

RESPONSE TO

*CER*

(COMMISSION FOR ENERGY REGULATION)

CONSULTATION PAPER

AND QUESTIONNAIRE

CER/11/137B

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BY

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PROTECTING NATURAL WEALTH

27/09/2011

# Introduction

This response to the CER consultation comes from a group of residents in a region that is being assessed for its potential to yield natural gas from shale beds. We are aware that the present processes of extraction, storage, and conveyancing have impacted seriously on the health, environment, economies and society of communities in other countries where this unconventional gas industry has been permitted to operate. We have joined the now world-wide movement for a ban on the use of the Hydraulic Fracturing process by the gas industry and we are active in seeking to have such a ban put in place in the island of Ireland.

We have approached this consultation with the view that there does not, in our opinion, appear to be an up to date legislative framework in the ROI that would permit unconventional gas exploration and extraction. We note that the EU Executive Summary “Impacts of shale gas and shale oil extraction on the Environment and on human health” states:

“Existing mining laws in Europe and related regulations affecting mining activities do not take care of the specific aspects of hydraulic fracturing.”

We have looked at this proposal for a Petroleum Safety Framework and lay out below our reasons for concluding that the framework design and approach would not be fit for the purpose of regulating the unconventional gas industry, indeed, would not even start to be appropriate.

It is inherent within our comments that there are issues as to the fitness of the framework proposal to deal with safety within the existing conventional petroleum industry.

## Conflict of interest within CER

Page (i) of the CER Status Analysis Review states that the CER “*is the independent body responsible for overseeing the regulation of Ireland’s energy sector.*”

Page (1) of the CER Status Analysis Review states that the CER “*is the independent body responsible for overseeing the liberalisation of Ireland’s energy sector.*”

An authority taking on the responsibility for the safety of an industry must carry out that task without any other compromising functions. The CER has not created a division dedicated exclusively to safety which brings into question the entire basis of the proposed framework. An example of this compromised approach is found at point 7.2.2.5 concerning the proposed permissioning system and the provision of “gates” throughout the petroleum activity lifecycle: “Of course in applying this approach, the number of gates, and the points at which they are placed in the petroleum activity lifecycle, will need to be such that they do not unnecessarily restrain or delay petroleum undertakings from carrying on designated petroleum activities.”

CER commissioned a report from G L Denton, “The Review and Comparison of Petroleum Safety Regulatory Regimes”. In that report, page 38, it highlights the conflict of interest within the Danish system, where their D.E.A. is running both the economic and the safety aspects of their regulatory systems, in this one organisation, even though in separate divisions.

The CER were handed the responsibility of overseeing the safety of the petroleum industry, on top of their existing functions that included economic regulation, by the PEES Act 2010.

## An Industrial and not a Public Safety approach

The overall perspective in the proposed framework and consultation document is from the industrial view point. There is no examination of the type of public safety concerns that are involved and how they might be addressed. The consultation writes simply of “fatalities” and “personal injuries”. As a consultation with the general public it needed to clearly spell out the types of dangers that arise within the petroleum industry and also needed to seek further information from society as to any other dangers which may have been overlooked. A safety framework must be founded on a full knowledge of the dangers it is aimed at controlling. The CER cannot assume that it has that knowledge just from its own investigations.

It seems impossible that the framework will meet its stated aim to “engender public confidence”.

Limited scope of source information forming basis of the framework proposal and limited applicability of the framework.

The information used for the safety framework's basic structure, sourced from five national regulatory structures by GL Denton, **does not refer to unconventional gas processes.**

Neither the CER Status Analysis Review nor the Consultation Paper on the Petroleum Safety Framework **has any direct references to unconventional gas processes.**

None of the major accident scenarios cited by CER in its documents **are from unconventional gas situations.**

We are concerned with the possibility that the CER framework being developed could be considered fit to be used in the future to regulate unconventional gas processes.

There is no statement in the CER consultation paper as to the limits of the applicability of the petroleum safety framework. Therefore it runs the risk of an attempt to use it to regulate processes for which we cannot conceive it was ever intended to be used, as there has been no regard or even single reference to unconventional gas extraction.

## The CER cannot decide what risks society will tolerate

The CER acknowledges at 6.3.5 the “precautionary principle” endorsed by EU heads of government in a European Resolution at Nice in December 2000. The CER is aware that some processes are of such highly uncertain risk that society may decide to avoid permitting them.

The CER is a body charged with performing duties passed down to it by the Oireachtas. It is not mandated to speak for or represent society. Therefore it cannot decide what risks society will tolerate. The consultation document discusses the limits to tolerability but fails to establish how the CER will know what society will tolerate and permit.

At 6.4.1.2 the CER presumes the authority to define societal risk. It limits that definition to the risk posed by major petroleum accidents. We deal with this again further on in this commentary.

The paragraphs that deal with societal risks and values do not even approach a serious examination of the crucial issue that should be at the core of the safety framework. It is for society to decide through the democratic process what values it holds and what risks it is prepared to take and where this is not clearly defined by statute then any safety regulator cannot take it on them-selves to make that decision. To make such a decision would be an attack on the democratic process.

The consultation discusses at length the ALARP principle and the concept of risk boundaries. What comes out of that discussion is that there are **no** clear defined boundaries on societal risk. It is therefore incumbent on the CER to refer such an issue back to society as they have no capacity to proceed. The ALARP principle cannot be applied until societal risk and societal values have been established through democratic process.

## EU Recommendations

Following on from the above section, our statement is supported by the EU Executive Summary of “Impacts of shale gas and shale oil extraction on the Environment and on human health” recommends that member states carry out a full Life Cycle Analysis and a thorough Cost/Benefit Analysis of the issue of shale gas.

Having completed these two analyses, society is then able to choose whether or not to permit this industry and then legislate that decision. There is furthermore a recommendation from the Directorate General for Internal Policies to develop a directive at European level to regulate all issues in this area comprehensively.

The CER makes no statement on the European position on shale gas. The CER has to recognise that any consideration of safety by them has to acknowledge the European position.

## The CER narrow application of the concept of safety

At 3.2.2.3 CER recognizes safety as a state of absence of danger. It then proceeds to limit that to an absence of danger from major accident hazards only. The entirety of CER policy is founded and developed on this restricted principle. This ignores all other dangers. It defeats the object of the evaluation of risks and safety at the outset. As offered for consultation the safety framework is fundamentally flawed because of the restrictions that it has placed upon itself.

## Incoherent approach to designation and permissioning

We find, on reading the CER proposals no consistent link between the designation and permissioning as is the requirement of the PEES Act 2010.

Any reference to fracking in regard to unconventional gas extraction, in the responses to the CER questions/proposals attached are by way of example to demonstrate the inadequacies of the proposed framework to deal with novel technologies.



Commission for Energy Regulation  
An Coimisiún um Rialáil Fuinnimh

**Consultation Questions (in Microsoft Word format)  
from the Consultation Paper on the High Level  
Design of the Petroleum Safety Framework**

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<b>RESPONSES TO:</b>	Eamonn Murtagh

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## List of Consultation Questions

**The following list of questions was included in the Consultation Paper on the High Level Design of the Petroleum Safety Framework (CER/11/137) as Appendix III. The aim of this document is to facilitate the process of responding to the Consultation Paper by allowing respondents to electronically complete the questionnaire.**

Respondents are invited to complete the table to indicate their position on the questions being asked. Respondents should outline YES or NO answers to each of the questions listed. If you have a further comment which will clarify your answer, this should be included in the Comments box.

Please note respondents are in no way obliged to respond to the questionnaire provided and are welcome to submit comments in their preferred format. However when preparing responses respondents should indicate which question or proposal their text refers to.

Question/ Proposal		Do you agree?		Comments
		Yes	No	
<b>Section 4. Proposed Scope &amp; Components of the Framework</b>				
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		<p>The framework scope should include all the CER's functions under Part II of the act. The CER needs to be especially mindful of its obligations under section 13G of the act by ensuring that all short, medium and long term risks to public are considered.</p> <p>13G.—The principal objective of the Commission in exercising its functions under this Part is to protect the public by fostering and encouraging safety as respects the carrying on of designated petroleum activities.</p>
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.			<p>On what basis does the CER consider it can limit its duties (as set out in the Act) to less than the Act specified, which was to prevent any "<i>Personal injury being suffered by a person</i>". The objective of "Preventing Major Accident Hazard" is incompatible with the spirit and letter of the Act. The document then goes on to state "provides a clear focus to the specific nature of major incidents and hazards that present risks to the public, and therefore cause greatest concern to the public".</p> <p>This statement is totally unsupported because;</p> <p>a) No strategic consultation has taken place with the public to establish what the public considers</p>

Question/ Proposal		Do you agree?		Comments
		Yes	No	
				<p>the risks are. Since Hydraulic Fracturing is such a poorly regulated industry in the world and no substantial body of evidence regarding its safety, has been assembled – there can be no recourse to precedent in this case.</p> <p>b) The chronic cumulative risks of fracking are of primary concern to the public because there effects may take decades to emerge but can effect high proportions of the effected population. In no way can it be considered appropriate to limit the remit of the CER to “Major incidents”</p>
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.		No	<p>The proposed definition is far too narrow and does not take account of the possibility of a major accident that might have very significant long term effects on public safety, for example spillage of produced water from a hydraulically fractured shale gas well causing contamination of a water source.</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?			<p>The CER should have an overarching responsibility to achieve confidence and achieve an adequate picture of general safety within the industry.</p> <p>All safety related areas should be coordinated by the CER with recourse to other subordinate agencies expertise as service providers to the CER. This is in keeping with the overall objective of creating an integrated and coordinated safety framework.</p> <p>The strategic intent cannot be to divest itself of</p>

Question/ Proposal		Do you agree?		Comments
		Yes	No	
				responsibility for specific areas of safety. In order to avoid duplication the CER needs to have senior authority over all other agencies.
5.	<p>Please comment on CER proposals for the main components of the Framework as:</p> <ul style="list-style-type: none"> <li>a)A Statement of Strategic Intent;</li> <li>b)ALARP Demonstration Guidance;</li> <li>c)Agreed Interfaces, Co-operation &amp; Co-ordination with Regulatory Authorities;</li> <li>d)A Permissioning System;</li> <li>e)A Compliance Assurance System;</li> <li>f)An Incident Investigation System;</li> <li>g)An Enforcement System;</li> <li>h)A Safety Reporting and Published Safety Information System; and</li> <li>i)A Continuous Improvement System.</li> </ul>			
6.	Are there additional high level components which the CER should consider for inclusion within the Framework?			Please refer to our Introduction and preliminary comments
<b>Section 5: Strategic Intent of Petroleum Safety Framework</b>				
7.	<p>Do you agree that the proposed vision for the Framework should be:</p> <p><i>A safe Irish petroleum exploration and extraction industry.</i></p>			

Question/ Proposal		Do you agree?		Comments
		Yes	No	
8.	<p>Do you agree that the proposed mission statement for the Framework should be:</p> <p><i>To independently regulate petroleum exploration and extraction activities to protect life.</i></p>			<p>Limiting the remit to protection of life doesn't address the public's concerns about chronic and lesser risks and risks to property, lands and environment.</p> <p>Onshore drilling presents a set of risks entirely different to those of offshore. "Major accident hazards" seems only appropriate for offshore drilling where they are the only incidents which are likely to impact on the general public.</p>
9.	<p>Please comment on the proposed five key roles of the CER under the Framework as follows:</p> <p><i>1.Foster and encourage safety in petroleum exploration and extraction activities;</i></p> <p><i>2.Actively monitor &amp; enforce compliance of petroleum undertakings with their obligations;</i></p> <p><i>3.Promote a regulatory framework that encourages continuous improvement of safety;</i></p> <p><i>4.Work with other authorities to achieve our vision; and</i></p> <p><i>5.Provide safety information to the public.</i></p>		No	<p>As an absolute, essential, prerequisite, to safety, the proposed five key roles should be extended to include:</p> <p>" All prospective operators are to prove their fitness and competency to operate and have resources adequate to carry out their functions and deal with end of life decommissioning."</p> <p>At 4.to include "and to supervise other regulators."</p> <p>At 5. Full disclosure and transparency is essential. All processes and materials are to be disclosed and subject to public consultation and objection.</p>
10.	<p>Are there additional CER roles which should be set out in defining the strategic intent of the Framework?</p>			<p>Please see our response to Question 9 above.</p>
11.	<p>Please comment on the proposed three regulatory goals for the Framework:</p> <p><i>1.That petroleum undertakings reduce risks to safety to a level that is ALARP;</i></p> <p><i>2.That petroleum undertakings achieve safety performance</i></p>		No	<p>The Act Section 3(4) states "Petroleum incident" is any incident "resulting in the loss of human life.... personal injury being suffered by a person". This is quite explicit in that no lower limit of</p>

Question/ Proposal		Do you agree?		Comments
		Yes	No	
	<p><i>commensurate with the best internationally; and</i></p> <p>3. <i>Engender confidence that the regulatory framework is protecting the public.</i></p>			<p>incident where personal harm occurs is defined, i.e. all injuries are covered by the Act. It also clearly extends the remit of the Act to cover “<i>Results in failure or malfunction of plant and equipment used as part or in a manner closely associated with petroleum infrastructure</i>”.</p> <p>The attempts to lower the responsibility to ALARP and “Major Petroleum Incident” clearly run counter to the spirit of the Act. In defining ALARP the CER states “... <i>reduce all safety risks to a level that is as low as reasonably practicable (ALARP)</i>”. It gives no authority for the CER to ring fence its chosen field of concern to “Major Petroleum Incidents”.</p> <p>Again the CER defines its mission statement “<i>to independently regulate petroleum exploration and extraction activities to protect life</i>”. Yet the rest of the document goes to great lengths to limit those responsibilities to a very narrow subset of the risks associated with onshore exploration and extraction.</p> <p>Restricting risk to human/petroleum infrastructure and third party property is inadequate as the major area of concern to the public, with respect to fracking, is general risk to the environment with regard to its impact on public safety. These generic risks to the environment need to be considered at all stages of design and operation. The EPA has limits on the scope of</p>

Question/ Proposal		Do you agree?		Comments
		Yes	No	
				<p>activities it can regulate and this may lead to areas of environmental and public risk that are inadequately regulated.</p> <p>Overall the ALARP principle is acceptable in that it is a statement of daily reality. However in order to allow the ALARP principle to be applied, a body of evidence must exist and the public must be adequately informed of the risks and canvassed of their opinion of the tolerability of those risks. So far neither consultation nor evidence gathering has taken place with regard to fracking and so ALARP cannot be applied. Societies consent cannot be deferred to bodies such as the CER which cannot broadly be considered representative of the people. Direct public consultation of CBA and appropriate risk is required.</p> <p>We call for a moratorium on applying the CER framework to onshore Hydraulic fracturing until public consultation and evidence gathering has taken place.</p> <p>Concerning the second regulatory goal, the five countries examined in the review have a mixture of prescriptive (laid down) regulation and goal approach regulation (that allows the petroleum operator to define processes and targets. Best</p>

Question/ Proposal		Do you agree?		Comments
		Yes	No	
				<p>international practice is a good reference but Ireland must establish its own standard.</p> <p>The question has to be asked as to what would be regulated by engendering confidence? The third stated “goal” is not a regulatory goal.</p>
12	Are there additional high level regulatory goals which should be set out in defining the strategic intent of the Framework?			Risk boundaries must be established (see attached summary).
<b>Section 6: ALARP</b>				
13	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>Limiting Cost Benefit Analysis (CBA) to issues of on site safety is industry focused and unacceptable. CBA needs to be applied to the whole life cycle. In the case of Fracking this has never taken place and so conformity with “Societal Values” cannot be assumed. It is unlikely that this will be considered as part of the analysis described in the document, and there is currently no body remitted to carry out such a CBA for general “Societal Values”.</p> <p>The process of gas extraction by fracking is technically well understood, but has very little available empirical data on its potential long term effects and risks to society and the environment . Without this body of data it is impossible to assess it using the ALARP principle.</p> <p>Until adequate data is gathered to draw reliable conclusions the CER should apply a moratorium on novel gas extraction based on the</p>

Question/ Proposal		Do you agree?		Comments
		Yes	No	
				“Precautionary Principle” (as discussed in the introduction and consultation document).
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"> <li>•Individual risk to workers; and</li> <li>•Individual risk to members of the general public.</li> </ul>			See Attached Summary
15	Should societal risk be addressed within the Petroleum Safety Framework? If so, should it be treated implicitly and/or explicitly?			Societal risk needs to be at the foundation of a risk assessment and so should be explicitly addressed as a precursor to further risk assessment. This should be based on total Life Cycle Analysis and needs to address short medium and long term risks.
16	Are there any other risk metrics which you consider should be adopted for the control of risks generated by designated petroleum activities?			
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?			<p>WE do not accept the legitimacy of only considering “Major Risk Hazard”.</p> <p>We would only find it acceptable if the remit was extended to realistically consider all hazards including the understood risk associated with any process that potentially produces</p> <ul style="list-style-type: none"> <li>•smog</li> <li>•water contamination</li> </ul>

Question/ Proposal		Do you agree?		Comments
		Yes	No	
				<ul style="list-style-type: none"> <li>•toxic dusts</li> <li>•chemical contamination</li> </ul>
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"> <li>•left to the petroleum undertaking to set; or</li> <li>•advisory?</li> </ul>			No lower limit. All operations should be considered with the ALARP principle.
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"> <li>▪left to the petroleum undertaking to set;</li> <li>▪advisory; or</li> <li>▪mandatory?</li> </ul>			Mandatory upper limits to risk should be set and these should not be suggested by the industry itself, rather they should be set by societal acceptability.
<b>Section 7: Permissioning System and Designated Petroleum Activities</b>				
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"> <li>(i)the activity and associated infrastructure requires a petroleum authorisation.</li> <li>(ii)the activity has the potential to generate petroleum related major accident hazards.</li> <li>(iii)the activity and associated infrastructure is connected</li> </ul>			The P.E.E.S Act lays out in precise terms in section 13D the criteria for designation. The CER is compelled by this statute to follow those criteria. Any deviation from the Act is unlawful. The CER should simply follow the relevant sections as its criteria. It has no discretion concerning designation. It does have the instruction to incorporate the external opinions produced by the consultation process. As stated in our summary the CER is acting on the wrong principle, that is, limited to “essentially...the occurrence of major

Question/ Proposal		Do you agree?		Comments
		Yes	No	
	to, or has the potential to be physically connected to, the reservoir; and (iv)The petroleum activity is not entirely regulated by or under another Act of the Oireachtas and its designation allows for the optimum operation of the permissioning regime			accident hazards".
21	Respondents' views are invited as to the specific application of the designation criteria to the construction and installation of petroleum infrastructure.			See 20 Above
22	Please comment on the application of the proposed designation criteria to exploration activities.			See 20 Above
23	Please comment on the application of the designation criteria to extraction activities.			See 20 Above
24	Please comment on application of the designation criteria to conveyancing activities.			See 20 Above
25	Please comment on application of the designation criteria to decommissioning activities.			See 20 Above
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.			
27	Please comment on the six proposed principles underpinning the design of the permissioning system.			This seems appropriate with the caveat that the CER should have executive control over all regulatory and licensing procedures as per the

Question/ Proposal		Do you agree?		Comments
		Yes	No	
				remit allocated in the Act. It is in no way clear in the document how this would be achieved.
28	Please comment on the proposed approach for a Well Work Safety Permit and supporting safety cases.			Seems Appropriate.
29	Please comment on the proposed approach for a Pre-Construction Safety Permit and supporting safety case.			Seems appropriate.
30	Please comment on the proposed approach for a Production Safety Permit and supporting safety cases.			Seems appropriate.
31	Please comment on the proposed approach for a Combined Operations Safety Permit and supporting safety case.			Seems appropriate.
32	Please comment on the proposed approach for a Decommissioning Safety Permit and supporting safety case.			Seems appropriate.
33	Comments are welcome on how the CER should approach safety case assessments.			All expertise should be brought in house (to CER) and the operator should pay fees to cover costs of issuing licenses. Issuing licenses should be revenue neutral to the exchequer/CER. Considering the on-going profits that will accrue to the operator it is appropriate to recover all costs. It is unlikely that third party “experts” will have no conflicts of interest since they are likely to be employed by the very operators they are been asked to assess at some time.

Question/ Proposal		Do you agree?		Comments
		Yes	No	
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.			
35	Please comment on the above proposals regarding co-ordination of the CER permissioning system with other statutory processes.			Responsibility is not clear, so as discussed previously, the CER should be the coordinating authority with safety permits only being issued once all other permits have been collected, reviewed and issued. Only in this way is certainty likely that all aspects of safety are being covered.
<b>Section 8: Compliance Assurance</b>				
36	Please comment on the CER's proposed broad scope and approach to audit and inspection of petroleum undertakings?			In order to be considered truly impartial, in house to CER seems the only appropriate path. Third party laboratory expertise would be appropriate in order to minimise overheads of maintaining a fully equipped lab.
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.			Coordinate with oversight and ultimate authority to sign off on all petroleum related permits – regardless of the agency issuing said permits.
38	Should the CER seek to co-ordinate its audit and inspection activities with other statutory bodies where possible?			Risk based auditing, with flexible scheduling adapting to incidents and reference to appropriate societal risk.
39	The CER is interested in respondents views on whether the audit			Seems appropriate.

Question/ Proposal		Do you agree?		Comments
		Yes	No	
.	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?			
40	Please comment on the CER proposal that a Verification Scheme should form part of the Compliance Assurance system of the Petroleum Safety Framework.			The preferred option would be to keep this role in house to the CER. Can an ICP be considered really independent when they are likely to function in both the regulatory and corporate sphere. This lessens the ability of the CER to have adequate information and oversight.
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		Agree provided that there are clear arrangements that deal with any conflict of interest.
42	If the ICP approach is adopted by the CER, who should contract the ICP – the CER or the petroleum undertaking?			To ensure independence the ICP should be contracted and paid by CER with the cost being recovered from the petroleum undertaking
43	Do you think that approval of the ICP is required and, if so, by whom?	Yes		CER should contract NSAI to produce a standard for verification in this area. ICP should be trained to verify against this standard and should be subject to approval by CER. There should be a clear process to ensure that ICP who are not fit for purpose are removed from the approval list.
44	Should the CER, or a 4 <sup>th</sup> party audit the verification scheme?			Either as long as the process is transparent and the auditors have the necessary expertise
45	Do you agree with the CER proposal that the Scope of Verification should be hardware Safety Critical Elements?		No	Scope is far too narrow, verification should include full scope of the safety case, there should be co-

Question/ Proposal		Do you agree?		Comments
		Yes	No	
				ordination with other regulatory bodies to ensure that the full scope of the permissioning system is covered.
46	Do you agree with the CER proposal to apply the verification scheme offshore and onshore?	Yes		Absolutely. While offshore incidents pose a greater risk to workers, onshore incidents pose a more significant risk to public safety.
47	Do you agree with the CER proposal to apply the verification scheme throughout the lifecycle of petroleum infrastructure? Please comment.	Yes		Risk will increase as the facility ages, therefore frequency of verification activities should reflect the risk.
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		CER should conduct this examination and the assessment should include field evaluation of older wells.
49	Should ALARP be explicitly included within the verification scheme guidance? Please comment.			
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?			The verifier should be CER appointed and the verification should be CER approved.
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.			Seems appropriate.

Question/ Proposal		Do you agree?		Comments
		Yes	No	
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.			<p>To quote the document;            “Whilst this provides the CER with the scope to cooperate with these entities, this cannot be read as permitting the CER to delegate its statutory functions to another authority. The CER therefore must perform and retain responsibility for the discharge of its statutory functions ...”            Yet the whole thrust of the document seeks to limit the CER's duty to “major incidents” and machinery directly attached to the petroleum reservoir.            The passage which follows the above quote, has an emphasis specifically seeking to place the CER as a partner rather than the manager of risk within the regulatory framework. This represents an unacceptable attempt to derelict its duties as set out within the Act.</p>
<b>Section 9: Petroleum Incidents</b>				
53	<p>Please comment on the proposals for the following to be to be classified as petroleum incidents to be notifiable to the CER:</p> <ul style="list-style-type: none"> <li>•All events/occurrences that result in the loss of human life;</li> <li>•Those events/occurrences which result in a personal injury to a member of the general public;</li> <li>•Those events/occurrences which result in personal injury which relate to a major accident hazard;</li> <li>•All events/occurrences that result in damage to the structural integrity of petroleum infrastructure;</li> <li>•All events/occurrences that result in the structural integrity of</li> </ul>	Yes		<p>This section should also include the item in section 9.2 'damage to property not owned by the petroleum undertaking'. If this section is required to be reported to the minister then it makes rational sense that it should be included in petroleum incidents notifiable to the CER. Private property should be extended to lands and animals such that spillages and leaks leading to contamination are notifiable. Point three refers to “Major Accident hazard” which is an unacceptable limitation on its responsibility to manage all</p>

Question/ Proposal		Do you agree?		Comments
		Yes	No	
	<p>petroleum infrastructure being compromised; and</p> <ul style="list-style-type: none"> <li>•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.</li> </ul>			hazards.
54	Please comment on the CER's proposed approach to the investigation of petroleum incidents and follow up actions.			
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?			<p>The CER specifically acknowledge that it is their duty to put in place;</p> <p>"A high level overview of the proposed interface, cooperation and coordination arrangement the CER should put in place"</p> <p>This implicitly places the CER in a position of seniority in such arrangements and it is essential that it agrees to fulfil this central role.</p>
<b>Section 10: Agreed Regulatory Interfaces and Co-operation</b>				
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		<p>There should be a high level of co-operation and information sharing between all regulatory authorities. However it should be absolutely clear where responsibilities lie, this information must be made available in a clear and transparent fashion to the public. CER should also have arrangements in place in the case of onshore developments with Local authorities, Inland waterways, Dept</p>

Question/ Proposal		Do you agree?		Comments
		Yes	No	
				Agriculture. National Water authority (when set up). Health service executive.
57	Please comment on the proposals for information sharing under the interface, co-ordination and co-operation arrangements?			Agree there should be a high level of information sharing. There should be a risk register in place and mechanisms in place to notify all relevant agencies if there is a risk in their area of responsibility
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.			Agree. As long as it is clearly focused on the public interest and permission is not granted until all requirements of the consulting agencies have been met.
59	Please comment on the proposals for co-ordinated audits/inspections and related information exchange under the interface, co-ordination and co-operation arrangements.			Agree. Provided that these co-ordinated audits are carefully planned and areas of responsibility are clearly defined.
<b>Section 11: Enforcement</b>				
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			The scale of the penalties listed in the Act do not reflect the enormous potential damage that might occur as the result of petroleum activities. In this instance reference back to the legislators is necessary for an effective safety regime.
<b>Section 12: Safety Reporting and Published Safety Information</b>				
61	Please comment on the CER proposals for the publication and content of the Annual Report on the Petroleum Safety			

Question/ Proposal		Do you agree?		Comments
		Yes	No	
	Framework			
62	Please comment on the CER proposals for the information it intends to publish			
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.			There can be no exceptions to public information on safety statements. Public safety is paramount over propitiatory information. This has been a particular area of concern within America where information was withheld on the basis of it been propitiatory.
<b>Section 13: Continuous Improvement</b>				
64	The CER is interested in respondents views on the proposed approach to continuous improvement			Any improvements to the safety framework must be arrived at by full consultation process and should not be permitted to become a back door route for introducing novel processes.

Please note our request to meet with the CER to discuss this submission

# *TALAMH*

## PROTECTING NATURAL WEALTH

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