



Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

**Gas Safety Regulatory Framework for Ireland –  
Decision Paper on the Regulation of Kinsale Gas Facility**

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## Abstract

The CER currently regulates natural gas undertakings through the Gas Safety Regulatory Framework (Ref: CER/07/172 and CER/13/029), using a safety case regime<sup>1</sup>. Under the Gas Safety Regulatory Framework, natural gas undertakings carrying out a natural gas storage activity must hold a CER approved safety case. Currently the only natural gas storage facility in Ireland is located in the Kinsale gas fields. The CER has been responsible for the regulation of this facility under the Gas Safety Regulatory Framework since 2007 and has an accepted safety case on file from Kinsale.

Since 2013 the CER regulates petroleum undertakings with respect to safety through the Petroleum Safety Framework<sup>2</sup>. Under the Petroleum Safety Framework a petroleum undertaking must hold a CER approved safety case and associated safety permit in order to carry out specific petroleum activities. This includes production activities (Ref: CER/13/304) currently carried out in the Kinsale gas fields. A safety case submission with respect to the associated Kinsale gas fields petroleum lease authorisations is required to be submitted to the CER prior to November 29<sup>th</sup> 2014, in accordance with legislative timelines.

The structure and requirements of both the Gas and Petroleum Safety Regulatory frameworks are very similar. Given the combined nature of the Kinsale production and storage activities and in order to avoid unnecessary duplication of efforts by both parties, the CER consulted on how best to approach the regulation of the Kinsale storage activity.

The CER noted that in its opinion the safety case requirements for the Kinsale storage activity could be covered by the safety case requirements for the Kinsale

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<sup>1</sup> The *Electricity Regulation Act, 1999* (“the 1999 Act”) confers on the CER responsibility for regulating activities of natural gas undertakings with respect to safety.

<sup>2</sup> The CER has regulatory responsibility with respect to petroleum production activities under the Petroleum (Exploration and Extraction) Safety Act, No. 4 of 2010.

production activity. The CER stated that it was of the view that, were two submissions to take place, this would result in unnecessary duplication.

Therefore the CER proposed an approach whereby;

- A single safety case would be submitted to the CER, covering both storage and production at Kinsale gas fields, in accordance with the Petroleum Safety Case Guidelines, and
- This safety case would be regulated by the CER under both the petroleum and gas safety regimes.

The CER received one response to the consultation paper. This decision paper outlines the CER's decision on the Regulation of Kinsale Gas Facility. There are no changes to the consultation paper which was issued.

For further information on this decision paper, please contact Tara Scully ([tscully@cer.ie](mailto:tscully@cer.ie)) at the CER.

## Glossary

**Kinsale storage facility** – All references to the “Kinsale Storage facility” in this document refer to the storage activities carried out in respect of the following CER Licence:

- a) Natural Gas Storage Licence granted to Marathon Oil Ireland Ltd (Ref: CER/06/01)

**Kinsale production activity** – In this document all references to the ‘Kinsale production activity’ means the production activity carried out in respect of the following petroleum authorisations:

- a) Offshore Petroleum Lease No. 1 (07/05/1970)
  - I. Petroleum Undertaking(s):
    - (i) PSE Kinsale Energy Limited
- b) Kinsale/Ballycotton and the Seven Heads Petroleum Lease (13/11/2002)
  - I. Petroleum Undertaking(s):
    - (i) PSE Seven Heads Limited (Operator)
    - (ii) Island Oil and Gas Plc
    - (iii) Sunningdale Oils (Ireland) Limited

**Kinsale gas fields** – In this document all references to ‘Kinsale gas fields’ relate to those covered under the following authorisations:

- a) Offshore Petroleum Lease No. 1 (07/05/1970)
  - I. Petroleum Undertaking(s):
    - (i) PSE Kinsale Energy Limited
- b) Kinsale/Ballycotton and the Seven Heads Petroleum Lease (13/11/2002)
  - I. Petroleum Undertaking(s):
    - (i) PSE Seven Heads Limited (Operator)
    - (ii) Island Oil and Gas Plc
    - (iii) Sunningdale Oils (Ireland) Limited

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## 1.0 Introduction

### 1.1 Background

Under the Electricity Regulation Act, 1999 (“the 1999 Act”), as amended by the Energy Miscellaneous Provisions Act, 2006 (“the 2006 Act”), the Commission for Energy Regulation (“the CER”) has responsibility for regulating activities of natural gas undertakings<sup>3</sup> with respect to safety.

A natural gas undertaking is defined<sup>4</sup> as:

*“a person engaged in the transmission, distribution, supply or storage of natural gas, including any holder of a licence or a consent under this Act, or any person who has been granted a licence or given a consent under the Gas Acts, 1976 to 2002”,*

At present this category comprises any person who has been granted a consent by the CER to construct a downstream gas pipeline or who is licensed under the Gas Acts to carry on any of the activities set out below:

- (i) the supply of natural gas,
- (ii) the shipping of natural gas,
- (iii) the operation of a transmission system,
- (iv) the operation of a distribution system,
- (v) the operation of an LNG facility,
- (vi) the operation of a natural gas storage facility.

The CER was granted the power under the 2006 Act to establish a Framework, against which natural gas undertakings could be regulated from a safety perspective. In 2007, the CER published the “*Natural Gas Safety Regulatory Framework – A High Level Approach*” (Ref: CER/07/172) decision paper, outlining the structure of the Framework that would be used to regulate

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<sup>3</sup> The CER also regulates Liquefied Petroleum Gas (LPG) undertakings, but this consultation relates to natural gas only.

<sup>4</sup> See Section 2 of the Electricity Regulation Act, 1999

the Natural Gas Industry with respect to safety. The CER's regulatory powers were further expanded in 2012, with the introduction of the *Energy (Miscellaneous Provisions) Act 2012*; this granted the CER the power to extend the Gas Safety Regulatory Framework to include regulation of Liquefied Petroleum Gas (LPG) with respect to safety. The Gas Safety Regulatory Framework regulates the industry through a safety case regime. During 2014, the CER will commence consultation on the Gas Safety Regulatory Framework as a whole, to allow for matters such as its new responsibilities and new enforcement powers.

The Gas Safety Regulatory Framework includes both natural gas undertakings engaged in shipping and supplying activities, and gas storage facilities. The structure of the industry in Ireland is such that, while there are a number of undertakings engaged in the supply and shipping of natural gas, and the operation of the transmission and distribution systems, there is currently only one gas storage facility in the country. This facility is an off-shore facility, which operates alongside a gas production facility off Kinsale Head, Co. Cork. The storage aspect of this facility presently falls under the Gas Safety Regulatory Framework. A safety case for the Kinsale storage activity is currently on file with the CER. The production facility falls under the Petroleum Safety Regulatory Framework and is discussed below.

Since December 2013, petroleum production activities<sup>5</sup> have been regulated by the CER under the Petroleum Safety Framework, as established under the *Petroleum (Exploration and Extraction) Safety Act*, No. 4 of 2010. This Framework also operates through a safety case regime. Under the Petroleum Safety Framework, all petroleum undertakings wishing to carry out a production activity must first receive a safety permit from the CER following acceptance of a related safety case. As an 'established petroleum activity'<sup>6</sup>

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<sup>5</sup> S.I. 89 of 2013 PETROLEUM SAFETY (DESIGNATION OF CERTAIN CLASSES OF PETROLEUM ACTIVITY) REGULATIONS 2013, sets out the petroleum activities that require safety permits from the CER prior to commencement or continuation. These are known as 'Designated Petroleum Activities'.

<sup>6</sup> 'established petroleum activity' means—(a) a petroleum activity which, immediately before the coming into operation of this section is being carried on by a petroleum undertaking, (b) is a designated

the petroleum undertakings for the Kinsale production activity must submit a safety case to the CER by November 29<sup>th</sup> 2014 in order to be granted a safety permit to continue to carry on the Kinsale production activity. For clarity, a safety case has not yet been submitted to the CER in respect of the Kinsale production activity.

The Petroleum Safety Framework *Safety Case Guidelines*<sup>7</sup> have a broader scope than the *Safety Case Requirements for Natural Gas Storage Activities*<sup>8</sup> under the Gas Safety Regulatory Framework, a scope which, in this specific case would include the Kinsale storage activity in its totality. This is due to some overlap between the requirements of the safety management systems associated with the storage activity under the Gas Safety Regulatory Framework and the production activity under the Petroleum Safety Framework. The CER requires separate safety cases under each Framework; however the combined nature of the facility could have resulted in significant duplication of safety case content. As such the CER recently consulted on how best to approach the regulation of the Kinsale gas facility.

## **1.2 Scope of this Paper**

This decision paper follows the CER's Consultation Paper on the Proposed Regulation of Kinsale Gas Facility (CER/14/126). This paper sets out the CER's decision on the approach to the safety regulation of Kinsale's storage activity under the Gas Safety Regulatory Framework.

## **1.3 Responses received to this paper**

One response was received to the consultation on this matter and is outlined in Appendix 1. The CER's response to the comments received can be found in Section 2.3.

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petroleum activity for the purposes of this Part, and (c) continues to be carried on after the coming into operation of this section by a petroleum undertaking.

<sup>7</sup> CER/13/283 Safety Case Guidelines – Part of the Petroleum Safety Framework Version 1.0

<sup>8</sup> CER/07/226

## 1.4 Structure of Paper

The remainder of this paper is structured as follows:

**Section 2:** Sets out the existing regulatory regime operated by the CER, legislative requirements, and the CER's decision on the regulatory regime for the Kinsale storage activity under the Gas Safety Regulatory Framework.

**Section 3:** Outlines the next steps in revising the regulatory regime.

## 2.0 Safety Regulatory Regime for Kinsale

### 2.1 Introduction

From December 2013, Kinsale production activity and Kinsale storage activity are subject to safety regulation by the CER under the Petroleum Safety Framework and the Gas Safety Regulatory Framework respectively. Both Frameworks require an undertaking to submit a safety case to the CER for assessment with respect to the same infrastructure; one relating to the storage activity alone and one relating to the production activity. The structure and requirements of both the Gas and Petroleum Safety Regulatory frameworks are very similar. Given the combined nature of the Kinsale production and storage activities and in order to avoid unnecessary duplication of efforts by both parties, on June 4<sup>th</sup> 2014 the CER consulted on how best to approach the regulation of the Kinsale storage activity (CER/14/126). Specifically the CER proposed an approach whereby;

- A single safety case would be submitted to the CER, covering both storage and production at Kinsale gas fields, in accordance with the Petroleum Safety Case Guidelines, and
- This safety case would be regulated by the CER under both the petroleum and gas safety regimes.

The CER's decision with regard to this proposed approach is outlined in Section 2.3.

### 2.2 Legislative Requirements

The CER is required by the 1999 Act<sup>9</sup> to regulate gas storage facilities with respect to safety. As previously stated, under the licences issued by the CER, PSE Kinsale Energy is required to submit a safety case to the CER for each licence that it holds. The CER currently has a safety case on file that was submitted under the storage licence issued to PSE Kinsale Energy for its

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<sup>9</sup> Section 2, 1999 Act and Section 9(1)(eb)

storage activity. Regulation of this activity is currently carried out under the Gas Safety Regulatory Framework.

Similarly, *the Petroleum (Exploration and Extraction) Safety Act 2010* requires petroleum undertakings to submit a safety case to the CER for the purposes of gaining a safety permit in order to carry out, or continue to carry out, a designated petroleum activity<sup>10</sup>. Production is a designated petroleum activity which is carried out under the Petroleum Safety Framework.

## **2.3 Response Received and CER Decision**

In its consultation paper, the CER requested comments on its proposed approach to the Regulation of Kinsale Gas Facility. Comments received to the consultation paper and the CER's decision are outlined below.

### **CER Proposal**

The CER proposed a system whereby the regulation of the Kinsale storage activity would be carried out in the following manner:

- PSE Kinsale Energy would be required to submit a single safety case to the CER covering both storage and production in accordance with the Petroleum Safety Case Guidelines,
- This safety case would be regulated by the CER under both the petroleum and gas safety regimes, and
- Once a PSE Kinsale Energy production safety permit is issued, the existing storage safety case would cease to be in effect.

### **Response Received**

The CER received one joint response from PSE Kinsale Energy Ltd and PSE Seven Heads Ltd with regard to this proposal (See Appendix 1). The respondent welcomed the CER's proposal.

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<sup>10</sup> S.I. 89 of 2013 Petroleum Safety (Designation of Certain Classes of Petroleum Activity) Regulations 2013.

### **CER Decision**

The structure and requirements of both the Gas and Petroleum Safety Regulatory frameworks are very similar. However the Petroleum Safety Framework Safety Case Guidelines have a broader scope than the Storage Safety Case Guidelines under the Gas Safety Regulatory Framework, a scope which, in this specific case includes the storage activity at the Kinsale Gas Facility. Given the combined nature of the Kinsale production and storage activities, the CER has decided that PSE Kinsale Energy will be required to submit one safety case to the CER in accordance with the Petroleum Safety Case Guidelines. This will satisfy the Gas Safety Regulatory Framework and the Petroleum Safety Framework requirements with respect to the storage and production activities respectively. This single safety case will be assessed in accordance with the Petroleum Safety Framework Safety Case Regime. The CER is satisfied this approach will avoid unnecessary duplication with respect to the safety regulation of the Kinsale facility while ensuring the safety objectives of both Frameworks are met.

### **CER Proposal**

The CER proposed to regulate against this safety case under both the petroleum and gas safety regimes.

### **Response Received**

The CER received a joint response from PSE Kinsale Energy Ltd and PSE Seven Heads Ltd with regard to this proposal (See Appendix 1). The respondent indicated that one enforcement process (Petroleum Safety Framework) would be preferable to two sets of enforcement. The respondent also stated that they strongly encourage the timely implementation of legislation to support regulation of storage and production under the Petroleum Safety Framework.

### **CER Decision**

The CER acknowledges that two sets of enforcement process could potentially result in duplication and administrative burden. However it is the CER's responsibility to ensure continuous, consistent regulation of all

undertakings. To ensure the safety objectives of both Frameworks are met the CER will continue to regulate storage under the Gas Safety Framework and production under the Petroleum Safety Framework. In the event of a safety case breach, or as otherwise needed, enforcement options will be available under both the Gas Safety Framework and the Petroleum Safety Framework regimes. For practical reasons and to avoid duplication the CER may deem it appropriate to initiate only one enforcement process. To reduce the potential for duplication, activities such as audit and inspection will be planned jointly by the CER, where appropriate. The CER is satisfied this approach will ensure it meets its statutory obligations in respect of the safety regulation of the Kinsale facility while also reducing any potential administrative burden. PSE Kinsale Energy is required to submit a safety case under the Petroleum Safety Framework by November 29<sup>th</sup> 2014.

The CER continues to engage with the Department of Communications Energy and Natural Resources (DCENR) on proposed changes which may be required to primary legislation that will allow for the regulation of both storage and production to take place under the Petroleum Safety Framework. This is a matter for the legislature and CER understands changes are unlikely to be enacted in 2014. In the meantime, the safety regulation of storage will continue under the Gas Safety Framework and regulation of production will be under the Petroleum Safety Framework.

## 3.0 Next Steps and Conclusion

### 3.1 Next Steps

The existing Storage Safety Case for PSE Kinsale will remain operational, and subject to audit/inspection by the CER until such time as a safety permit is in place in respect of the Kinsale production activity. A production safety case must be submitted to the CER under the Petroleum Safety Framework by November 29<sup>th</sup> 2014. Once the safety permit in respect of the Kinsale production activity is in place, the existing Storage Safety Case will cease to be in effect. The CER will continue to regulate the Kinsale gas fields under both the Gas and Petroleum Frameworks and will endeavour to reduce duplication where possible.

The CER has amended the Gas Safety Regulatory Framework Paper to reflect the decisions outlined in this paper. Version 2.0 of the *Gas Safety Regulatory Framework Paper* (CER/14/296) is available on the CER's website. A public consultation on the Gas Safety Framework in its entirety will commence in late 2014.

### 3.2 Conclusion

As outlined in this paper, the CER has reviewed its approach to regulating PSE Kinsale in light of the introduction of the Petroleum Safety Framework and as part of an overall review of the Gas Safety Regulatory Framework. It is the CER's responsibility to ensure continuous, consistent regulation of all undertakings. Following this review the CER has made the following decisions:

- PSE Kinsale Energy will be required to submit a single safety case to the CER covering both storage and production in accordance with the Petroleum Safety Case Guidelines,
- This safety case will be regulated by the CER under both the petroleum and gas safety regimes, and

- Once PSE Kinsale Energy production safety permit is in place their existing storage safety case will cease to be in effect.

## Appendix 1: Response Received

The CER received one response to the consultation paper on the Regulation of the Kinsale Gas Facility.

<p><b>Q1:</b> Please comment on the proposed system for the regulation of the Kinsale storage activity via the production safety case submitted in accordance with the Petroleum Safety Framework Safety Case Guidelines?</p>	<p><b>PSE Kinsale Energy Ltd and PSE Seven Heads Ltd Response</b></p> <p>Kinsale Energy welcomes the CER approach to transition towards implementation of the Production Safety Case, as constructed under the Petroleum Safety Framework Safety Case Guidelines, as the Safety Case for both Kinsale Energy storage and production operations. We note your comments regarding the timing of legislation to support regulation of storage and production under the Petroleum Safety Framework, and we understand that it is necessary for both production and storage operations to be regulated under the Gas Safety Framework and the Petroleum Safety Framework respectively.</p> <p>We strongly encourage the timely implementation of the legislation to support regulation of storage and production under the Petroleum Safety Framework.</p>
<p><b>Q2:</b> Please comment on the CER's proposal to regulate against this safety case under both the petroleum and gas safety regimes.</p>	<p><b>PSE Kinsale Energy Ltd and PSE Seven Heads Ltd Response</b></p> <p>We would like to note that one enforcement process (Petroleum Safety Framework) would be preferable to two sets of enforcement process (administrative burden and setting clear organisational goals etc.).</p>