



Irish Offshore  
Operators'  
Association

## Irish Offshore Operators' Association

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Commission for Energy Regulation  
The Exchange  
Belgard Square North  
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Dublin 24

26<sup>th</sup> September 2011

Attn: Mr. Eamonn Murtagh  
Project Manager – Petroleum Safety Framework

Consultation Paper CER/11/137:  
High Level Design of the Petroleum Framework

Dear Mr. Murtagh

Please see attached IOOA response to the above Consultation Paper.

Should you require further information or discussion, please contact me,

Yours sincerely,

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## *Irish Offshore Operators' Association (IOOA)*

### *Response to CER Consultation Paper CER/11/137: High Level Design of the Petroleum Framework*

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IOOA supports the proposed Framework in principle, as it is a comprehensive and systematic approach, in line with accepted custom and practice in other countries with a mature petroleum industry. The system will allow for a high level of dialogue with the CER at all stages of a petroleum development and, properly implemented, will be an important step in streamlining and rendering more effective the upstream permitting process in Ireland. IOOA does have a number of points relating to the detailed structure and administration arrangements outlined in the Consultation Paper, as follows:

1. Concept Safety Case: IOOA does not support the requirement for a concept safety case (S. 7.3.3.1). Concept work by its nature is high level and choice of concept tends to be driven by fundamental criteria e.g., fluid type, reservoir pressure/depth, water depth, environmental constraints, economic viability issues, etc. Assuming the components of any given concept are already operational in other jurisdictions then by definition it should be possible to ensure that the risks associated with the chosen concept can be designed to be within the broadly acceptable or ALARP region.

Requiring approval of a concept safety case is likely to result in more detailed work on multiple concepts than would otherwise be the case and result in significant additional costs and lead times to development. It is worth noting that only one of the international regimes evaluated applies a concept safety case and many do not even require a design safety case.

Instead we propose that developers would consult with the CER upon completion of the concept phase, detailing the range of concepts evaluated and why the final concept was chosen and capturing any feedback from the CER for incorporation into the design safety case.

2. Risk Assessment Guidelines: IOOA supports the approach taken regarding the use of ALARP principles and for the issuing of ALARP Demonstration guidelines. We believe that Qualitative Risk Assessment should be included in the range of risk assessment techniques. Qualitative Risk Assessment allows for assessment of risks and identification of risk reduction measures for an activity, independently of detailed numerical calculations and data.



3. Well Permitting: We believe the proposed arrangements for well permitting are too complicated, in particular the requirement for a Provisional Well Design Safety Case. A single Well Design Safety Case will address all issues related to the well design and associated safety items. All 'provisional' items are in effect working documents and should be outside the remit of the CER approval process. This approach is similar to that followed by the DCENR in relation to the 'Generic Well' proposal, which does not require approval, but is viewed as a consultation document in advance of submission of the Final Well Proposal.
  
4. Interface with Regulatory Authorities: IOOA supports the concept of close cooperation between the regulatory authorities (S. 10) and information sharing to facilitate the timely award of permits. The issue of interface/overlap with other Regulatory Authorities is absolutely key to the efficient and effective functioning of the proposed Petroleum Safety Framework and it is important that various permits can be applied for in parallel to avoid an overly extended permitting process.

The petroleum permitting process in Ireland has been the source of much confusion and debate, and the current complexity and degree of overlap between different regulatory agencies may be regarded as a barrier to development of any reserves discovered. The process outlined in the Safety Framework represents an additional level of permitting (and does not replace any existing provisions), so unless it facilitates a more efficient and effective overall process it will merely add to the regulatory burden.

In order for the Upstream Industry to have confidence in the Irish upstream permitting regime, there must be absolute clarity as to which authorities have jurisdiction over which activities and that the same issues are not separately evaluated by different authorities using different methodologies. If the intent of the legislation is that the CER shall have the responsibility to adjudicate on major accident hazards for an upstream development, then it should have that responsibility exclusively and other authorities should not become involved in the assessment of major accident hazards. A practical example of potential regulatory overlap is in relation to onshore upstream sites which may be classified as coming under the COMAH regulations – will the HSA or CER have ultimate authority? Will both a Safety Case and a Safety Report be required?



This is an essential point and if necessary, legislation amending the specific legal functions of other authorities should be introduced so that there is absolute clarity on this issue and that responsibilities of all regulatory agencies involved in the permitting process are clearly defined and unambiguous. A key deliverable of introducing the Framework must be to ensure that the overall process works more efficiently and that anomalies and overlaps (in timing, administration and scope) in the upstream permitting regime are addressed.

IOOA is willing to work with CER in determining appropriate and workable timelines for submission, determination and approval of safety case documentation and agree that a detailed “process map” or “road map” be prepared for clarity. It is essential however, that this is backed up by strict timelines for decisions.

5. Technical Resourcing: It is recognised in the Paper (S. 7.4.2) that a wide range of technical expertise will be required to carry out assessments and that it “may not necessarily be practical” for all such resources to be available within CER. In the opinion of IOOA, it would be totally disproportionate to set up a fully staffed technical agency, given a) the likely scale of the upstream petroleum industry in Ireland in the foreseeable future and b) the availability of suitably qualified technical staff in other State agencies.

In particular, we would note that The Health and Safety Authority (HSA) is the designated national authority in Ireland under the EU Seveso Directive. As such, they administer the COMAH Regulations (SI 74 of 2006) which have a similar safety assessment system to that proposed in the PEES Act. As of June 2011, there were 37 Tier 1 and 48 Tier 2 “Seveso” Sites in Ireland, a total of 85 sites which are subject to safety assessment by the HSA. This compares with two petroleum developments either in production or pre-production phases and a small number of potential drilling operations over the next several years. Given this extremely low level of upstream petroleum activity (compared, for example to the UK) and that there is already a competent technical resource base within the HSA, IOOA suggests that a suitable consultancy arrangement should be put in place to avoid unnecessary duplication by the CER. This should also be more efficient from a cost point of view.

6. Cost Recovery: IOOA notes that that S.4 of the PEES Act provides for the CER to impose a levy on petroleum undertakings “for the purposes of meeting expenses properly incurred by the commission....” The application of this provision is not mentioned in the Consultation Paper, but clarity will be needed on how the cost of operating the framework will be managed and that if costs are to be levied on the industry they must be reasonable and reflective of its size. In particular, given the comments regarding technical resourcing above, IOOA would be totally opposed to reimbursing the CER for duplicating resource costs, when similar resources are available within other State Agencies. Moreover, given the low level of operational facilities, any cost levy will fall disproportionately on the few operators in Ireland who actually come under the SC regime. IOOA
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strongly urges the CER to undertake a separate consultation process on the issue of cost management and recovery.

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7. Existing Facilities: There is no explanation in the document regarding how the permitting system, audit and inspection activities and verification scheme will be implemented for an existing facility. IOOA expects that the CER systems will apply from the point at which the relevant sections of the PEES Act are enacted, i.e. retrospective submissions and approvals will not be required. There needs to be clarity around this topic to prevent duplication with existing systems and verification schemes.

IOOA,  
23/09/11.

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