EXPLANATORY MEMORANDUM TO

THE CARBON CAPTURE UTILISATION AND STORAGE AND OFFSHORE HYDROGEN PRODUCTION (MISCELLANEOUS AMENDMENTS) REGULATIONS 2026

2026 No. 185

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Health and Safety Executive (HSE) on behalf of the Department for Work and Pensions and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments and the Secondary Legislation Scrutiny Committee.

2. Declaration

2.1 Sir Stephen Timms, Minister of State for Social Security and Disability at the Department for Work and Pensions, confirms that this Explanatory Memorandum meets the required standard.

2.2 Kate Haire, Deputy Director (SCS1) of the Engagement and Policy Division at the HSE, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Rachel McCann at the HSE can be contacted by telephone: 07825 900 941 or email: rachel.mccann@hse.gov.uk with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The Carbon Capture Utilisation and Storage (CCUS) process involves carbon dioxide (CO_2) being captured from existing industrial processes, transported and permanently stored in natural rock structures under the seabed ('offshore geological formations'). Offshore hydrogen production covers a variety of technologies that can be utilised to produce hydrogen at offshore installations with either very low or zero emissions of CO_2, as defined by the UK Government's Low Carbon Hydrogen Standard[1].

4.2 This instrument:

- amends existing offshore installations and pipeline regulations to extend their scope to CCUS operations offshore and transport of CO_2 by pipeline, and offshore hydrogen production.
- extends a requirement to provide appropriate transport, subsistence and accommodation to inspectors at offshore installations to offshore wind and marine energy facilities.
- clarifies who has the responsibility for reporting accidents or incidents at wells to HSE.

[1] UK Government Low Carbon Hydrogen Standard - https://www.gov.uk/government/publications/uk-low-carbon-hydrogen-standard-emissions-reporting-and-sustainability-criteria

Where does the legislation extend to, and apply?

4.3 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales, and Scotland.

4.4 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales, and Scotland and the territorial sea adjacent to Great Britain and areas designated under the Continental Shelf Act 1964[2], in accordance with the Health and Safety at Work Etc. Act 1974 (Application Outside Great Britain) (Variation) Order 2026 (S.I. 2026/184).

5. Policy Context

What is being done and why?

5.1 This instrument supports a fundamental purpose of the Health and Safety at Work etc. Act 1974[3] to secure the health, safety and welfare of persons at work. It also recognises the approach of HSE, as a regulator, towards industries and technologies such as CCUS operations and offshore hydrogen production which have the potential to cause significant damage to people or the environment, to be regulated as major hazard risks.

5.2 The government has a legally binding target to achieve Net Zero by 2050 under the Climate Change Act 2008[4], which requires changes to the UK's energy mix (the methods used to produce electricity), the development of technologies that produce hydrogen with low or zero emission of CO_2 and the development of new technologies to reduce CO_2 emissions in sectors such as cement and steel production where it is difficult to reduce emissions.

5.3 This instrument supports the development and deployment of these onshore and offshore technologies by providing robust, proportionate, and appropriate health and safety regulation as described in paragraph 4.2.

5.4 This instrument extends the requirement for duty holders of offshore installations to provide appropriate transport, subsistence and accommodation to inspectors carrying out regulatory work to duty holders of offshore wind and marine energy facilities. This ensures that inspectors have the necessary support to carry out their regulatory duties.

5.5 This instrument clarifies the responsible person for reporting an incident at a well which no longer functioned clearly following a change to the definition of well operator. Further information is provided in paragraph 4.2.

What was the previous policy, how is this different?

5.6 Existing regulations concerning offshore installations and dangerous fluids in pipelines made under the Health and Safety at Work etc. Act 1974 were mainly written for the regulation of oil and gas. However, emerging technologies like CCUS and offshore hydrogen production introduce new substances and safety risks which are not adequately covered by the current framework.

5.7 This instrument ensures the effective regulation of new technologies and their safety risks by introducing the changes outlined in paragraph 6.1.

[2] Continental Shelf Act 1964 - https://www.legislation.gov.uk/ukpga/1964/29
[3] Health and Safety at Work etc. Act 1974 - https://www.legislation.gov.uk/ukpga/1974/37/contents
[4] Climate Change Act 2008 - https://www.legislation.gov.uk/ukpga/2008/27/contents

5.8 Existing regulation requires operators of oil and gas installations to provide appropriate transport, subsistence and accommodation to inspectors carrying out their regulatory duties at offshore installations. This instrument extends this requirement to operators of offshore wind and marine energy facilities (outlined in paragraph 6.1).

5.9 Existing regulations require specified incidents, including deaths and serious injuries, concerning wells to be reported to HSE. The reporting responsibility is currently connected to oil and gas drilling licenses, and this instrument clarifies that the responsibility, where appropriate, can also be connected to CCUS drilling licenses.

6. Legislative and Legal Context

How has the law changed?

6.1 This instrument changes existing health and safety law as below:

- amends the description of dangerous fluids in The Pipeline Safety Regulations 1996[5] (PSR), so that a pipeline carrying CO_2 and for the purpose of CCUS operations is subject to the requirements for major accident hazard pipelines.
- amends definitions of offshore installation, well operator, duty holder, licence holder and types of installations in The Offshore Installations and Pipeline Works (Management and Administration) Regulations 1995[6] (MAR95), The Offshore Installations and Wells (Design and Construction, etc.) Regulations 1996[7] (DCR96), The Offshore Installations (Offshore Safety Directive) (Safety Case etc.) Regulations 2015[8] (SCR15) and The Offshore Installations (Prevention of Fire and Explosion, and Emergency Response) Regulations 1995[9] (PFEER95) to ensure that the requirements of these Regulations fully and clearly apply to CCUS operations and offshore hydrogen production.
- amends MAR95 to extend the existing requirement for duty holders to provide transport, accommodation, and subsistence to HSE inspectors carrying out regulatory activity at offshore installations to duty holders at offshore wind and marine energy facilities.
- clarifies the responsibility for reporting well incidents in the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013[10] (RIDDOR).

Why was this approach taken to change the law?

6.2 The alternative approach would have been to introduce new health and safety regulations applying to CCUS operations offshore and in pipelines and offshore hydrogen production utilising the same regulatory requirements as the existing regulations concerning offshore oil and gas operations. Offshore work activities are regulated through a series of interconnecting and complementary regulations that are well known to operators and duty holders.

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[5] The Pipeline Safety Regulations 1996 - https://www.legislation.gov.uk/uksi/1996/825/contents
[6] The Offshore Installations and Pipeline Works (Management and Administration) Regulations 1995 - https://www.legislation.gov.uk/uksi/1995/738/contents/made
[7] The Offshore Installations and Wells (Design and Construction, etc.) Regulations 1996 - https://www.legislation.gov.uk/uksi/1996/913/contents
[8] The Offshore Installations (Offshore Safety Directive) (Safety Case etc.) Regulations 2015 - https://www.legislation.gov.uk/uksi/2015/398/contents/made
[9] The Offshore Installations (Prevention of Fire and Explosion, and Emergency Response) Regulations 1995 - https://www.legislation.gov.uk/uksi/1995/743/contents/made
[10] The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013- https://www.legislation.gov.uk/uksi/2013/1471/contents

6.3 To maintain clarity and avoid duplication, especially for sites transitioning from oil and gas to CCUS operations or offshore hydrogen production, amendment of existing regulations was considered more appropriate and proportionate.

6.4 Amending MAR95 to extend the requirement for duty holders to provide transport, accommodation and subsistence to HSE inspectors carrying out regulatory activity at offshore installations to offshore wind and marine energy facilities was considered most appropriate to ensure consistency with existing requirements in MAR95 for access to offshore installations.

7. Consultation

Summary of consultation outcome and methodology

7.1 A public consultation[11] on the proposed amendments ran for ten weeks from 4 June to 13 August 2025. Targeted communications were sent to stakeholders, including CO_2 pipeline operators, hydrogen producers, trade unions, local authorities, professional bodies, health and safety professionals, and engineers involved in planning future CCUS developments.

7.2 The consultation was also promoted through HSE e-bulletins with over 90,000 subscribers. A total of 77 responses were received, and the 'HSE response to consultation on Carbon Capture Utilisation and Storage and Offshore hydrogen production'[12] to be published 11 March 26 on the HSE Consultation Hub.

7.3 The CCUS activities offshore, pipelines and offshore hydrogen production amendments received broad support and respondents cited the need for safety controls that were proportionate to the associated level of risk.

7.4 The proposed amendment to extend the requirement for duty holders to provide transport, accommodation and subsistence to inspectors carrying out regulatory activity at offshore installations to offshore wind energy facilities was generally opposed in the consultation if transport by helicopter was required. This was taken into consideration, and this instrument does not specify a mode for the transport of HSE inspectors carrying out regulatory activity at offshore wind and marine energy facilities, enabling duty holders to use an appropriate mode of transport.

7.5 Relevant government departments and organisations including the Department for Energy Security and Net Zero[13], the North Sea Transition Authority[14] and the Offshore Petroleum Regulator for Environment and Decommissioning[15] were engaged during the development of this instrument.

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[11] Regulatory proposals for Carbon Capture Utilisation and Storage and offshore hydrogen production – Public Consultation - https://consultations.hse.gov.uk/hse/proposals-carbon-capture-utilisation-storage/

[12] Regulatory proposals for Carbon Capture Utilisation and Storage and offshore hydrogen production – Formal Response - https://consultations.hse.gov.uk/hse/proposals-carbon-capture-utilisation-storage/results/responsereport-ccusresponsereport.pdf

[13] Department for Energy Security and Net Zero - https://www.gov.uk/government/organisations/department-for-energy-security-and-net-zero

[14] North Sea Transition Authority - https://www.nstauthority.co.uk/

[15] Offshore Petroleum Regulator for Environment and Decommissioning - https://www.gov.uk/government/organisations/offshore-petroleum-regulator-for-environment-and-decommissioning

8. Applicable Guidance

8.1 Existing guidance on HSE's website is being reviewed as part of a wider workstream as other changes are also required that fall outside of the scope of the changes made by this instrument. Interim guidance pages have been published for offshore activities[16] and for pipelines[17].

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment is submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation.gov.uk website.

Impact on businesses, charities and voluntary bodies

9.2 There is an impact on business as the annualised cost of compliance to the offshore CCUS industry is estimated to be between £12m and £40m, with a best estimate of £26m. The likely annualised cost of compliance per offshore hydrogen installation is estimated to be between £590k and £2.1m, with a best estimate of £1.3m per installation. Annualised costs for CCUS installations are estimated to be between £800k and £2.4m, with a best estimate of £1.6m per installation. The likely cost of compliance per onshore CO_2 pipeline is estimated to be between £5.6k and £270k, with a best estimate of £84k per pipeline. There is uncertainty around these estimates due to limited existing data, limited cost data provided during consultation, and the emerging status of these industries. There is no impact on charities or voluntary bodies.

9.3 This legislation does impact small or micro businesses.

9.4 There is no exemption for small and micro businesses. A key principle of regulation for work activities considered to constitute a major accident hazard is that the proportionality of regulatory measures is related to the level of risk, and not the size of a business.

9.5 There is no, or no significant impact, on the public sector because the regulations apply to operators of CCUS operations, offshore hydrogen production facilities and offshore wind and marine energy facilities rather than public sector duty holders.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is to gather evidence from various sources (including stakeholders) to establish whether the regulations are achieving their health and safety objectives, whether the objectives remain appropriate, and if so, whether regulatory intervention continues to be the most effective way of controlling risks related to the industries under the scope of the instrument. HSE has established channels of engagement with its various stakeholders at monthly, quarterly, bi-annual intervals and will actively seek feedback on this instrument.

10.2 A statutory review clause is included in the instrument.

[16] Offshore Oil and Gas Resources - https://www.hse.gov.uk/offshore/resources.htm
[17] Pipelines Resources - https://www.hse.gov.uk/pipelines/index.htm

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 This memorandum should be read in conjunction with the explanatory memorandum to the Health and Safety at Work etc. Act 1974 (Application Outside of Great Britain) (Variation) Order 2026 (S.I. 2026/184) which extends health and safety regulations to specific activities when they are carried out offshore.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative procedure and does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").