

STATUTORY INSTRUMENTS

2010 No. 2221

The Storage of Carbon Dioxide (Licensing etc.) Regulations 2010

^{F1}Inspections and enforcement

Textual Amendments

- F1** Regs. 16-20 and cross-heading inserted (23.2.2012) by [The Storage of Carbon Dioxide \(Inspections etc.\) Regulations 2012 \(S.I. 2012/461\)](#), regs. 1, 4

Inspections

16.—(1) The authority must carry out an inspection (a “routine inspection”) of a storage complex—

- (a) during the initial period—
 - (i) no later than 1 year from the date that period commences; and
 - (ii) subsequently, no later than 1 year from the date of the immediately previous inspection; and
- (b) during the post-closure period—
 - (i) no later than 5 years from the date that period commences; and
 - (ii) subsequently, no later than 5 years from the date of the immediately previous inspection.

(2) A routine inspection must include an examination of—

- (a) the injection and monitoring facilities; and
- (b) the effects on the environment and human health of the activities carried out under the relevant licence.

(3) The authority must carry out an inspection of a storage complex if—

- (a) the authority becomes aware of—
 - (i) leakages or significant irregularities; or
 - (ii) a breach of the terms or conditions of the relevant storage permit; or
- (b) a complaint is made to the authority about the effects of activities carried out under the relevant licence on the environment or to human health, unless the authority believes that complaint is frivolous or vexatious.

(4) The authority may carry out an inspection other than when required under paragraphs (1) or (3) as the authority considers appropriate.

(5) An inspection carried out pursuant to paragraph (3) or (4)—

- (a) does not constitute a routine inspection for the purposes of paragraph (1); but
- (b) may be carried out simultaneously with a routine inspection.

- (6) In this regulation, in relation to any storage complex—
- (a) “initial period” means the period commencing on the date on which injection commences at the storage site and ending on the third anniversary of the date of closure of the storage site;
 - (b) “monitoring facilities” means facilities used for the carrying out of a programme of monitoring pursuant to paragraph 2 of Schedule 2;
 - (c) “post-closure period” means the period commencing on the day after the third anniversary of the date of closure of the storage site and ending on the date on which the relevant licence is terminated; and
 - (d) “year” means a period of 12 months.

Appointment of inspectors

17.—(1) An inspector may exercise any of the powers described in Schedule 3 to assist the authority in carrying out its functions under Chapter 3 of the Energy Act 2008.

- (2) The functions referred to in paragraph (1) include—
- (a) investigating whether—
 - (i) the provisions of a licence or of any consent granted under a licence; or
 - (ii) any requirements, restrictions or prohibitions imposed by or under Chapter 3 of the Energy Act 2008,have been, or are being, complied with; and
 - (b) monitoring the effects on the environment and on human health of activities authorised by or under a licence.

(2) An inspector must report to the authority in such manner as the authority may direct.

(3) An inspector must, before exercising any of the powers described in Schedule 3, produce evidence of appointment if requested to do so.

Inspection reports

18.—(1) The authority must prepare a written report (an “inspection report”) of the results of an inspection.

- (2) An inspection report must include—
- (a) the authority’s assessment of whether or not, in respect of the storage complex inspected—
 - (i) the provisions of a licence or of any consent granted under a licence; and
 - (ii) any requirements, restrictions or prohibitions imposed by or under Chapter 3 of the Energy Act 2008,have been, or are being, complied with; and
 - (b) a statement as to what action (if any) the authority considers is required to ensure such compliance.

(3) A statement made in an inspection report pursuant to paragraph (2)(b) does not preclude the authority from requiring the licence holder or any other person to take any other action.

- (4) The authority must within two months of the completion of an inspection—
- (a) provide a copy of the inspection report to the operator of the relevant storage site; and
 - (b) include the inspection report on the register maintained under section 29(1).

Evidence

19.—(1) An answer given by a person in compliance with a requirement imposed under paragraph 1(i) of Schedule 3 is admissible in evidence in England and Wales or Northern Ireland against that person in any proceedings or, in Scotland, against that person in criminal proceedings.

(2) In criminal proceedings in which a person mentioned in paragraph (1) is charged with an offence to which this paragraph applies, no evidence relating to that person's answer may be adduced and no question relating to it may be asked by or on behalf of the prosecution unless evidence relating to it is adduced by or on behalf of that person.

(3) Paragraph (2) applies to any offence other than one—

- (a) under regulation 20(1)(c);
- (b) under section 5 of the Perjury Act 1911 (false statements made otherwise than on oath);
- (c) under section 44(2) of the Criminal Law (Consolidation) (Scotland) Act 1995 (false statements made otherwise than on oath); or
- (d) under article 10 of the Perjury (Northern Ireland) Order 1979.

(4) Nothing in Schedule 3 compels the production by any person of a document of which that person would on ground of legal professional privilege be entitled to withhold production on an order for disclosure or discovery in an action in the High Court or the High Court in Northern Ireland or, in relation to Scotland, on an order for the production of documents in an action in the Court of Session.

Offences

20.—(1) It is an offence for a person—

- (a) wilfully to obstruct an inspector in the exercise of the powers or duties conferred on the inspector by these Regulations;
- (b) without reasonable excuse to fail to comply with a requirement imposed under Schedule 3 or to prevent another person from complying with such a requirement; or
- (c) (i) to make a statement which that person knows to be false or misleading in a material particular; or
(ii) recklessly to make a statement which is false or misleading in a material particular, where such a statement is made in purported compliance with any requirement imposed under Schedule 3 for the supply of information to an inspector.

(2) A person guilty of an offence under paragraph (1) is liable—

- (a) on summary conviction—
 - (i) in England and Wales or Northern Ireland, to a fine not exceeding the statutory maximum;
 - (ii) in Scotland, to a fine not exceeding £5,000; or
- (b) on conviction on indictment, to a fine.

(3) Where an offence under paragraph (1) is committed by a body corporate and is proved to have been committed with the consent or connivance of an officer of the body corporate, that officer (as well as the body corporate) is guilty of the offence and is liable to be proceeded against and dealt with accordingly.

(4) Where an offence under paragraph (1) is committed by a Scottish partnership and is proved to have been committed with the consent or connivance of a partner, that partner (as well as the partnership) is guilty of the offence and is liable to be proceeded against and punished accordingly.

(5) In this regulation—

- (a) “officer”, in relation to a body corporate, means—
 - (i) any director, manager, secretary or other similar officer of the body corporate; or
 - (ii) any person who was purporting to act in any such capacity;
 - (b) “partner”, in relation to a Scottish partnership, includes any person who was purporting to act as a partner in the partnership.
- (6) In paragraph (5) “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.
- (7) Where the commission by any person of an offence under this regulation is due to the act or default of some other person, that other person may be charged with and convicted of the offence by virtue of this paragraph whether or not proceedings for the offence are taken against the first-mentioned person.]

Changes to legislation:

There are currently no known outstanding effects for the The Storage of Carbon Dioxide (Licensing etc.) Regulations 2010, Cross Heading: Inspections and enforcement.