are also in agreement with the proposal that the petroleum

Question/ Proposal		Do you agree?		Comments
		Yes	No	
				undertaking identifies the Safety Critical Elements (SCEs) and sets performance standards (PSs) for the SCEs and that the system of SCEs, PSs and assurance is independently verified.
41.	Do you agree that if verification is adopted, that the verifier should be a third party independent person referred to as an Independent Competent Person (ICP)? Please comment.	Yes		<p>We agree that if verification is adopted, the verifier should be a third party independent person referred to as an ICP.</p> <p>It is important that independent is clearly defined. We would support the same definition of independent as that used in the UK's Offshore Installations (Safety Case) Regulations 2005, i.e. "...a person shall be regarded as independent only where-</p> <p>(a) his function will not involve the consideration by him of an aspect, of a thing liable to be examined, for which he bears or has borne such responsibility as might compromise his objectivity; and</p> <p>(b) he will be sufficiently independent of a management system, or of a part thereof, which bears or has borne any responsibility for an aspect of which he might consider, of a thing liable to be examined, to ensure that he will be objective in discharging his function."</p>
42.	If the ICP approach is adopted by the CER, who should contract the ICP – the CER or the petroleum undertaking?	Yes		In line with the practice in the jurisdictions in the International Review Report, it is our view that the petroleum undertaking should contract the ICP.

Question/ Proposal		Do you agree?		Comments
		Yes	No	
43.	Do you think that approval of the ICP is required and, if so, by whom?		No	In our view, and in alignment with the approaches in the UK and Norway, the CER does not need to approve the ICP. This would ensure that the responsibility for the verification scheme remains with the petroleum undertaking. It is our view that the CER should be notified of the ICP's appointment by the petroleum undertaking.
44.	Should the CER, or a 4 th party audit the verification scheme?	Yes		<p>If the scheme is to be audited then it should be done by the CER. As stated in the International Review Report, no instances of 4th party formal involvement were found.</p> <p>Can you provide clarification on the following point: does this mean audit the scheme (i.e. is the scheme good enough?) or audit against the scheme (i.e. is the scheme implemented?) or both?</p>
45.	Do you agree with the CER proposal that the Scope of Verification should be hardware Safety Critical Elements?	Yes		We agree with the CER proposal that the Scope of Verification should be hardware Safety Critical Elements. In agreement with the International Review Report, the Safety Management System would not form part of the verification scope.
46.	Do you agree with the CER proposal to apply the verification scheme offshore and onshore?	Yes		

Question/ Proposal		Do you agree?		Comments
		Yes	No	
47.	Do you agree with the CER proposal to apply the verification scheme throughout the lifecycle of petroleum infrastructure? Please comment.	Yes		We agree with the CER proposal. We are interested in the specific application to a development that is already in progress.
48	Do you agree with the CER view that a separate well examination scheme and well management audit scheme should operate? Who should conduct this scheme? Please comment.	Yes	No	It is reasonable that a separate well examination and audit scheme should operate during the design and for drilling operations of wells. (It is our understanding that 'drilling operation' is meant by the term 'operation' in section 8.2.3.1). Current permitting arrangements (DCENR) employ a Well Examiner who manages this process on behalf the Department. Consideration should be given to nominating an individual/organization with the appropriate expertise to manage the well examination scheme. Given the current low number of wells drilled each year in Irish waters, we question the efficiency of the CER developing this expertise in house.
49.	Should ALARP be explicitly included within the verification scheme guidance? Please comment.		No	As stated in the International Review Report, only hardware systems were included in verification. We agree with this approach. As stated in the current consultation paper: "To be approved, a safety case must demonstrate that: <ul style="list-style-type: none"> adequate measures are in place to control risks arising from designated petroleum activities; and

Question/ Proposal		Do you agree?		Comments
		Yes	No	
				<ul style="list-style-type: none"> all petroleum activities are carried out in such a manner as to reduce any risk to safety to a level that is As Low As is Reasonably Practicable (ALARP).” <p>Therefore ALARP principles form a fundamental part of a Safety Case and this aspect will be covered there.</p>
50.	The CER is interested in respondents views on whether the CER should approve the verifications scheme in the scenario where the petroleum undertaking contracts the ICP?		No	The CER should set clear guidelines regarding their expectations and the criteria against which they will be monitoring. These should be shared with the petroleum undertaking.
51.	Do you agree with the CER proposal to introduce a balanced set of leading and lagging indicators within the Safety Case Guidelines for routine reporting by the petroleum undertaking to the CER? Please comment.	Yes		We agree with the proposal but there needs to be consultation with petroleum undertakings regarding the leading and lagging indicators. We note that there is some useful guidance in the Step Change in Safety document which can be found at the following link: http://www.stepchangeinsafety.net/knowledgecentre/publications/publication.cfm/publicationid/26
52.	Please comment on the appropriate means for ensuring compliance by petroleum undertakings with their general duties, and the CER's proposed approach to monitoring.	Yes		We agree with the CER's proposal to have a risk based audit approach.

Question/ Proposal		Do you agree?		Comments
		Yes	No	
Section 9: Petroleum Incidents				
53.	<p>Please comment on the proposals for the following to be classified as petroleum incidents to be notifiable to the CER:</p> <ul style="list-style-type: none"> • All events/occurrences that result in the loss of human life; • Those events/occurrences which result in a personal injury to a member of the general public; • Those events/occurrences which result in personal injury which relate to a major accident hazard; • All events/occurrences that result in damage to the structural integrity of petroleum infrastructure; • All events/occurrences that result in the structural integrity of petroleum infrastructure being compromised; and • Near misses which have the potential to cause a major accident including the failure of plant and equipment or procedural failures which could have the potential to cause a major accident or could significantly impair an undertaking's response to a major accident. 	Yes		We would propose that, where appropriate, these notifiable incidents should align as far as possible with those required by other regulators, e.g. HSA, etc.
54.	Please comment on the CER's proposed approach to the investigation of petroleum incidents and follow up actions.	Yes		
55.	Please comment on the proposal that the CER will seek to liaise and co-operate with other relevant authorities in the incident investigation process?	Yes		It is essential that there is co-operation with other relevant authorities in the incident investigation process and particularly that the authorities do not issue conflicting findings/actions.

Question/ Proposal		Do you agree?		Comments
		Yes	No	
Section 10: Agreed Regulatory Interfaces and Co-operation				
56.	The CER are interested in respondents' comments on the proposed interface, co-ordination and co-operation arrangements. Specifically are such arrangements beneficial and are there other authorities the CER ought to have such arrangements in place with?	Yes		As stated above, we would welcome co-ordination and co-operation arrangements and, in our view, such arrangements are essential. Add 'Local authority/Planning Authority' to the list on p.106.
57.	Please comment on the proposals for information sharing under the interface, co-ordination and co-operation arrangements?	Yes		
58.	Please comment on the proposals for greater alignment of the permissioning processes under different statutory regimes and inclusion for the interface, co-ordination and co-operation within arrangements with other statutory authorities.	Yes		In order to prevent duplication, we fully support greater alignment of the permissioning processes. As already stated in the comments to questions 27 and 30, there is a potential for duplication here if a site qualifies under the COMAH regulations and is also an upstream facility. In that case the site could be required to submit a Safety Report to the HSA and also a Safety Case to the CER. In order to prevent duplication, we would recommend that, as far as possible, the same document satisfies both regulators. We agree with the statement in the International Review Report that multiple regulators regulating the same infrastructure have the potential to cause confusion, particularly where there is more than one

Question/ Proposal		Do you agree?		Comments
		Yes	No	
				<p>safety regulator involved and that it is imperative therefore that there are agreed interfaces and arrangements in place to ensure that both the industry and the regulators understand the roles of each.</p> <p>In order to reduce duplication, the possibility of introducing new legislation to reduce regulatory overlap should be considered by the relevant Government Departments.</p>
59.	Please comment on the proposals for co-ordinated audits/inspections and related information exchange under the interface, co-ordination and co-operation arrangements.	Yes		We would welcome co-ordinated audits/inspections under the interface, co-ordination and co-operation arrangements.
Section 11: Enforcement				
60.	Please comment on CER's proposals on enforcement. In particular the proposals with respect all persons included on a petroleum authorisation submitting a joint safety case		No	In our opinion, the approach should be similar to that in the UK, i.e. the operator prepares and submits the safety case and has primary liability if there is a breach. It is not clear from the proposals what restrictions are intended on assignment or on change of operator. However, in our view, if there is a proposal for a change of operator, a revised safety case should be submitted to the CER for approval but, in our view, this should not be required for a change of the other venture partners.

Question/ Proposal		Do you agree?		Comments
		Yes	No	
Section 12: Safety Reporting and Published Safety Information				
61.	Please comment on the CER proposals for the publication and content of the Annual Report on the Petroleum Safety Framework	Yes		
62.	Please comment on the CER proposals for the information it intends to publish			In general, we agree with the CER proposals for the information it intends to publish. Regarding publishing incident investigation reports issued to the Minister, publication would be inappropriate until any prosecution or other legal actions against the petroleum undertaking had been resolved.
63.	The CER is interested in respondents views on the criteria the CER should apply when considering an application by petroleum undertakings on the exclusion of certain information.			In deciding which parts of the Safety Case can be excluded from publication, the CER should consider whether publishing information may increase the security risk to the petroleum undertaking's facilities and personnel. With respect to confidential personnel information, removal of information may be required by other legislation, e.g. data protection legislation.
Section 13: Continuous Improvement				
64.	The CER is interested in respondents views on the proposed approach to continuous improvement	Yes		In general, we agree with the proposed approach to continuous improvement but would suggest that

Question/ Proposal		Do you agree?		Comments
		Yes	No	
				<p>'Consultation with the petroleum undertaking' could be added to the list of bullet points in Section 13.1 to enable learnings to be shared.</p>