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Róisín Cullinan,
Regulatory Manager,
Commission for Energy Regulation,
The Exchange, Belgard Square North,
Tallaght,
Dublin 24.

Our Ref: COR-01-SH-GM-2172

2nd October 2015

Re: CER/15/218 – Requirements of the Petroleum Safety Framework - Consultation
CER/15/219 – Safety Case Requirements - Consultation Paper
CER/15/220 – Compliance Assurance System - Consultation
CER/15/221 – CER Audit and Inspection System - Consultation
CER/15/222 – Petroleum Safety Framework – Update for the Petroleum
(Exploration and Extraction) Safety Act 2015 - Consultation

Dear Ms. Cullinan,

Shell E&P Ireland Ltd. (SEPII) has reviewed the content of the consultation papers listed above and has included its comments in the attachment to this letter.

We thank you for the opportunity to comment on these consultation papers and will continue to work with the Commission for Energy Regulation to achieve safe operations in Ireland. We would like an opportunity to discuss our submission with you between 12th and 16th October.

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

Yours sincerely

Gerry Costello
Regulatory Affairs Manager

Encl.

Appendix A - Shell E&P Ireland Ltd. comments on Consultation Papers

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1. CER/15/218 – Requirements of the Petroleum Safety Framework - Consultation

Section		Comments
1.	2.1 Organisation of the CER as the Competent Authority	SEPIL welcomes the statement that “in line with section 13H(5) of the Act, the CER will prepare and implement joint procedures with other authorities, where relevant, to carry out its functions as the competent authority” as this should minimise some of the duplication which currently exists.
2.	2.4.1 Other Statutory Authorities	<p>SEPIL notes that the CER states “In the performance of its functions (including exercising its powers and performing its duties), the CER will consult with the aforementioned statutory authorities to identify where regulatory activities are duplication, Where potential duplicated activities are identified, the CER can prepare and implement coordinated or joint procedures with these authorities, to carry out its functions under section 13H(5) of the Act.”</p> <p>The list of statutory authorities includes the Health and Safety Authority (HSA). It is SEPIL’s view that the CER should work with the Health and Safety Authority (HSA) to discharge aspects of its functions, specifically the assessment of the control of major accident hazards at upper tier COMAH/Seveso sites, such as Bellanaboy Bridge Gas Terminal. The assessment of such information is already carried out by the HSA as part of its Safety Report assessment and acceptance. It is SEPIL’s view that a joint procedure between the CER and the HSA for upper tier</p>

Section		Comments
		<p>COMAH/Seveso sites should be developed in order to minimise duplication of regulatory efforts.</p> <p>We note that, regarding the Irish Coast Guard (IRCG), the CER states “aspects of these [emergency response plans] will be assessed by the IRCG alone and the IRCG decision on this aspect of the assessment will be adopted by the CER as part of its overall safety case assessment determination.” SEPIL welcomes the CER’s efforts to minimise regulatory overlap in terms of the review of the Oil Spill Contingency Plan (OSCP) that has to be approved by the IRCG in compliance with the Sea Pollution Act 1991, as amended.</p>
3.	11.1.1 Overview [regarding Regulatory Interfaces]	<p>For completeness, a reference to the joint procedures which will be prepared, where relevant, could be included in this section.</p> <p>SEPIL welcomes the statement “where potential duplicated activities are now identified, the CER can prepare and implement coordinated or joint procedures with these authorities, to carry out these functions and avoid duplication by the CER” in Section ‘2.3.5 Regulatory Interfaces’ of CER/15/222.</p>

2. CER/15/219 – Safety Case Requirements - Consultation Paper

Section		Comments
1.	List of Defined Terms – Safety (and Environmentally) Critical Elements – S(E)CE	While this definition states that “The environmental term is only applicable offshore and relates to the definition of a major hazard, which includes major environmental incidents offshore”, it would be helpful if such a statement could be made more generally and be applicable to the entire document, e.g. an overarching statement in section 1.
2.	3.5 Safety Management System / Safety and Environmental Management System	SEPIL has a separate Safety Management System (SMS) and Environmental Management System (EMS). SEPIL’s management systems are currently maintained separately and it is proposed to continue with this approach going forward.
3.	3.8 Combined Operations	It is SEPIL’s understanding that this is not applicable to the Corrib Production Facilities as there is no production installation offshore for Corrib.
4.	6.4 Safety (and Environmental) Critical Elements, Performance Standards, Assurance and Verification (second paragraph)	The second paragraph in Section 6.4 contains significant requirements for a Design Notification. SEPIL suggests that the first sentence is changed to “For those safety (and environmental) critical elements that are fundamental to the design, the high level performance of the S(E)CEs must be provided where possible and should demonstrate how these SECE choices achieve ALARP”, i.e. removal of the reference to ‘quantitative terms’ as it could delay completion of the design period and quantitative information submitted at this stage could change as the project progresses.

Section		Comments
5.	11.4 Verification (p. 61, Table)	<p>This section/table states that (i) the Facilities Verification and Well Verification Schemes in their entirety should be contained within the Production and Decommissioning Safety Cases, (ii) the Facilities Verification Scheme in its entirety should be contained within the Non-production Safety Case, and (iii) the Well Verification Scheme in its entirety should be contained within the Well Work Safety Case. It is our view that descriptions of, and references to, the schemes would be more appropriate as it would be very cumbersome to manage changes to the safety case, performance standards and verification scheme within one document. In addition, it would not be possible for the CER to approve a safety case without approving all of the performance standards and verification scheme. This could add significantly to the timeframe for preparation and approval of a safety case and would mean that the CER would have an ‘approval’ role for the performance standards and verification scheme.</p> <p>If the documents were all part of the safety case, the updates following any verification amendment notices and performance standard amendment notices would be more onerous and there would be a risk that the documentation would be out of sync. There could be a reluctance to make minor changes to a performance standard as they would need to be tracked in the safety case also so it could act as a deterrent to implementing improvements in/making changes to the performance standards.</p> <p>SEPIL supports the use of the same table that is contained in Section 2.3.1 Safety Case Content of the current ‘Compliance</p>

Section	Comments
	<p>Assurance System' (CER/14/146).</p> <p>It is noted that the first row of the table on page 27 of CER/15/222 states in the 'Reason for Change' column that "Various requirements of the 2015 Act mean that significant parts of these documents [verification schemes and performance standards] have to be in the safety case. It is deemed that to comply with this, the most efficient approach is to place them as an appendix to the safety case." Upon review of the 2015 Act, we believe that the CER may be referencing section 13L of the 2015 Act: "(3) Safety case guidelines may include provision for one or more of the following:.... (i) guidance on the description of the scheme of independent verification to be established by the operator or the owner as the case may be, and to be included in the safety case or notification as appropriate;...." As stated earlier, SEPIL disagrees that inclusion of the verification schemes and performance standards in their entirety in the safety case would be the most efficient approach.</p> <p>SEPIL also understands that a description of the verification scheme in the safety case is sufficient for regulator in the UK.</p>
6.	<p>12 Safety (and Environment) Management System</p> <p>SEPIL maintains an Environmental Management System (EMS) for the operations phase (which includes offshore facilities) in accordance with ISO 14001 standard which is separate to the Safety Management System. This section refers to OHSAS 18001 standard but does not specifically refer to environmental management standards. There is also a strong focus on the term</p>

Section		Comments
		'safety' in section 12 (p. 62), SEPIL suggests that the CER reviews section 12 to include further references to environmental management standards/'environment', e.g. under the headings Plan, Do, Check, Act the term environment is not mentioned.
7.	13.3 Training and Exercises	It is SEPIL's understanding that, for offshore emergencies, the 'off-site emergency response team' refers to personnel under the operator's or owner's control who support management of the emergency off-site, e.g. personnel on stand-by vessels.
8.	14.1 General	<p>This section states that "the requirements here are expected to be a subset of the Oil Spill Contingency Plan (OSCP) that has to be approved by the IRCG in compliance with the Sea Pollution Act 1991, as amended. It is suggested that the OSCP is submitted in its entirety as an appendix to the safety case." As the OSCP requires separate approval from the IRCG, it would seem more appropriate to reference the OSCP in the safety case as this would avoid duplication of regulatory efforts. The OSCP could subsequently change based on feedback/queries from the IRCG - thus potentially leading to a material change to the safety case. If required, the OSCP could be provided to the CER during the safety case assessment process.</p> <p>See also the third paragraph in SEPIL's comments (above) regarding section 2.4.1 of CER/15/218.</p>

3. CER/15/220 – Compliance Assurance System - Consultation

Section		Comments
1.	2.1.1.3 Independence	<p>We note that the following text (shown in italics) has been added to the Independence criteria for ICB persons (compared to the current criteria outlined in the Section 2.1.1.3 of the Compliance Assurance System CER/14/146): “The ICB’s persons carrying out verification activities must: ... Not verify their own work, <i>including a constituent member of such a company, its parent company or a company in the same group;</i>” [continues].</p> <p>It is SEPIL’s view that the current independence criteria (in the first three bullet points of CER/14/146) are exacting in terms of sourcing competent ICB persons, who meet the independence criteria, in some specialised areas. The CER’s existing independence requirements (without the italicised text above) already far exceed those outlined in Annex V of the EU Directive 2013/30/EU, i.e. “1. Member States shall require the operator or owner to ensure the following conditions are fulfilled with regard to the verifier’s independence from the operator and the owner:</p> <p>(a) the function does not require the independent verifier to consider any aspect of a safety and environmental critical element or any part of an installation or a well or a well design in which the verifier was previously involved prior to the verification activity or where his or her objectivity might be compromised;</p> <p>(b) the independent verifier is sufficiently independent of a management system which has, or has had, any responsibility for any aspect of a component covered by the scheme for independent verification or well examination so as to ensure</p>

Section		Comments
		<p>objectivity in carrying out his or her functions under the scheme.”</p> <p>It would seem more than appropriate to continue with the existing requirements, rather than further adding to them, a position further supported by the actual wording in EU Directive 2013/30/EU.</p>
2.	3.1 Safety Performance Indicators	<p>SEPIL notes that section 3 states that section 3.1 is not subject to consultation at this time. SEPIL also notes that the table on page 27 of CER/15/222 states that ‘no significant change’ is expected between the CER’s lagging indicators and the European common reporting legislation. From a review of the ‘Regulations commission implementing regulation (EU) No 1112/2014 of 13 October 2014,’ it would appear that a number of the incidents which are currently reportable to the CER are not part of the aforementioned regulation. SEPIL would welcome alignment between the CER’s petroleum incident requirements and those in the aforementioned regulation.</p>
3.	4.2.3 Independence	<p>With respect to the Independent Safety Case Review and choice of an Independent Review Body, in section 4.2.3, the criteria for independence includes “the IRB’s persons carrying out the review activities must:</p> <p>...</p> <ul style="list-style-type: none"> ○ Not, if a person is working for an ICB for the installation being reviewed, or any constituent member of such a company, its parent company or a company in the same group, review the work of that organisation; and ○ Not, if a person is working for a third party organisation

Section		Comments
		<p>with a safety-related relationship, such as organisations carrying out:</p> <ul style="list-style-type: none"> ○ Design and construction of changes [continues] review the work of that organisation.” <p>As stated in previous submissions, the extension of these criteria to entire companies and third party organisations with a safety-related relationship is very restrictive with respect to choosing an organisation with appropriate expertise. It may prove difficult to find an independent and competent review body.</p>

4. CER/15/221 – CER Audit and Inspection System - Consultation

Section		Comments
1.	2.2 Petroleum Safety Officers	It appears that the role of the Petroleum Safety Officer is predominantly ‘safety’ focussed.