

20 No. 0000**

ENVIRONMENTAL PROTECTION

**The Storage of Carbon Dioxide (Access to Infrastructure)
Regulations 20****

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</i>	- -	***

The Secretary of State is a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the environment.

The Secretary of State makes these Regulations in exercise of the powers conferred by section 2(2) of that Act.

General

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Storage of Carbon Dioxide (Access to Infrastructure) Regulations 20**, and come into force on [***].

(2) In these Regulations—

“access application” has the meaning given to it in regulation 10(1);

“associate” has the meaning given to it in regulation 4;

“authority” means

appropriate authority in accordance with regulation 2;

“carbon dioxide pipe-line” has the meaning given to it in section 66(1) of the Pipe-lines Act 1962(c);

“CO₂” means carbon dioxide;

“consent” means—

(a) in the case of a relevant pipeline—

(i) an authorisation given for the purposes of section 14(1)(a) of the Petroleum Act 1998(d);

(a) S.I. 2008/301.

(b) 1972 c. 68; section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c. 7). Section 57(1) of the Scotland Act 1998 (c.46) provides that despite the transfer to the Scottish Ministers of functions in relation to observing and implementing obligations under Community law, any function of a Minister of the Crown shall continue to be exercisable by that Minister as regards Scotland for the purposes specified in section 2(2) of the European Communities Act 1972.

(c) The definition is inserted by paragraph 2 of the Schedule.

(d) 1998 c.17.

- (ii) a construction authorisation;
- (iii) development consent granted under section 114 of the Planning Act 2008(a);
- (b) in the case of a relevant storage site—
 - (i) a storage permit within the meaning of the Storage of Carbon Dioxide (Licensing etc.) Regulations 2010(b);
 - (ii) a storage permit within the meaning of the [Storage of Carbon Dioxide (Licensing etc.) (Scotland) Regulations 2010](c);

“construction authorisation” means a construction authorisation under section 1 of the Pipelines Act 1962;

“controlled carbon dioxide pipeline” has the meaning given to it in section 28(1) of the Petroleum Act 1998(d);

“controlled pipeline” and “controlled waters” have the meanings given in section 14(2) of the Petroleum Act 1998;

“diversion” means a diversion (within the meaning of section 66(1) of the Pipelines Act 1962(e)) of a relevant pipeline that is not a controlled pipeline or of such part of a relevant pipeline as is not a controlled pipeline and “diverted” is to be construed accordingly;

“Gas Importation and Storage Zone” has the meaning given to it in section 1(5) of the Energy Act 2008(f);

“injection” means injection of CO₂ into a storage site;

“licence” means a licence granted under section 18(1) of the Energy Act 2008 and licence holder shall be construed accordingly;

“modification notice” has the meaning given to it in regulation 11(2);

“operator”, in relation to a storage permit, means the person who carries on or (where different) controls activities at the storage site;

“owner” has the meaning given to it in regulation 3;

“planning permission” means permission under Part 3 of the Town and Country Planning Act 1990(g) or under Part 3 of the Town and Country Planning (Scotland) Act 1997(h);

“pipeline variation notice” has the meaning given to it in regulation 6(2);

“relevant infrastructure” means a relevant pipeline or a relevant storage site;

“relevant pipeline” means—

- (a) a controlled carbon dioxide pipeline; or
- (b) a carbon dioxide pipe-line situated in, under or over Great Britain, including so much of the internal waters of the United Kingdom as are adjacent to Great Britain;

“relevant storage site” means a storage site situated in, under or over—

- (a) Great Britain;

(a) 2008 c.29.

(b) S.I. 2010/2221.

(c) [S.S.I. ****]

(d) The definition is inserted by paragraph 1(d) of the Schedule.

(e) The definition was inserted by S.I. 1999/742 and amended by section 36 of, and paragraphs 5 and 7(a) of Schedule 2 to, the Planning Act 2008 (c. 29).

(f) 2008 c.32. The Gas Importation and Storage Zone was designated under the Gas Importation and Storage Zone (Designation of Area) Order 2009 (SI 2009/223). An amendment to section 1(5) by the Marine and Coastal Access Act 2009 (c. 23) has not yet been commenced.

(g) 1990 c.8; Part 3 was amended by the Planning and Compensation Act 1991 (c. 34), the Transport and Works Act 1992 (c.42), the Environment Act 1995 (c. 25), the Planning and Compulsory Purchase Act 2004 (c. 5), the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (S.I. 1999/293), the Greater London Authority Act 2007 (c. 24) and the Planning Act 2008 (c. 29). There are other amendments and modifications not relevant to these Regulations.

(h) 1997 c.8; Part 3 was amended by the Environmental Impact Assessment (Scotland) Regulations 1999 (S.S.I. 1999/1) the Planning etc. (Scotland) Act 2006 (asp 17) and the Planning and Compulsory Purchase Act 2004 (c. 5).

- (b) so much of the internal waters of the United Kingdom as are adjacent to Great Britain;
 - (c) the territorial sea of the United Kingdom; or
 - (d) the Gas Importation and Storage Zone,
- and any associated installations, apparatus and works;

“variation condition” has the meaning given to it in regulation 5(2).

(3) The following expressions have the meanings given by Article 3 of Directive 2009/31/EC of the European Parliament and of the Council 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(a)—

“CO₂ stream”;

“storage site”.

Appropriate authority

2.—(1) For the purposes of regulation 5 and of regulations 7, 8 and 10 in so far as they relate to variation conditions the appropriate authority is that one of—

- (a) the Secretary of State;
- (b) the Infrastructure Planning Commission; or
- (c) the Scottish Ministers,

that has the function of deciding the application for consent in respect of the relevant infrastructure.

(2) For the purposes of regulation 6 and of regulations 7, 8 and 10 in so far as they relate to pipeline variation notices, the appropriate authority is—

- (a) the Scottish Ministers, in relation to pipe-lines which begin and end in Scotland;
- (b) the Secretary of State, in relation to any other pipe-line.

(3) Subject to paragraphs (1) and (3), for the purposes of regulations 10 to 13 and of regulation 17(6) the appropriate authority is—

- (a) the licensing authority for the relevant storage site, pursuant to section 18(2) of the Energy Act 2008;
- (b) the Scottish Ministers, in relation to so much of a relevant pipeline as is—
 - (i) in Scotland; or
 - (ii) in, under or over so much of the internal waters or the territorial sea of the United Kingdom as are adjacent to Scotland;
- (c) the Secretary of State, in relation to so much of a relevant pipeline as is—
 - (i) in England or Wales; or
 - (ii) in, under or over so much of the internal waters of the United Kingdom as are adjacent to England or Wales;
 - (iii) in, under or over controlled waters other than the territorial sea adjacent to Scotland.

Meaning of “owner”

3.—(1) Except as provided in paragraph (2), in these Regulations, “owner”, in relation to relevant infrastructure, means any of the following—

- (a) in respect of a relevant storage site—
 - (i) the operator of the storage site;

(a) OJ No L 140, 5.6.2009, p 114.

- (ii) the holders of the storage licence;
 - (b) in respect of a relevant pipeline—
 - (i) a person in whom the pipeline is vested;
 - (ii) a lessee and any person occupying or controlling the pipeline;
 - (c) a person who has the right to have things conveyed by or stored in a relevant pipeline or relevant storage site, where such a right has been acquired by that person on terms that—
 - (i) the person is entitled to exercise the right for a period of one year or more; and
 - (ii) the right is capable of being assigned or otherwise disposed of to another person.
- (2) In regulations 11 and 15 and in regulation 8(3) in so far as it relates to regulation 11, “owner”, in relation to relevant infrastructure, means any of the following—
- (a) in respect of a relevant storage site—
 - (i) the operator of the storage site;
 - (ii) the holders of the storage licence;
 - (b) in respect of a relevant pipeline—
 - (i) a person in whom the pipeline is vested;
 - (ii) a lessee and any person occupying or controlling the pipeline.
- (3) In this regulation, “storage licence” means the licence under which the use of a place as the storage site is authorised.

Meaning of “associate”

4.—(1) For the purposes of regulations 10(5), 10(6) and 15(2) a person is an associate of another if—

- (a) either or both of them is a body corporate, and
 - (b) one of them controls the other, or both are controlled by the same person or persons,
- and paragraphs (2) to (6) set out the circumstances in which one person (“A”) controls another (“B”).

(2) Where B is a company, A controls B if A possesses or is entitled to acquire—

- (a) one half or more of the issued share capital of B;
- (b) such rights as would entitle A to exercise one half or more of the votes exercisable in general meetings of B;
- (c) such part of the issued share capital of B as would entitle A to one half or more of the amount distributed if the whole of the income of B were in fact distributed among the shareholders; or
- (d) such rights as would, in the event of the winding up of B or in any other circumstances, entitle A to receive one half or more of the assets of B which would then be available for distribution among the shareholders.

(3) Where B is a limited liability partnership, A controls B if A—

- (a) holds a majority of the voting rights in B;
- (b) is a member of B and has a right to appoint or remove a majority of other members; or
- (c) is a member of B and controls alone, or pursuant to an agreement with other members, a majority of the voting rights in B.

(4) In paragraph (3)(a) and (c) the references to “voting rights” are to the rights conferred on members in respect of their interest in a limited liability partnership to vote on those matters which are to be decided on by a vote of the members of the limited liability partnership.

(5) In any case, A controls B if A has the power, directly or indirectly, to secure that the affairs of B are conducted in accordance with A's wishes.

(6) In determining whether, by virtue of paragraphs (2) to (5), A controls B, A is taken to possess—

- (a) any rights and powers possessed by a person as nominee for it; and
- (b) any rights and powers possessed by a body corporate which it controls (including rights and powers which such a body corporate would be taken to possess by virtue of this paragraph).

Variation conditions

Variation conditions

5.—(1) Subject to paragraph (5), this regulation applies where an application is made to the authority for a consent in respect of relevant infrastructure.

(2) Subject to paragraph (4) the authority may, if that authority grants the consent, grant it subject to a condition (a “variation condition”) in accordance with paragraph (3) if the authority is satisfied that—

- (a) there is evidence of demand existing or likely to arise for the grant of such consents for the construction of further relevant infrastructure to be designed for the conveyance or storage of carbon dioxide;
- (b) where the further relevant infrastructure is a pipeline, the whole or any part of the route to be taken by a further pipeline would be substantially the same as the route or any part of the route to be taken by the pipeline to which the application relates;
- (c) compliance with the variation condition will not prejudice the safety or environmental integrity of the relevant infrastructure; and
- (d) compliance with the variation condition will not prejudice the efficient operation of the relevant infrastructure concerned.

(3) A variation condition under paragraph (2) may require—

- (a) the capacity of the relevant infrastructure to which it relates or of any part of that relevant infrastructure to be greater than that proposed in the application for the consent;
- (b) the design of the relevant infrastructure to which it relates to be modified, including by the addition of a junction through which another pipeline may be connected to the relevant pipeline or to the relevant storage site; or
- (c) in relation only to a controlled carbon dioxide pipe-line, any of the route of the pipeline to be different from that so proposed.

(4) Before exercising the powers conferred by paragraph (2) and regulation 7(1), the authority must give an opportunity to be heard to—

- (a) the applicant for the consent;
- (b) any other person who made representations to the authority as to the matters set out in paragraphs (2) or (3);
- (c) any person with a right to have carbon dioxide conveyed by or stored in the proposed relevant infrastructure;
- (d) the Health and Safety Executive.

(5) This regulation does not apply where the application for a consent is an application for the grant of a construction authorisation which relates to the construction of a diversion.

Pipeline variation notices

6.—(1) This regulation applies where an application is made for the grant of planning permission for the construction of a relevant pipeline.

(2) Subject to paragraph (4) the authority may, at any time before planning permission for the construction of the pipeline is granted, serve a notice (a “pipeline variation notice”) on the person who made the application for planning permission if the authority is satisfied that—

- (a) there is evidence of demand existing or likely to arise for the grant of such consents for the construction of further pipelines to be designed for the conveyance of carbon dioxide;
- (b) the whole or any part of the route to be taken by a further pipeline will be substantially the same as the route or any part of the route to be taken by the pipeline to which the application relates;
- (c) compliance with the variation condition will not prejudice the safety or environmental integrity of the relevant pipeline; and
- (d) compliance with the variation condition will not prejudice the efficient operation of the pipeline concerned.

(3) A pipeline variation notice under paragraph (2) may direct that—

- (a) the capacity of the relevant pipeline to which it relates or of any part of that relevant pipeline must be greater than that proposed in the application for the consent; or
- (b) the design of the relevant pipeline to which it relates should be modified, including by the addition of a junction through which another pipeline may be connected to the pipeline.

(4) Before exercising the powers conferred by paragraph (2) and regulation 7(1), the authority must give an opportunity to be heard to—

- (a) the person who has applied for planning permission;
- (b) any other person who made representations to the authority as to the matters set out in paragraphs (2) or (3);
- (c) any person with a right to have carbon dioxide conveyed by the proposed relevant pipeline;
- (d) the Health and Safety Executive.

Notices relating to costs etc.

7.—(1) Where a consent contains a variation condition under regulation 5, or a pipeline variation notice has been served under regulation 6, the authority may serve a notice in accordance with paragraph (2) on—

- (a) the holder of the consent; and
- (b) any other person who made representations to the authority as to the matters set out in regulations 5(2) or 5(3) or regulations 6(2) or 6(3), as applicable.

(2) A notice under paragraph (1) must—

- (a) specify the sums or the method of determining the sums which the authority considers should be paid to the holder by the other person for the purpose of defraying so much of the costs of constructing the relevant infrastructure as is attributable to the variation condition or pipeline variation notice;
- (b) require the other person to make, within the period specified for the purpose in the notice, arrangements which the authority considers are appropriate to secure that those sums will be paid to the holder if the holder constructs the relevant infrastructure or a relevant part of it, or satisfies the authority that he will construct it, in accordance with the variation condition or pipeline variation notice;
- (c) require the holder, if the other person makes those arrangements within that period, to construct the relevant infrastructure or a relevant part of it in accordance with the variation condition or pipeline variation notice; and
- (d) authorise the holder, if the authority is satisfied that the relevant infrastructure or a relevant part of it has been or will be constructed in accordance with the variation condition or pipeline variation notice, to recover those sums from the other person.

Acquisition of rights to use proposed relevant infrastructure

8.—(1) Where relevant infrastructure is proposed to be constructed pursuant to a consent to which a variation condition or a pipeline variation notice is attached by virtue of regulation 5(2) or regulation 6(2), any person other than the holder of the consent may make an application under regulation 10(2) in respect of the proposed relevant infrastructure.

(2) Before serving a notice under regulation 7(1) on a person other than the holder of the consent, the authority must give that person an opportunity to make an application under regulation 10(2) in respect of the proposed relevant infrastructure to which the consent relates.

(3) In the circumstances set out in paragraphs (1) and (2), regulations 10 and 11 have effect as if references to relevant infrastructure were references to the infrastructure as it would be once constructed in accordance with the condition or notice, and as if references to the owner of the relevant infrastructure were references to the person who will be the owner of the proposed infrastructure.

Diversions

9.—(1) If, in respect of a length of proposed relevant pipeline—

(a) a variation condition has been imposed under regulation 5(2) or a pipeline variation notice has been served under regulation 6(2), and

(b) that pipeline is to be diverted,

then the pipeline continues for the purposes of and after the diversion to be subject to any such condition or any direction contained in such notice.

(2) If, in respect of a length of relevant pipeline, any requirements are imposed by virtue of a notice under regulation 11 and the pipeline is to be diverted or is subsequently diverted, the pipeline continues for the purposes of and after the diversion to be subject to any such condition or any direction contained in such notice.

Acquisition of rights

Acquisition of rights to use relevant infrastructure

10.—(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; 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 the infrastructure;
- (b) 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;
- (c) any incompatibilities of technical specification which cannot reasonably be overcome;
- (d) [any other] difficulties which cannot reasonably be overcome and which could prejudice the efficient, current and planned future transport or storage of carbon dioxide;
- (e) the reasonable needs of the owner and any associate of the owner for the conveyance and storage of carbon dioxide;
- (f) the interests of all users and operators of the relevant infrastructure;
- (g) 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
- (h) the number of parties involved in the dispute.

(6) The authority may serve a notice under paragraph (9) only if satisfied that the condition in paragraph (7) or (8) is met.

(7) The condition in this paragraph is that the authority is satisfied that the notice will not prejudice—

- (a) the efficient operation of the relevant infrastructure concerned;
- (b) the safety or environmental security of the conveyance or storage of carbon dioxide by or in the relevant infrastructure;
- (c) 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
- (d) 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) The condition in this paragraph is that the notice contains provision for the purpose of ensuring that if the notice does prejudice any of the matters mentioned in paragraph (7), any person who suffers loss as a result may recover from the applicant payments by way of compensation, of such amounts as are determined in accordance with the notice.

(9) 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.
- (10) A notice under paragraph (9) may also—
 - (a) contain provision authorising the owner to recover from the applicant payments by way of consideration for any right secured by the notice 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.
- (11) A notice under paragraph (9) is to be given to—
 - (a) the owner and the applicant; and
 - (b) if the notice contains provision of a sort referred to in paragraph (8), any person with a right to have anything conveyed by the pipeline or processed by the facility.
- (12) A notice under paragraph (9) 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.

Compulsory modifications

Compulsory modifications of relevant infrastructure

- 11.—**(1) This regulation applies where—
- (a) a person has made an access application in respect of a relevant pipeline or relevant storage site, and
 - (b) the authority is considering whether to give a notice under regulation 10(9) which would secure to the applicant the right sought in the application.
- (2) If it appears to the authority—
- (a) that relevant infrastructure that is the subject of the access application can and should be modified so as to increase its capacity; or
 - (b) that the relevant infrastructure that is the subject of the access application can and should be modified by installing in it a junction or other apparatus through which another pipeline may be connected to the relevant pipeline or to the relevant storage site,
- then the authority may give the owner of the relevant infrastructure and the applicant a notice in accordance with paragraphs (3) and (4) (a “modification notice”).
- (3) A modification notice must—
- (a) specify the modifications which the authority considers should be made to the relevant infrastructure;
 - (b) specify the sums or the method of determining the sums which the authority considers should be paid to the owner by the applicant for the purpose of defraying the cost of the modifications;
 - (c) require the applicant to make, within the period specified for the purpose in the notice, arrangements which the authority considers appropriate to secure that those sums will be paid to the owner if he carries out the modifications or satisfies the authority that they will be carried out;
 - (d) require the owner, if the applicant makes those arrangements within that period, to carry out the modifications within a period specified for the purpose in the notice; and
 - (e) authorise the owner, if the authority is satisfied that the owner has carried out or will carry out the modifications, to recover those sums from the applicant.
- (4) A modification notice may also contain provision for the purpose of ensuring that if the carrying out of the modifications prejudices any of the matters referred to in regulation 10(7)(c) or

(d), any person who suffers loss as a result may recover from the applicant payments by way of compensation, of such amounts as are determined in accordance with the notice.

(5) A modification notice which contains provision by virtue of paragraph (4) must (in addition to being given to the applicant and the owner) be given to any person who has a right to have anything conveyed by the pipeline or processed by the facility.

(6) In considering whether to give a modification notice, the authority must—

- (a) take into account (so far as relevant) the matters referred to in regulation 10(5)(a) to (h);
- (b) give the persons listed in paragraph (7) an opportunity to be heard.

(7) Those persons are—

- (a) the applicant and the owner;
- (b) any person with a right to have anything conveyed by the relevant pipeline or stored in the relevant storage site;
- (c) the Health and Safety Executive; and
- (d) such other persons as the Secretary of State considers appropriate.

(8) If the authority serves a modification notice, regulation 10 has effect in relation to the relevant infrastructure concerned as if references to the relevant infrastructure were references to the relevant infrastructure as it would be with the modifications specified in the notice.

Variation of modification notices

12.—(1) A modification notice or a notice under regulation 10(9) may be varied or set aside by the agreement of all the persons to whom it is given.

(2) The authority may vary a notice under regulation 10(9) on the application of one of the persons to whom the notice was given.

(3) But the authority may do so only if satisfied that the variation is necessary to resolve a dispute that has arisen in connection with the notice between the persons to whom it was given.

(4) In considering whether to vary a notice the authority must give an opportunity to be heard to—

- (a) the persons to whom the notice was given;
- (b) any person with a right to have anything conveyed by the relevant pipeline concerned or stored in the relevant storage site concerned;
- (c) the Health and Safety Executive; and
- (d) such other persons as the authority considers appropriate.

(5)

(6) For the purposes of this regulation, a person (“P”) is to be treated as having been given a modification notice or a notice under regulation 10(7) if there has been assigned to P a right which is secured by the notice or a duty which is imposed by the notice.

Powers to require information and effect of notices

Powers of the authority to require information

13.—(1) The authority may by notice require a person who has made or received an access application to provide the authority with specified information for the purpose of enabling the authority to decide—

- (a) whether to exercise any function conferred on the authority by regulations 10, 11 or 12; and
- (b) if so, how to exercise the function.

(2) Where a person has applied to the authority under regulation 12 for a notice to be varied, the authority may by notice require any person within paragraph (3) to provide the authority with specified information for the purpose of enabling the authority to decide—

- (a) whether to vary the notice; and
- (b) if so, how to vary the notice.

(3) Those persons are—

- (a) the person who applied for the notice to be varied;
- (b) any other person to whom the notice was given;
- (c) any person to whom there has been assigned a right which is secured by the notice or a duty which is imposed by the notice.

(4) The information that may be required under paragraphs (1) and (2) includes financial information.

(5) The authority may not disclose to any person any information obtained under paragraph (1) or (2) unless—

- (a) the person by or on behalf of whom the information was provided consents to the disclosure; or
- (b) the disclosure is required by virtue of an obligation imposed by law.

(6) In this regulation, “specified” means specified in a notice under paragraph (1) or (2).

Requirements for consents

14.—(1) The use of infrastructure by any person in accordance with a right secured to him by virtue of these regulations is not a contravention of—

- (a) section 14(1) of the Petroleum Act 1998; or
- (b) section 17(1) of the Energy Act 2008.

(2) A modification notice requiring a person to carry out modifications authorises him to carry out the modifications for the purposes of—

- (a) section 14(1) of the Petroleum Act 1998 (but nothing in Schedule 2 shall apply to such a notice);
- (b) section 1 of the Pipe-lines Act 1962^(a);
- (c) section 31 of the Planning Act 2008;
- (d) section 17(2)(d) of the Energy Act 2008;
- (e) a storage permit under the Storage of Carbon Dioxide (Licensing etc.) Regulations 2010 or the Storage of Carbon Dioxide (Licensing etc.) (Scotland) Regulations 2010;
- (f) Part 3 of the Town and Country Planning Act 1990 or Part 3 of the Town and Country Planning (Scotland) Act 1997.

Publication requirements

Publication of capacity

15.—(1) The owner of relevant infrastructure must publish—

- (a) at least once in every year the information set out in paragraph (2) relating to available capacity and technical and operating requirements for access; and

(a) Section 1 was amended by sections 37, 38 and 46 of the Criminal Justice Act 1982 (c. []), section 36 and Schedule 2 paragraphs 5, 6(1), (2) and (3), (4) of the Planning Act 2008 and by paragraph 2(2) of the Schedule to the Deregulation (Pipe-lines) Order 1999 (S.I. 1999/742) and paragraph 4 of the Schedule to the Planning and Compulsory Purchase Act 2004 (Corresponding Amendments) Order 2007 (S.I. 2007/1519).

- (b) any changes to the published information as soon as they become effective.
- (2) The information referred to in paragraph (1) is—
- (a) the capacity which is or can reasonably be made available in the relevant infrastructure in question in the period beginning on the date of publication and ending on the fifth anniversary of the date of publication, taking into account the quantities of carbon dioxide which—
 - (i) are required or may reasonably be expected to be required to be conveyed or stored by the owner or an associate of the owner for the purposes of any business carried on by the owner or associate;
 - (ii) are required to be conveyed or stored by another person with a right to have carbon dioxide conveyed by the relevant pipeline or stored in the relevant storage site in the exercise of that right; and
 - (b) subject to paragraph (3), the technical specifications of the CO₂ stream that must be met in order to secure access to the relevant infrastructure.
- (3) If there is no capacity which is or can reasonably be made available as described in subparagraph (2)(a), the owner is not required to publish the information mentioned in paragraph (2)(b).

Enforcement

Provision of false information

- 16.**—(1) A person (“P”) is guilty of an offence if, in circumstances falling within paragraph (2), P provides false information to the authority for the purpose of—
- (a) inducing the authority to exercise or not to exercise any of the functions conferred on it by these Regulations; or
 - (b) inducing the authority to exercise any of those functions in a particular way.
- (2) Those circumstances are that, at the time the information is provided, P—
- (a) knows or believes the information to be false; or
 - (b) is reckless as to whether or not it is false.
- (3) A person guilty of an offence under paragraph (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) Proceedings for an offence under paragraph (1) may not be instituted in England and Wales except—
- (a) by the Secretary of State or by a person authorised to do so by the Secretary of State; or
 - (b) by or with the consent of the Director of Public Prosecutions.
- (5) Where an offence under paragraph (1) or (2) is committed by a body corporate and it is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part 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.
- (6) Where the affairs of a body corporate are managed by its members, paragraph (6) applies in relation to the acts and defaults of a member in connection with the member’s functions of management as it applies to an officer of the body corporate.
- (7) In this regulation, “officer”, in relation to a body corporate, means—
- (a) any director, secretary or other similar officer of the body corporate; or
 - (b) any person purporting to act in any such capacity.

Construction authorisations and pipeline variation notices

17.—(1) For the purposes of sections 1 and 4 of the Pipe-lines Act 1962(a), the works for the construction of a relevant pipeline are deemed to have been executed in contravention of section 1(1) of that Act where the relevant pipeline is constructed—

- (a) pursuant to a construction authorisation to which a variation condition is attached by virtue of regulation 5; and
- (b) without conformity to that condition.

(2) For the purposes of Part 7 of the Town and Country Planning Act 1990(b) and Part 6 of the Town and Country Planning (Scotland) Act 1997(c), the construction of a relevant pipeline is deemed to have constituted a failure to comply with a condition or limitation subject to which planning permission has been granted where—

- (a) a pipeline variation notice is served under regulation 6(2) in respect of the relevant pipeline; and
- (b) the relevant pipeline is constructed without conformity to that notice.

Civil proceedings

18.—(1) The duty of a person to comply with a notice under regulations 7(1), 10(7) or 11(2) is a duty owed to any person who may be affected by a failure to comply with it.

(2) Where a duty is owed by virtue of paragraph (1) to any person, the duty may be enforced as if it were contained in a contract between that person and the person who owes the duty.

(3) Compliance with the duties in regulation 15 shall be enforceable by the appropriate authority by civil proceedings for an injunction or interdict or other appropriate relief or remedy.

(4) Civil proceedings under paragraph (3) are to be brought—

- (a) in England and Wales, in the High Court, or
- (b) in Scotland, in the Court of Session.

Miscellaneous

Amendments

19. The amendments set out in the Schedule have effect.

	<i>Name</i>
	Minister of State
Date	Department of Energy and Climate Change

SCHEDULE

Regulation 19

Amendments

Petroleum Act 1998

1. The Petroleum Act 1998 is amended as follows—

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- (a) Section 4 has been amended by paragraph 2(2) of the Schedule to the Deregulation (Pipe-lines) Order 1999 (S.I. 1999/742) and paragraph 4 of the Schedule to the Planning and Compulsory Purchase Act 2004 (Corresponding Amendments) Order 2007 (S.I. 2007/1519).
 - (b) Part 7 was amended by sections 1 to 11 of the Planning and Compensation Act 1991 (c. 34).
 - (c) Part 6 was amended by sections 25 to 27 of the Planning etc. (Scotland) Act 2006 (asp 17).

- (a) in section 15(a)—
 - (i) in subsection (5), for “Subsection (6)” substitute “Subject to subsection (9), subsection (6)”;
 - (ii) after subsection (8), insert—

“(9) Subsection (6) does not apply where a variation term is contained in a works authorisation for a carbon dioxide pipeline pursuant to the Carbon Dioxide (Access to Infrastructure) Regulations 20**.”;
- (b) in section 16(1)(b), after “in the case of a controlled pipeline”, insert “(other than a controlled carbon dioxide pipeline)”;
- (c) in section 17(1A)(c), after “controlled petroleum pipelines,”, insert “controlled carbon dioxide pipelines,”;
- (d) in section 28(1)(d)—
 - (i) after the definition of “authorisation”, insert—

““carbon dioxide storage site” means a facility for the storage of carbon dioxide (with a view to its permanent disposal, or as an interim measure prior to its permanent disposal) and includes an installation established or maintained for such a purpose;”;
 - (ii) after the definition of “construction”, insert—

““controlled carbon dioxide pipeline” means a controlled pipeline or one of a network of controlled pipelines which is used to convey carbon dioxide to a carbon dioxide storage site;”;
- (e) in paragraph 6(b) of Schedule 2, before “the purpose of facilitating the use of the pipeline by persons other than the applicant” insert— “except in respect of a controlled carbon dioxide pipeline,”.

Pipe-lines Act 1962

2. The Pipe-lines Act 1962 is amended as follows—

- (a) in section 9(e), after subsection (1A), insert—

“(1B) This section does not apply to carbon dioxide pipe-lines.”;
- (b) in section 9A(f), after subsection (1A), insert—

“(1B) This section does not apply to carbon dioxide pipe-lines.”;
- (c) in subsection 10(1)(g), in paragraph (b), for “is neither comprised in a gas interconnector nor an upstream petroleum pipe-line;”, substitute “is not an upstream petroleum pipe-line or a carbon dioxide pipe-line and is not comprised in a gas interconnector;”;
- (d) in section 65(2)(h), after paragraph (g), insert—

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- (a) Section 15 was amended by paragraph 1 of Schedule 4 to the Gas (Third Party Access and Accounts) Regulations 2000 (S.I. 2000/1937).
 - (b) Section 16(1) was amended by paragraph 2 of Schedule 4 to the Gas (Third Party Access and Accounts) Regulations 2000 (S.I. 2000/1937).
 - (c) Section 17(1A) was inserted by paragraph 3 of Schedule 4 to the Gas (Third Party Access and Accounts) Regulations 2000 (S.I. 2000/1937) and was amended by section 151(5)(a) of the Energy Act 2004 (c. 20).
 - (d) Section 28(1) has been amended but the amendments are not relevant to these Regulations.
 - (e) Section 9 was amended by paragraph 6 of the Schedule to the Deregulation (Pipe-lines) Order 1999 (S.I. 1999/742), paragraph 1 of Schedule 1 to the Gas (Third Party Access and Accounts) Regulations 2000 (S.I. 2000/1937) and section 151(1) of the Energy Act 2004 (c. 20). It was modified, in respect of the maximum fine, by sections 37, 38 and 46 of Criminal Justice Act 1982. An amendment by Schedule 23 to the Energy Act 2004 (c. 20) is not yet in force.
 - (f) Section 9A was inserted by paragraph 7 of the Schedule to the Deregulation (Pipe-lines) Order 1999 (S.I. 1999/742) and was amended by paragraph 2 of Schedule 1 to the Gas (Third Party Access and Accounts) Regulations 2000 (S.I. 2000/1937) and section 151(1) of the Energy Act 2004 (c.20). An amendment by Schedule 23 to the Energy Act 2004 (c. 20) is not yet in force.
 - (g) Section 10(1) was amended by paragraph 3 of Schedule 1 to the Gas (Third Party Access and Accounts) Regulations 2000 (S.I. 2000/1937) and by section 151(2) of the Energy Act 2004 (c.20).
 - (h) Section 65(2) was amended by paragraph 8 of Schedule 1 to the Gas (Third Party Access and Accounts) Regulations 2000 (S.I. 2000/1937).

“(h) in relation to a carbon dioxide pipe-line only, apparatus for treating and cooling carbon dioxide which is to flow through, or through any part of, the pipe or system.”;

(e) in section 66(1)(a), after the definition of “agricultural unit”, insert—

““carbon dioxide pipeline” means a pipe-line used to convey carbon dioxide to a carbon dioxide storage site;

“carbon dioxide storage site” means a facility for the storage of carbon dioxide (with a view to its permanent disposal, or as an interim measure prior to its permanent disposal) and includes an installation established or maintained for such a purpose;”.

(a) Section 66(1) has been amended by regulation 2(2)(b) of the Pipe-lines (Metrication) Regulations 1992 (S.I. 1992/449), by paragraph 15(b) of the Schedule to the Deregulation (Pipe-lines) Order 1999 (S.I. 1999/742) and paragraphs 5 and 7 of Schedule 2 to the Planning Act 2008. There are other amendments which are not relevant to these Regulations.