

Draft Regulations laid before the Scottish Parliament under section 105(3) of the Energy Act 2008 for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2011 No.

ENVIRONMENTAL PROTECTION

The Storage of Carbon Dioxide (Inspections) (Scotland) Regulations 2011

Made - - - - 2011
Coming into force in accordance with regulation 1

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972⁽¹⁾ and sections 21, 27 and 104(2) of the Energy Act 2008⁽²⁾ and all other powers enabling them to do so.

In accordance with section 105(3) of the Energy Act 2008⁽³⁾ a draft of the Regulations has been laid before, and approved by resolution of the Scottish Parliament.

Citation and commencement

1. These Regulations may be cited as the Storage of Carbon Dioxide (Inspections) (Scotland) Regulations 2011 and come into force on the day after the day on which they are made.

Amendment of the Storage of Carbon Dioxide (Licensing etc.) (Scotland) Regulations 2011

2. The Storage of Carbon Dioxide (Licensing etc.) (Scotland) Regulations 2011⁽⁴⁾ are amended as follows.

Interpretation

3. In regulation 1(3) (interpretation), in the appropriate places alphabetically, insert—

-
- (1) 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46) (“the 1998 Act”), Schedule 8, paragraph 15(3); the Legislative and Regulatory Reform Act 2006 (c.51), section 27(1) and the European Union (Amendment) Act 2008 (c.7), Schedule (1), paragraph 1. The functions conferred upon a Minister of the Crown under section 2(2) of the European Communities Act 1972, insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.
- (2) 2008 c.32.
- (3) Section 105(3) has been modified by paragraph 5 of schedule 3 to the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10).
- (4) S.S.I. 2011/24.

““entering” in relation to premises includes, where applicable, boarding, and cognate expressions are to be construed accordingly;”;

““inspection” means an inspection of a storage complex for the purpose of discharging a function described in paragraph (a) or (b) of regulation 15(2);”;

““inspection report” has the meaning given to it in regulation 16(1);”;

““inspector” means a person appointed by the authority under section 27(1);”;

““premises” includes—

- (a) any carbon storage installation; and
- (b) any land, vehicle, vessel, aircraft, hovercraft, movable structure, excluding any land, vehicle, vessel, aircraft, hovercraft, movable structure or part thereof that is used as a dwelling;”;

““routine inspection” has the meaning given to it in regulation 14(1);”.

Inspections

4. After regulation 13 (post-closure obligations) insert—

“Inspections and enforcement

Inspections

14.—(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 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, in the opinion of the authority, 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 in accordance with 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 to carry out a programme of monitoring in accordance with paragraph 2 of Schedule 2; and
 - (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.

Inspectors

15.—(1) An inspector may exercise any of the powers described in Schedule 3 to assist the authority in carrying out the functions in paragraph (2).

- (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 Part 1 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

16.—(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, in respect of the storage complex inspected—
 - (i) the provisions of a licence and of any consent granted under a licence; and
 - (ii) any requirements, restrictions or prohibitions imposed by or under Chapter 3 of Part 1 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 compliance.

(3) A statement made in an inspection report in accordance with 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—