

21 December 2012

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

File: Gov't/CER

Attn: Mr. Eamonn Murtagh

Re: Consultation Paper CER/12/181 – ALARP Demonstration Guidance Document

Dear Mr. Murtagh,

We have reviewed the above Consultation Paper and wish to express a number of points of concern as outlined below. We also have detailed comments in relation to the paper as attached – please note that these comments are submitted on behalf of PSE Kinsale Energy Limited and PSE Seven Heads Limited.

In relation to ALARP Assessment (as summarised in 4.1) we believe it must be made clearer that risk tolerability criteria should be related to the overall total risks from all hazards that persons are exposed to. We do not believe it is appropriate to use such criteria when considering whether the risks associated with a single hazard are tolerable / ALARP, which seems to be what is suggested here and elsewhere in the document and in the Safety Case Guidelines. The principle of ALARP assessment of overall risk is generally applied in the UK (ref HSE Guidelines) and in Norway (ref Norsok Standard Z103), both of which countries have established and recognised safety regimes for oil and gas operations.

In relation to Cost Benefit Analysis, we are satisfied with the suggested ICAF value but are concerned that a Gross Disproportion Factor *'of at least ten is advised'* in making judgements on reasonable practicability. This goes beyond what the HSE require in the UK: for example, HSE UK Guidance (21-<http://www.hse.gov.uk/risk/theory/alarpcba.htm>) referenced in CER/12/181 states that *'a factor of up to 3 (i.e., costs three times larger than benefits) would apply for risks to workers'*. We believe there should be a clear distinction between Gross Disproportion Factors for workers and members of the public, and that the factor used is appropriate for the risk level involved (we note that UK HSE suggest a factor of at least 10 should be used when risks are around the intolerable risk boundary). The justification given in the CER document for the use of a higher factor is that QRA results are subject to inherent uncertainty. Given that the same comment could be made in the UK regime, we believe this approach to be overly conservative, provided that the QRA has adopted a cautious best estimate approach.

The concept of 'proportionality' should be emphasised in the overall approach to ALARP demonstration. The depth of analysis in the operator's risk assessment should be proportionate to the scale and nature of major accident hazards presented and the risk posed to workers and neighbouring populations. This concept is in line with the Health & Safety Authority's Guidance Document on COMAH Safety Report Assessments which emphasises the concept of proportionality.

In relation to the precautionary principle coverage in 4.5.7 we are concerned about how it might be interpreted. It is accepted by the UK HSE that 'invocation of the precautionary principle is extremely unlikely to be appropriate offshore' (see Offshore Information Sheet No. 2/2006) because the hazards and consequences of oil and gas operations are well understood. We believe that a similar criterion should be applied in Ireland and that it would be helpful to include examples of the sort of uncertainty that would require the application of the precautionary principle.

In general, we support the approach being taken by CER, but we question the practicality of deviating significantly from established North Sea (particularly UK) practice in certain areas. The petroleum industry in NW Europe makes use mainly of current UK/Norwegian engineering design and construction practice, which supports a safe and economic industry whose risk levels are demonstrably safe and within an acceptable level of worker and public tolerance. We do not accept that it is appropriate to impose more rigorous standards on the industry in Ireland, given that all engineering designs are going to continue to come from established engineering houses outside Ireland for the foreseeable future. Indeed the imposition of different design standards for Irish undertakings will impose a further cost burden on the industry, with no appreciable increases in safety levels. We also question why the CER is suggesting societal risk tolerance levels for the petroleum industry in Ireland at a level which is different than that used by the HSA for land use planning purposes – indeed, if the proposed CER levels are accepted one could have a situation where the same site is deemed acceptable by the HSA under COMAH guidelines but deemed unacceptable by the CER.

As advised separately, we look forward to meeting with CER on Jan 17th 2013 to discuss the above points in more detail.

Yours sincerely,



M.V. Murray
Head of Development Projects

c.c. F.G. Murphy, Chief Executive Officer

Att: Comments to Consultation Paper CER 12/181

Consultation Paper CER 12/181 - ALARP Demonstration Guidance Document
Kinsale Energy Comments – 21/12/12

Section Reference	Comment
4.1	<p>In the third point it should be noted that risk tolerability criteria generally relate to the overall total risk, and so it is generally not appropriate to use such criteria when considering whether the risks associated with a single hazard are tolerable/ALARP, which seems to be what is suggested here.</p> <p>Clarification is required as the key issue for ALARP demonstration in connection with individual hazards is identifying and assessing all practical means of reducing the risks associated with the hazard.</p> <p>Overall the document seems to stress risk quantification as the principal means of demonstrating ALARP (eg. see in 4.4.2 and 4.5 as well).</p> <p>Could CER provide more guidance on of the application of QRA as part of ALARP demonstration? [The UK HSE view is closer to 'QRA and CBA should be used cautiously in support of qualitative or engineering arguments, including use of good practice' (as indicated in HSE Offshore Information Sheet No. 2/2006)].</p>
4.3.2	<p>It may be reasonably practicable to make changes to meet a new code or standard, but it has to be acceptable by the Regulator that it may not be. Some guidance on what level of assessment the CER would expect in relation to changes in codes or standards would be helpful as generally 'engineering judgement' would be expected to be sufficient in such cases.</p> <p>Can CER confirm this provision will not be applied retrospectively to existing facilities?</p>
4.4.1	<p>Where 'public risk' is referred to it would be worth noting that the concept does not apply to offshore activities, where all involved people are workers.</p>
4.4.2	<p>In this section the second paragraph that references to risks not being evaluated with 'sufficient certainty' leading to the need for 'recourse to the precautionary principle' refers to section 4.6, when section 4.5.7 covers the precautionary principle (on which see comments below).</p>
4.4.3	<p>The meaning of the last paragraph reference to 'the assessment for Major Accident Hazards' is not clear. A cross-reference would be helpful.</p>
4.5	<p>As all of the activities that will require a safety case will require a quantitative risk assessment it would be worth stating early in the section that this would be expected to be the tool used for any quantification as part of an ALARP demonstration. The last paragraph of 4.5.5.1 content covers this.</p>
4.5.5.3	<p>The suggestion that a Gross Disproportion Factor 'of at least ten is advised' is difficult to justify and goes beyond what the HSE require in the UK. See Appendix C comments. Distinction should be made between workers and the general public</p>
4.5.6.1	<p>Wording should be amended to "....consequences that at least cover the worst credible case...."</p>

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Section Reference	Comment
4.5.6.2	The last paragraph 'if shortly after a design is frozen or constructed.....a risk reduction measure is identified.....the measure should be implemented as soon as practicable...' is a concern as it is written and may cause problems. Clarification on how this might be applied is suggested - justifying that a measure is one that 'normally would have been implemented' will also pose a challenge.
4.5.6.4	This section seems to be superfluous as it is clear that, where an assessment of risk reduction is useful in an ALARP demonstration, the results from the most sophisticated approach (quantitative risk assessment) would be used. The lower level approaches are more generally used in a screening manner to decide on the hazards that need to be assessed using quantitative risk assessment.
4.5.6.5	In the section on 'Reverse ALARP' we believe that it should be pointed out that there may well be an argument that to reinstall or repair a risk reduction measure that was originally installed is not necessary. Such as when, for example, the operating conditions have changed such that the measure would no longer have the same risk reduction benefit.
4.5.7	This precautionary principle coverage is broadly consistent with UK HSE Guidance, but HSE add that 'invocation of the precautionary principle is extremely unlikely to be appropriate offshore', which we believe should be stated in the CER Guidelines. This is because the hazards and consequences of oil and gas operations are well understood. It would perhaps be helpful to include examples of the sort of uncertainty that would require the application of the precautionary principle.
5.2	It should be made clear what the precise definition of individual risk as quoted in Table 1 is, ie. the risk of death per year for the defined individual.
5.3	The FN tolerability limit lines shown in Figure 6 are an order of magnitude below the criteria referred to by the UK HSE in their SPC39 (http://www.hse.gov.uk/foi/internalops/hid_circs/permissioning/spc_perm_39.htm). The justification given on page 34 is that Ireland can use criteria which are an order of magnitude lower because the criteria do not apply to workers, and they are aiming for continual improvement. It is not clear how this reasoning is arrived at and further (numerical) explanation would be appropriate. It is also noted that these proposed levels would be inconsistent with currently applied HSA risk assessment criteria under COMAH legislation. Furthermore, we believe that care needs to be taken with the interpretation of such FN criteria. In the past, the UK HSE has described them as "Comparison Lines" rather than as strict criteria, implying that just because an FN curve crosses a line, it does not necessarily mean that the societal risk is, for example, intolerable.
Appendix C	As stated, the advice that a Gross Disproportion Factor (GDF) of at least 10 should be used is more conservative than the UK HSE advice of a factor between 2 and 10 (see SPC 39). The justification given is that the QRA results are bound to be uncertain. Given that the same comment could be made in the UK regime, we believe this approach to be overly conservative, provided that the QRA has adopted a cautious best estimate approach.
Appendix D	We believe that the Individual Risk content is generally reasonable, although note that the HSE individual risk criteria used for land use

Section Reference	Comment
	<p>planning are based on the risk of receiving a dangerous dose or worse (i.e. a lesser level of harm than fatality), largely because it is considered appropriate to adopt a more cautious approach for the purposes of land use planning, where it is still possible to advise against people being exposed to the risk.</p> <p>On societal risk, see the comments on 5.3 above.</p>