

Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide and amending Council Directive 85/337/EEC, European Parliament and Council Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC, 2008/1/EC and Regulation (EC) No 1013/2006 (Text with EEA relevance)

## CHAPTER 5

### THIRD-PARTY ACCESS

#### *Article 21*

#### **Access to transport network and storage sites**

1 Member States shall take the necessary measures to ensure that potential users are able to obtain access to transport networks and to storage sites for the purposes of geological storage of the produced and captured CO<sub>2</sub>, in accordance with paragraphs 2, 3 and 4.

2 The access referred to in paragraph 1 shall be provided in a transparent and non-discriminatory manner determined by the Member State. The Member State shall apply the objectives of fair and open access, taking into account:

- a the storage capacity which is or can reasonably be made available within the areas determined under Article 4, and the transport capacity which is or can reasonably be made available;
- b the proportion of its CO<sub>2</sub> reduction obligations pursuant to international legal instruments and to Community legislation that it intends to meet through capture and geological storage of CO<sub>2</sub>;
- c the need to refuse access where there is an incompatibility of technical specifications which cannot be reasonably overcome;
- d the need to respect the duly substantiated reasonable needs of the owner or operator of the storage site or of the transport network and the interests of all other users of the storage or the network or relevant processing or handling facilities who may be affected.

3 Transport network operators and operators of storage sites may refuse access on the grounds of lack of capacity. Duly substantiated reasons shall be given for any refusal.

4 Member States shall take the measures necessary to ensure that the operator refusing access on the grounds of lack of capacity or a lack of connection makes any necessary enhancements as far as it is economic to do so or when a potential customer is willing to pay for them, provided this would not negatively impact on the environmental security of transport and geological storage of CO<sub>2</sub>.

#### *Article 22*

#### **Dispute settlement**

1 Member States shall ensure that they have in place dispute settlement arrangements, including an authority independent of the parties with access to all relevant information, to enable disputes relating to access to transport networks and to storage sites to be settled

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expeditiously, taking into account the criteria referred to in Article 21(2) and the number of parties which may be involved in negotiating such access.

2 In the event of cross-border disputes, the dispute settlement arrangements of the Member State having jurisdiction over the transport network or the storage site to which access has been refused shall be applied. Where, in cross-border disputes, more than one Member State covers the transport network or storage site concerned, the Member States concerned shall consult with a view to ensuring that this Directive is applied consistently.