
DRAFT STATUTORY INSTRUMENTS

2011 No.

**The Storage of Carbon Dioxide (Access
to Infrastructure) Regulations 2011**

Acquisition of rights

Acquisition of rights to use relevant infrastructure

12.—(1) This regulation applies where—

- (a) a person makes an application to the owner of a relevant pipeline for a right to have carbon dioxide of the composition specified in the application conveyed by the pipeline during such period as is so specified and in such quantities as are so specified; or
- (b) a person makes an application to the owner of a relevant storage site to have carbon dioxide of the composition specified in the application, in such quantities as are so specified, injected into the storage site during such period as is so specified and at such an injection rate as is so specified and stored in the storage site,

and references in these Regulations to the “access application” are to the application made to the owner of the relevant pipeline or relevant storage site.

(2) If the applicant and the owner do not reach agreement on the access application, the applicant may apply to the authority for a notice under paragraph (8) which would secure to the applicant the right sought in the access application.

(3) The authority may not consider an application under paragraph (2) unless satisfied that the applicant and the owner have had a reasonable time in which to reach agreement.

(4) When considering an application under paragraph (2) the authority must—

- (a) decide whether the application is to be—
 - (i) rejected,
 - (ii) adjourned to enable further negotiations between the applicant and the owner, or
 - (iii) considered further,and
- (b) in the case of a decision to consider the application further, give an opportunity to be heard to—
 - (i) the applicant and the owner;
 - (ii) the operator of the relevant infrastructure;
 - (iii) any person with a right to have carbon dioxide conveyed by the pipeline or stored in the storage site;
 - (iv) the Health and Safety Executive or the Health and Safety Executive for Northern Ireland, as appropriate; and
 - (v) such other persons as the authority considers appropriate.

(5) When giving further consideration to an application under paragraph (2), the authority must (so far as relevant) take into account—

- (a) capacity which is or can reasonably be made available in a relevant pipeline;
 - (b) authorised capacity which is or can reasonably be made available in a relevant storage site;
 - (c) that the composition of the CO₂ stream to be conveyed by, injected into or stored in the relevant infrastructure is compatible with the use of the relevant infrastructure for the purpose for which it has been designed;
 - (d) any incompatibilities of technical specification which cannot reasonably be overcome;
 - (e) any other difficulties which cannot reasonably be overcome and which could prejudice the efficient, current and planned future transport or storage of carbon dioxide;
 - (f) the reasonable needs of the owner and any associate of the owner for the conveyance and storage of carbon dioxide;
 - (g) the interests of all users and operators of the relevant infrastructure;
 - (h) the proportion of the United Kingdom's carbon dioxide reduction obligations pursuant to international legal instruments and to European Union legislation that will be met through capture and geological storage of carbon dioxide; and
 - (i) the number of parties involved in the dispute.
- (6) The authority may serve a notice under paragraph (8) only if satisfied that—
- (a) the notice will not prejudice—
 - (i) the efficient operation of the relevant infrastructure concerned; or
 - (ii) the safety or environmental security of the conveyance or storage of carbon dioxide by or in the relevant infrastructure; and
 - (b) the condition in paragraph (7) is met.
- (7) The condition in this paragraph is that the authority is satisfied that the notice will not prejudice—
- (a) the conveying by or storage in the relevant infrastructure of the quantities of carbon dioxide which the owner or an associate of the owner requires or may reasonably be expected to require; or
 - (b) the conveying by or storage in the relevant infrastructure of the quantities of carbon dioxide which another person with a right to have carbon dioxide so conveyed or stored requires to be conveyed or stored in the exercise of that right.
- (8) A notice under this paragraph may contain such provisions as the authority considers appropriate for any of the following purposes—
- (a) to secure to the applicant the right sought in the access application;
 - (b) to secure that exercise of the right is not prevented or impeded;
 - (c) to secure to the applicant such ancillary or incidental rights as the authority considers necessary or expedient, which may include the right to have a pipeline connected to the relevant pipeline or relevant storage site by the applicant or the owner;
 - (d) to regulate the charges which may be made for the exercise of any right secured by the notice.
- (9) A notice under paragraph (8) may also—
- (a) contain provision authorising one or more of the owners to recover from the applicant payments by way of consideration for any right secured by the notice of amounts specified in the notice or determined in accordance with the notice;
 - (b) contain provision permitting a right secured or a duty imposed by the notice to be assigned.
- (10) A notice under paragraph (8) is to be served on the owner and the applicant.

(11) A notice under paragraph (8) does not come into force unless and until the applicant indicates acceptance of the terms of the notice in such manner and within such period as is specified in the notice.