

CONSULTATION PAPER ON THE HIGH LEVEL DESIGN OF THE PETROLEUM SAFETY FRAMEWORK

This CER Report arises out of the 'Advantica Report' on the Corrib Gas Pipeline. That recommended that a new risk-based safety framework for major hazard pipelines should be developed in Ireland. The Petroleum (Exploration and Extraction) Act 2010 extended this to petroleum exploration and extraction activities generally.

The principle objective under the Act is to 'protect the public by fostering and encouraging safety as respects the carrying on of petroleum activities.' The design of the petroleum Safety Framework is the focus of this consultation paper. The wider legislative and regulatory system in Ireland is described in detail in the 'Status Analysis Review of the Existing Legislative and Regulatory System for Petroleum Exploration and Extraction in Ireland' [2011], which should be read in conjunction with this Paper. [XXX Retitle on site copy now titled 'Review of Exploration in Ireland 2011' to 'Status Analysis Review of the Existing Legislative and Regulatory System for Petroleum Exploration and Extraction in Ireland 2011 and LINK].

Safety is not defined in this Act or in any other legislation regulating safety in Ireland. Safety is therefore 'given its ordinary meaning, and dictionary definitions generally define safety as the absence of danger'. The 2010 Act defines a 'petroleum incident' as an event which results in the loss of human life or 'personal injury being suffered by a person'.

A particular focus of the CER is 'major accident hazards' one of whose proposed criterion is that the activity is connected to or has the potential to be connected to the reservoir. This focus complements the CER's more general role of ensuring that the risks to safety of the are kept ALARP [As Low As Reasonably Practical].

The test for 'reasonably practical' was defined in a leading case for its definition [Edwards vs National Coal Board 1949, English Court of Appeal]: 'the quantum of risk is placed on one scale the sacrifice involved in measures necessary for averting the risk (whether in money, time or trouble) is placed in the other and that, if it be shown there is a gross disproportion between them – the risk being insignificant in relation to the sacrifice – the defendants discharge the onus on them'.

Tools that are used to determine gross disproportionality are a Quantified Risk Assessment [QRA] and a Cost Benefit Analysis [QBA]. This Report suggests that precautionary principle is rarely applied to petroleum activities and only when 'understanding is minimal and opinions can vary within the scientific community'.

The DER proposed high level interface cooperation and co ordination agreements with a range of authorities, including DoEHLG. Auditing will be carried out by CER Inspectors and the issue of joint inspections – with say Health and Safety – is considered. It recommends an independent competent person [ICP] for verification rather than the Regulator itself.

Details of how CER will discharge enforcement function and powers will be documented in Enforcement Procedures to be published for public consultation after the High Level Design of the Petroleum Safety Framework (this document) has been decided.

The CER invites comments on the 'possible publication' of enforcement notices, their investigation reports and their agreements with other statutory bodies and

how they should address requests by petroleum companies to exclude certain information (industrial confidentiality, public security, national defence, etc.) from their Safety Case.

The final date for submission is Tuesday 27 September, 2011. Email emurtagh@cer.ie

T.L. 5.08.11