



Department for
Energy Security
& Net Zero

Carbon capture transport and storage business model

Government response to the consultation on revenue support regulations relating to directions to a counterparty, and publication of information

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Contents

Executive Summary	4
Introduction	5
Government response to the consultation	8
Secretary of State direction to offer to contract	8
Publication of Information	9
Revenue support agreement counterparty's ability to carry out its functions	13
List of respondents to the consultation	15

Executive Summary

Carbon capture, usage and storage (CCUS) has a key role in the UK Government's Net Zero Strategy¹ and helping meet our legally binding commitment to achieving net zero by 2050.

In April 2022, the British Energy Security Strategy² re-stated the government's ambition to deliver CCUS in four industrial clusters and capture and store 20-30 megatonnes of carbon dioxide (MtCO₂) per year by 2030, where industrial emissions make up 6 MtCO₂ by 2030, increasing to 9 MtCO₂ by 2035. The Powering Up Britain publications (Net Zero Growth Plan and Energy Security Plan)³ published in March 2023 provided an update on how we are delivering against these ambitions.

The introduction of a business model for the Transport and Storage of Carbon Dioxide (CO₂) to unlock private investment and scale up deployment of these technologies will play a key role in delivering the government's ambitions.

In this publication, we summarise the responses received to each of the four questions in the consultation on revenue support regulations for the Carbon Capture Transport and Storage (T&S) Business Model and outline the government position for the regulations.

Secretary of State direction

We outline support for the proposed process detailed in relation to how the Secretary of State may issue directions to a counterparty to offer to contract. We confirm that we intend to proceed with our proposals following support for the proposals.

Publication of Information

We cover support from respondents to require the counterparty to publish the signed contracts and establish a public register containing key project information. Some concerns were raised with regards to the reference of "further details of T&S networks". We confirm that we intend to proceed with our proposals.

Revenue support counterparty's ability to carry out its functions

We detail responses to proposals for the counterparty to provide early notification to the Secretary of State if it considers it may be, or has become, unable to fulfil its functions. We clarify that this is in addition to provisions in the Energy Act 2023 to put in place transitional measures to help ensure the smooth transition from one revenue support counterparty to another. We received majority support for this proposal, with respondents agreeing the importance of the counterparty necessitated a provision of this kind, and we therefore intend to proceed with the proposal.

¹ www.gov.uk/government/publications/net-zero-strategy

² www.gov.uk/government/publications/british-energy-security-strategy/british-energy-security-strategy

³ <https://www.gov.uk/government/publications/powering-up-britain>

Introduction

Background

Carbon capture, utilisation and storage (CCUS) has a key role in the UK Government's Net Zero Strategy⁴ and Net Zero Growth Plan⁵ in helping meet our legally binding commitment to achieving net zero by 2050.

The CO₂ transport and storage (T&S) business model is intended to incentivise the deployment of the first carbon capture, transport and storage networks by Transport and Storage Companies (T&SCo) through the provision of revenue support to overcome previous market failures that relate to the First of a Kind Nature of the technology.

The Energy Act 2023 ("the Act"), contains provisions to underpin delivery of the T&S business models. References in this consultation to a numbered "Section" or "Part" of the Act or a "Schedule" to the Act are references to that Section, Part or Schedule in the Energy Act 2023 as enacted⁶ unless otherwise specified.

Section 57 of the Act confers a power on the Secretary of State to make revenue support regulations about revenue support contracts, which includes carbon capture revenue support contracts.

Revenue support is intended to be delivered through a private law contract between a licensed T&SCo and the Revenue Support Agreement (RSA) counterparty. The T&S revenue support contracts are more commonly known as the Revenue Support Agreement (RSA).

In September 2023, Government published a consultation on legislative provisions considered necessary to be in place to be able to enter the RSA. The consultation set out proposals on the following matters:

- **Direction to offer to contract:** the process by which the Secretary of State may direct a counterparty to offer to contract.
- **Information publication:** requirements that certain information about contracts and projects must be published.
- **Revenue support counterparty's ability to carry out its functions:** requirement for the RSA counterparty to give as much notice as possible if it is aware it is not able to carry out its functions.

The consultation ran from 13 September 2023 to 26 October 2023 and received four responses.

⁴ <https://www.gov.uk/government/publications/net-zero-strategy>

⁵ <https://www.gov.uk/government/publications/powering-up-britain/powering-up-britain-net-zero-growth-plan>

⁶ <https://www.legislation.gov.uk/ukpga/2023/52/contents/enacted>

Working with the devolved administrations

The Government will continue to work with the devolved administrations to ensure that the proposals take account of devolved responsibilities and policies across the UK to facilitate successful deployment.

Next steps

The Government is grateful to those who took the time to respond to the consultation. We intend to deliver these revenue support regulations as soon as departmental and Parliamentary timelines allow.

Analysis of responses received to the consultation

This government response outlines the consultation proposals, provides a high-level summary of the stakeholder responses to the consultation questions, highlighting some of the key comments from respondents on the proposed revenue support regulations, and Government's position on each individual question.

Respondents engaged with the consultation in different ways, some responded to the consultation questions through Citizen Space, while others submitted a response via email.

Responses to each of the consultation questions were analysed individually, before being grouped into clear themes, then summarised and anonymised. Responses that did not explicitly express their support or disapproval for the specific question were recorded but classified as neither supportive nor non-supportive. Where information provided by a respondent related to a different question, we have summarised it under that other question.

Throughout this document we have used the following terminology:

1. 'Majority' indicates the view of more than 50% of respondents in response to that question.
2. 'Minority'; indicates the view of fewer than 50% of respondents in response to that question.
3. 'About half' indicates an overall response within a few percentage points of 50% (either way).
4. 'Many respondents' indicates more than 70% of those answering the particular question.
5. 'A few respondents' means fewer than 30%.
6. 'Some respondents' refers to the range in between 30% and 70%.

Consultees

The Energy Act 2023 places a statutory obligation on the Secretary of State to consult certain persons in certain circumstances before making revenue support regulations.

Section 85(1) of the Act requires the following persons to be consulted:

- the Scottish Ministers, if the regulations contain provision that would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament;
- the Welsh Ministers, if the regulations contain provision that would be within the legislative competence of Senedd Cymru if it were contained in an Act of the Senedd (ignoring any requirement for the consent of a Minister of the Crown imposed under Schedule 7B to the Government of Wales Act 2006);
- the Department for the Economy in Northern Ireland, if the regulations contain provision that—
 - would be within the legislative competence of the Northern Ireland Assembly if it were contained in an Act of that Assembly, and
 - would not, if it were contained in a Bill in the Northern Ireland Assembly, result in the Bill requiring the consent of the Secretary of State under section 8 of the Northern Ireland Act 1998;
- such other persons as the Secretary of State considers appropriate.

The consultation ran for six weeks, and Government received four responses from organisations (including CCUS trade associations, and the wider supply chain), all of which have been considered. [See the full list.](#)

Government response to the consultation

Secretary of State direction to offer to contract

Question 1: Do you agree with the proposals relating to the Secretary of State's power to direct a counterparty to offer to contract? Please provide reasons for your response.

Consultation Position

The consultation set out the proposed process for how the Secretary of State may issue a direction to a counterparty to offer to contract with an eligible T&SCo, including requirements for the direction to be in writing and that it specify a compliance date. The consultation also outlined the proposed scenarios under which a direction would cease to have an effect, including a proposal to also allow the Secretary of State to revoke a direction to offer to contract at any point before an offer to contract has been accepted. We also proposed that the counterparty would not be permitted to modify the specified terms when making an offer to contract unless it has received the prior written consent of the Secretary of State.

The proposals followed a similar approach to regulations 57 to 59 of the Contracts for Difference (Allocation) Regulations 2014 (as amended) and regulations 37 and 39 of the Nuclear Regulated Asset Base Model (Revenue Collection) Regulations 2023.

Summary of stakeholder responses to Question 1

Response summary	
Agree with overall approach	4
Responded with 'not sure'	0
Did not agree with overall approach	0
Not answered or unclear	0

We received four responses to this question. All respondents agreed with the proposals.

The main reason cited by respondents was that they follow a similar approach to other similar regulations, namely those for the Contracts for Difference (CfD) scheme, which is established and well understood by industry and investors. The respondents welcomed the clarity and transparency that would be provided by regulations setting out the process of how contracts will be entered into to encourage industry to engage with the process.

One respondent suggested that taking learnings from the CfD and nuclear RAB regulations could help develop the CCUS T&S regulations. They also noted the need for the RSA to operate for different elements of the T&S network to accommodate 'unbundling' of future networks.

Government Response

With support from all of the respondents, we consider it appropriate to proceed with our proposals for revenue support regulations relating to the Secretary of State's power to direct a counterparty to offer to contract.

We also note concerns raised by an individual on aspects of the proposals which are addressed below.

Unbundling of T&S networks

As set out in the consultation, initial RSAs, for the "Track 1" CCUS clusters⁷, are expected to be negotiated between the Secretary of State and the relevant T&SCo, which will be responsible for the whole of the network from the onshore pipeline to the store. However, future networks may be 'unbundled' i.e., segmented so that the onshore pipeline, offshore pipeline and store have the potential to be owned and operated under licence by different companies. One respondent expressed concern that RSAs should have the ability to operate on a basis to accommodate potential unbundling of future networks. We are of the view that these regulations would not preclude unbundling of the T&S network. Revenue support arrangements for an unbundled network would be subject to further policy development.

Publication of Information

Question 2: Is there any information not listed in Table 1 you think should be published in a contract register?

Question 3: Is there any information in the contracts you think should not be published?

Please provide reasons to support your responses.

Consultation Position

We proposed that revenue support regulations mandate a counterparty to publish each RSA entered into pursuant to a direction to offer to contract by the Secretary of State, ensuring that any confidential information and personal data is excluded. We proposed that certain terms are not to be treated as confidential information. The consultation also proposed to require a counterparty to establish and maintain a public register that would contain key project information to ensure important information on these contracts are readily accessible, following a similar approach to regulation 12 of the Contracts for Difference (Standard Terms) Regulations 2014 (as amended).

⁷ Government has committed to deploying carbon capture, usage and storage (CCUS) in two industrial clusters by the mid-2020s, then in a further two clusters by 2030. The "Track-1" clusters are the first two priority clusters selected through the Government's Cluster Sequencing Process.

Summary of stakeholder responses to Question 2

Response summary	
Agree with overall approach (no further information to publish)	4
Responded with 'don't know'	0
Did not agree with overall approach (further information to publish)	0
Not answered or unclear	0

We received four responses to this question where all respondents did not take issue with the proposed information in table 1.

A few respondents requested more clarity on the information to be published to ensure that regulations would not mandate sensitive and confidential information to be published. All respondents requested the additional information to be included in the contract register to be clarified.

Half of respondents requested guidance on expectations of counterparties to update the register, with one respondent noting that it was important that any information provided here is proportionate to the cost and effort of providing the information, and another suggesting guidance on updating the registered should also be required.

Summary of stakeholder responses to Question 3

Response summary	
Agree with overall approach (no information to exclude from publication)	0
Responded with 'not sure'	1
Did not agree with overall approach (exclude certain information from being published)	3
Not answered or unclear	0

We received four responses to this question where all of the respondents believed there was information in the contracts that should not be published.

While a majority of the respondents agreed on the importance of ensuring transparency for the public and to develop the market for CCUS, half of the respondents expressed that T&SCo should be able to determine what information should be considered confidential and therefore excluded from the register. Half of the respondents stated that commercially sensitive and confidential information should not be published including specific details of projects that could jeopardise the security of network assets. An individual respondent noted that all parties should be consulted on confidentiality of information publicised to protect commercial interests.

Government Response

The aim of the information publication proposals is to provide information and data in a transparent and open way to help ensure the T&S business model is better understood by members of the public, prospective applicants, future investors, and wider actors in the energy markets.

Contract publication

We will proceed with our proposal to require the counterparty to publish each RSA once the contract is entered into following a direction from the Secretary of State. As set out in the consultation, when publishing each contract, we are mindful of the need to ensure sensitive information is not disclosed.

To deliver this objective, we have elected to require the counterparty to redact personal data and information which the Secretary of State considers to be information which constitutes a trade secret, or the disclosure of which would be likely to be harmful to the commercial interests of any person or would constitute an actionable breach of confidence.

Register of contracts

We will proceed with the proposal to require the counterparty to establish and maintain a public register of contracts to ensure key project information is readily accessible. The register is intended as a reference point to enable essential and up to date key project information to be readily accessible. In reference to specific suggestions made by respondents:

1. We do not intend to require publication of specific physical locations of network or personal information of staff.
2. We also do not intend for the regulations to require CO₂ transport and storage (T&S) fees to be published in the contract register. This information is expected to be published separately by the T&SCo as required by the CCS Network Code⁸ and therefore it is not considered necessary to duplicate the information in the contract register.
3. Further information on T&S networks is detailed below.

We intend for regulations to enable the following:

1. Require the counterparty to exclude from publication information that the counterparty would be entitled not to disclose in response to a request for its disclosure under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004. A counterparty must give the other party the opportunity to make representations before deciding what information to exclude from publication.
2. Require the counterparty, so far as it is reasonably practicable, to ensure that entries in the register are accurate. To ensure that entries are accurate and up to date, the Expected Start Date will be required to be updated every quarter (where applicable).

⁸ CCS Network Code Indicative Heads of Terms December 2022

The list of information required to be published (where applicable) in a contract register is set out in Table 1, with some items removed after considering consultation responses (explained further below).

The information set out in Table 1 should be considered the minimum information that is required to be published in a register for RSA Contracts. It is intended that the counterparty would have the flexibility to choose to enter into the register any other information they consider would facilitate the administration of RSAs within the bounds of the confidentiality provisions of the RSA.

Table 1: Information to be published in a register for RSA Contracts

Proposals for information to be published	
General details	<p>Unique identifier of the contract to be assigned by the counterparty.</p> <p>Description of the T&S network</p> <p>T&SCo name, registered address, and registration number (where applicable)</p> <p>Date last amended</p>
Contract milestone dates	<p>Commencement date</p> <p>Expiry date</p>
Transport and Storage Cluster Information	Further details of the T&S network

Revenue support agreement counterparty's ability to carry out its functions

Question 4: Do you agree with the rationale for including a requirement in regulations on the relevant counterparty to promptly notify the Secretary of State at the point that it considers that it may become unable to carry out its functions (in addition to the formal 3-months' notice period in the Act)? Please provide reasons for your response.

Consultation Position

The consultation outlined the importance of having a consistent flow of revenue support for T&SCo and the role of the RSA counterparty to administer payment. We therefore proposed that the RSA counterparty should be required by regulations to promptly notify the Secretary of State at any point that it considers it may be, or become, unable to carry out its functions. This would enable the Secretary of State to have early sight of potential issues and could provide additional time to source a replacement, if needed.

This requirement is in addition to the provision in section 81 of the Act that requires a counterparty to provide not less than three months' notice if they wish to withdraw consent to being a designated RSA counterparty. Under the same section, regulations may make provision enabling a person who has ceased to be the RSA counterparty to continue to be treated as such, including provision about the circumstances in which and the period for which they may be treated as such.

This can enable a smooth transition to help ensure projects will continue to receive timely payments.

Summary of stakeholder responses Question 4

Response summary	
Agree with overall approach	4
Responded with 'don't know'	0
Did not agree with overall approach	0
Not answered or unclear	0

There were four responses to this question. All respondents agreed with the proposals. Respondents welcomed the requirement to provide early notification, and for processes to be in place to help ensure the counterparty role is adequately fulfilled to provide a secure and consistent flow of revenue support.

Two respondents felt that the three months' notice period in the Act was not sufficient to provide industry with certainty given the specific expertise required to manage the contracts. They suggested extending the minimum notice period to six months or incentivising early disclosure by establishing clear and strong obligation on the exiting counterparty to inform the Secretary of State of their duties and liabilities until a new counterparty is in place.

Half of respondents considered that the counterparty should be adequately assessed to prevent the scenario where it would require replacement. One respondent also felt the proposal could go further by setting out how to guarantee revenue streams if another counterparty is unable to replace the designated counterparty.

Government Response

We note the strong support from respondents and intend to proceed with our proposed approach for regulations to require a counterparty to provide early notification if it is, or considers that it is likely to become, unable to fulfil its functions as the RSA counterparty.

We have noted concerns raised by respondents to clarify the process after a notification is given and that a three-month notice period is too short to provide assurance to industry. As set out above, the Act already includes a power in section 81 to make provision in regulations about the circumstances in which, and the period for which, a person who has ceased to be a RSA counterparty would continue to be treated as such a counterparty. Although the RSA requires a minimum three-month notice period, this is not necessarily the period within which the RSA counterparty would cease to carry out their functions. We are not planning to exercise the power in section 81 as part of these regulations but will consider putting in place any further regulations should it be considered appropriate in due course.

We also intend to proceed with our proposal for the counterparty, having notified the Secretary of State of an inability to carry out its functions, to provide any further details as requested by the Secretary of State. We intend to achieve this by requiring the counterparty to provide such assistance as the Secretary of State may require with a view to securing the performance of that function, for example by the provision of information.

The Government anticipates that the Low Carbon Contracts Company Ltd (LCCC) will be designated as the counterparty for the RSA. The LCCC has experience in similar types of contract management from its role as counterparty to Contracts for Difference.

List of respondents to the consultation

The consultation received a total of four responses from the organisations listed below.

Organisation
Carbon Capture & Storage Association CCSA
Fuels Industry UK
National Gas Transmission
Storegga

This publication is available from: www.gov.uk/government/consultations/ccus-transport-and-storage-revenue-support-agreement-counterparty

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