
SCOTTISH STATUTORY INSTRUMENTS

2011 No. 24

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

Powers and duties of the authority

Corrective measures

9.—(1) This regulation applies where—

- (a) a significant irregularity or a leakage has been detected; and
- (b) the licence under which the storage permit is granted is still in force,

but does not apply where the storage permit has been revoked.

(2) Without prejudice to the obligations of the operator under provisions in the storage permit included by virtue of regulation 8(d) and paragraph 6 of Schedule 2, or to the powers of the authority under section 24 (licensing authority's power of direction)—

- (a) the authority may direct the operator to take any corrective measures (and any measures for the protection of human health) that the authority, after consulting the operator, considers necessary; and
- (b) if the operator fails to take the measures directed to be taken, the authority must exercise its powers under paragraph (4).

(3) The measures directed to be taken under paragraph (2)(a) may be additional to, or different from, those envisaged in the corrective measures plan.

(4) Whether or not a direction has been given under paragraph (2) or under section 24—

- (a) the authority may at any time take such measures itself (or arrange for another person to take them on the authority's behalf); and
- (b) the costs of doing so are to be paid by the operator.

(5) Section 24(5) to (8) applies to action taken under paragraph (4) as it applies to action taken under section 24(4).

Review, modification and revocation of storage permit

10.—(1) Subject to paragraph (2), where a notification is made in accordance with provisions in the storage permit included by virtue of regulation 8(d) and paragraph 4 of Schedule 2, the authority—

- (a) may make such modifications to the storage permit as the authority considers appropriate; and
- (b) must notify the operator of—
 - (i) the date on which any such modifications are to come into effect; and
 - (ii) the date on which the change may be implemented.

- (2) Where it appears to the authority that the matters so notified would amount to a substantial change, the authority must—
- (a) make such modifications to the storage permit as the authority considers appropriate (and make a notification in accordance with paragraph (1)(b)); or
 - (b) notify the operator that the change must not be implemented.
- (3) The authority must make a notification under paragraph (1)(b) or (2) on or before—
- (a) the date (“the target date”) on which the operator proposes to implement a change notified under provisions in the storage permit included by virtue of regulation 8(d) and paragraph 4(1) of Schedule 2; or
 - (b) a later date if the authority considers more time is required to allow it to make a notification.
- (4) The authority shall notify the operator of the later date—
- (a) no less than one week before the target date; or
 - (b) if one or more later dates have already been notified by the authority; no less than one week before the date most recently notified.
- (5) This paragraph applies where the authority becomes aware of—
- (a) any (or any risk of) leakages or significant irregularities;
 - (b) any breach of the terms or conditions of the storage permit; or
 - (c) any scientific finding or technological development which appears to have a bearing on the conduct of operations at the storage site.
- (6) The authority must consider whether to modify or revoke the storage permit—
- (a) where paragraph (5) applies; and
 - (b) on the date (“the review date”) falling on the fifth anniversary of the grant of the storage permit, and on every tenth anniversary of the review date.
- (7) Following that consideration, the authority may—
- (a) make such modifications to the storage permit as the authority considers appropriate; or
 - (b) if it decides that modification of the permit would be insufficient in the light of the matters referred to in paragraph (5), revoke the permit.
- (8) Before making any revocation or modification under this regulation, the authority must consult the operator and any other licence holder.

Consequences of revocation of a storage permit

11.—(1) This regulation applies where the authority has revoked a storage permit under regulation 10(7).

- (2) The authority must either—
- (a) close the storage site; or
 - (b) consider any application for a licence (and, if such a licence is granted, for a new storage permit) in respect of the storage site.
- (3) Following the procedure under paragraph (2)(b)—
- (a) if no new storage permit is granted, the authority must close the storage site (but the existing licence continues in force);
 - (b) if a new storage permit is granted, the existing licence terminates on the date of that grant.
- (4) Until the storage site is closed, or the new storage permit is granted, the authority is deemed to be the operator of the site for the purposes of the following obligations—

- (a) in relation to the acceptance and injection of CO₂;
 - (b) in relation to monitoring;
 - (c) in relation to corrective measures;
 - (d) in relation to the surrender of allowances under the ETS Directive; and
 - (e) under Articles 5(1) and 6(1) of the Environmental Liability Directive.
- (5) Where the storage site is closed under paragraph (2)(a) or (3)(a), the authority—
- (a) is deemed to be the operator of the storage site for the purposes of the obligations referred to in paragraph (4)(b) to (e); and
 - (b) must ensure that the storage site is sealed and the injection facilities removed (but this is without prejudice to the obligations of any person under Part 4 (abandonment of offshore installations) of the Petroleum Act 1998⁽¹⁾).
- (6) The licence holder of the existing licence must pay to the authority any costs incurred in meeting the authority’s obligations under paragraph (4) or (5); and section 24(6) and (7) applies to the recovery of such costs as it applies to the recovery of costs under section 24(5).
- (7) In this regulation, “existing licence” means the licence under which the revoked storage permit was granted.

(1) 1998 c. 17. Section 30 of the Energy Act 2008 applies Part 4 of the Petroleum Act 1998 to carbon storage installations (as defined by section 30(5)).