EXPLANATORY MEMORANDUM TO

THE CARBON DIOXIDE TRANSPORT AND STORAGE (FINANCING OF COSTS OF OFFSHORE DECOMMISSIONING) REGULATIONS 2026

2026 No. 632

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Energy Security and Net Zero and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

2.1 Minister Michael Shanks, Minister for Energy at the Department for Energy Security and Net Zero confirms that this Explanatory Memorandum meets the required standard.

2.2 James Screen, Deputy Director, at the Department for Energy Security and Net Zero confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Amanda Charles at the Department for Energy Security and Net Zero can be contacted by email at the following address with any queries regarding the instrument: amanda.charles@energysecurity.gov.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The Carbon Dioxide Transport and Storage (Financing of Costs of Offshore Decommissioning) Regulations 2026 ("the Regulations") implement the detailed requirements for carbon dioxide transport and storage companies, licensed under the powers of section 7 of the Energy Act 2023, to establish and maintain offshore decommissioning funds. The Regulations set out the process for Secretary of State approvals of estimated decommissioning costs, and future reviews of cost estimates, requirements for fund management, including Secretary of State approval of the holding arrangement and funding and investment strategy for a decommissioning fund, restrictions on fund activities, and the approvals needed for withdrawals from a fund.

Where does the legislation extend to, and apply?

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

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is limited to offshore carbon dioxide-related infrastructure, located in, under or over the territorial sea of the United Kingdom, or waters in a Gas Importation and Storage Zone (within the meaning given by Section 1 of the Energy Act 2008).

5. Policy Context

What is being done and why?

5.1 Carbon capture and storage is the process of capturing carbon dioxide (CO_2) and permanently storing it, deep underground where it cannot enter the atmosphere. Carbon dioxide transport and storage networks will act as the enabling infrastructure for carbon capture from a range of sources, including power plants, industrial facilities, low carbon hydrogen production, and direct air capture.

5.2 Carbon capture, usage and storage (CCUS) has a key role in helping to meet the UK's legally binding commitment to reduce greenhouse gas emissions to net zero by 2050.

5.3 To deliver CCUS within the UK, CO_2 transport and storage networks will transport CO_2 from carbon capture equipped clusters across the UK's industrial regions, through pipelines, to be permanently stored in offshore sub-surface storage sites such as depleted oil and gas fields.

5.4 Existing UK legislation is clear that when an offshore CCUS storage site is closed, the injection facilities and other offshore installations must be removed when decommissioned, and all other items of equipment, infrastructure and materials are also expected to be removed. This is in accordance with our international obligations to achieve a clear seabed. Site operators also have statutory obligations to monitor storage sites for a minimum period after closure, expected to be at least 20 years. Existing decommissioning obligations such as these are referred to in this memorandum as "primary decommissioning obligations".

5.5 To ensure that there are sufficient funds in place to meet the costs of these primary decommissioning obligations, the Energy Act 2023, alongside introducing an economic licensing framework for CO_2 transport and storage, provides for regulations to be made regarding the provision of security for the performance of decommissioning obligations by way of a decommissioning fund. In this funded decommissioning model, a proportion of the fees a licensed CO_2 transport and storage company charges to its users is set aside in a dedicated decommissioning fund which accrues over the operational lifetime of the infrastructure (expected to be around 25 years).

5.6 The policy aim of a funded decommissioning model is to support CO_2 transport and storage companies in managing the decommissioning liability associated with their offshore CCUS networks, in a manner consistent with the 'polluter pays' principle, and reduce the risk that decommissioning costs have to be met by taxpayers as the decommissioner of last resort.

5.7 The Regulations establish requirements that CCUS decommissioning funds must fulfil. The anticipated costs of decommissioning will be approved by the Secretary of State, in consultation with relevant regulators, to establish the target amount the decommissioning fund must accrue for during its operational lifetime, to ensure sufficient funds to meet a licensed company's decommissioning liabilities while also ensuring costs are economic and efficient. Cost estimates will be periodically reviewed throughout the lifetime of the network, and a licensed company's allowed revenue can be adjusted through the regular Ofgem price control process to account for cost increases or decreases.

5.8 The policy is not to require a particular holding arrangement for a decommissioning fund (for example, a trust structure). However, the transport and storage company must be able to demonstrate to the Secretary of State that the holding arrangement

meets specified criteria, set out in the Regulations, such as protection of the fund in the event of insolvency of the CO_2 transport and storage company.

5.9 The decommissioning fund will accrue through regular payments. Fund capital may be invested, subject to Secretary of State approval of a funding and investment strategy. Investments should be diversified to ensure a prudent spread of risk, and investments in the final five years of the operational lifetime must be low risk, as the opportunity to make good any shortfalls in returns becomes limited in this period. The funding and investment strategy must also demonstrate due diligence for social, environmental and corporate governance considerations in the selection of investments.

5.10 Decommissioning funds will be subject to reporting and accounting requirements. Changes to the decommissioning fund arrangements require approval by the Secretary of State, and restrictions on withdrawals from a fund will ensure payments from the fund can only be made to certain persons and only for decommissioning costs.

What was the previous policy, how is this different?

5.11 Decommissioning of offshore oil and gas and CCUS installations and pipelines is regulated by the Offshore Petroleum Regulator for Environment and Decommissioning (OPRED) on behalf of the Secretary of State, and by Scottish Ministers in respect of offshore carbon storage installations that are licensed by Scottish Ministers under the Energy Act 2008. One of OPRED's key responsibilities is to protect the taxpayer from decommissioning liabilities. To enable this, it has a regime in place for oil and gas to assess the risk of this cost falling to the taxpayer and can take mitigating actions using powers set out in the Petroleum Act 1998 (for example, requiring a company to provide financial security for decommissioning liabilities).

5.12 The decommissioning regime for oil and gas and the requirements around this have been in place for a number of years and are well understood. The 2021 CCUS consultation[1] noted that "In the O&G regime, how this [decommissioning] obligation is fulfilled, and importantly how it is funded, is left to commercial arrangements, though there are actions the government can take to protect the taxpayer and the environment".

5.13 The nature of CCUS, particularly the uncertain nature of the decommissioning costs associated with its operation, and the fact that it will be a first of a kind regime for the UK, has led the UK Government to propose a funded decommissioning regime for CCUS, to help manage this uncertainty. This funded regime requires CO_2 transport and storage companies to establish a decommissioning fund as security for their decommissioning costs. The fund will accrue through regular contributions by the transport and storage company, derived from its allowed revenue. A funded decommissioning regime for CCUS is consistent with the approach taken in other sectors, such as nuclear, where there are similar long-term liabilities.

6. Legislative and Legal Context

How has the law changed?

6.1 Primary decommissioning obligations in respect of offshore carbon storage installations and pipelines are set out in the Petroleum Act 1998, which governs

[1] https://www.gov.uk/government/consultations/carbon-capture-usage-and-storage-ccus-offshore-decommissioning-regime-for-co2-transport-and-storage

decommissioning in the UK territorial sea and Continental Shelf. Part 4 of the Petroleum Act 1998, as modified by section 30 of the Energy Act 2008, requires persons with a notice under section 29 of the Petroleum Act 1998 to prepare decommissioning programmes for offshore carbon storage installations and pipelines.

6.2 In addition, Chapter 3 of the Energy Act 2008 and associated secondary legislation (including the Storage of Carbon Dioxide (Licensing etc.) Regulations 2010, the Storage of Carbon Dioxide (Licensing etc.) (Scotland) Regulations 2011, the Storage of Carbon Dioxide (Licensing etc) Regulations (Northern Ireland) 2015 and the Storage of Carbon Dioxide (Termination of Licences) Regulations 2011) provide for a licensing regime governing the safe storage of CO_2. Under this legislation carbon storage licence holders are required to carry out post-closure monitoring of a storage site, and to hold and maintain adequate financial security to ensure that all obligations arising under the storage permit (including post-closure requirements) can be met. After a minimum post closure period (expected to be at least 20 years), responsibility for monitoring and corrective measures returns to the Secretary of State or Scottish Ministers.

6.3 The Regulations are made under the power in section 92 of the Energy Act 2023 (and other powers in that Act). The Regulations introduce a requirement on CO_2 transport and storage operators, licensed under section 7 of the Energy Act 2023, to establish an offshore decommissioning fund as security for their decommissioning costs. Nothing in the Regulations relieves a person of any of their primary decommissioning obligations, or affects or alters the ability of the Secretary of State to use the full range of powers available under Part 4 of the Petroleum Act 1998.

6.4 The Regulations establish requirements for the management and oversight of offshore decommissioning funds, including the scope of decommissioning costs that a fund must accrue for, the requirements for Secretary of State approval of the holding arrangements and funding and investment strategy for the fund, restrictions on how monies are to be held and withdrawn, and requirements for accounting and reporting.

6.5 It is expected to be a requirement of the licences granted under section 7 of the Energy Act 2023 that licence holders comply with the requirements of the Regulations. Any non-compliance will be enforceable under the provisions of section 32 and Schedule 3 of the Energy Act 2023. Should the Department consider that further provision for enforcement or penalties in relation to these Regulations is appropriate, these provisions will be the subject of a separate SI laid under the affirmative procedure, in accordance with section 93 of the Energy Act 2023.

Why was this approach taken to change the law?

6.6 This approach is being taken to achieve the UK Government's objective to ensure sufficient funding is in place at the end of the operational lifetime of CO_2 transport and storage infrastructure to meet the costs of decommissioning and post-closure monitoring associated with the infrastructure.

6.7 This approach is designed to operate within the economic regulation model for CO_2 transport and storage established in Part 1 of the Energy Act 2023, where users of licensed CO_2 transport and storage networks are charged a fee for the service of having their captured CO_2 transported and stored, and where the fees cover the costs incurred by a transport and storage network including decommissioning costs.

6.8 It is anticipated that the Regulations will require updating in the relatively near future to align with forthcoming regulations on the re-purposing of oil and gas assets for CCUS. These forthcoming regulations on re-purposing are expected to (amongst other

provisions) establish how the "required amount", to be paid into a decommissioning fund in order to qualify for Change of Use Relief under section 30A and 30B of the Energy Act 2008, is to be determined, and, in scenarios where Change of Use Relief is not sought, establish a requirement for transport and storage companies to make a contribution (determined on a similar basis to the required amount mentioned above) into the decommissioning fund in respect of any re-purposed assets.

7. Consultation

Summary of consultation outcome and methodology

7.1 The Department for Energy Security and Net Zero published a consultation on 2 August 2021 which closed on 26 September 2021. This consultation proposed the establishment of a funded decommissioning regime for CCUS to ensure carbon dioxide transport and storage companies accumulate sufficient funds to manage their decommissioning liabilities. It proposed the accrual of funds through regular contributions to the fund through user fees and investment of the fund. These proposals received broad support from respondents. A response to the consultation was published on 17 January 2022 and a further policy update was published on 23 June 2023. The consultation documents and Government responses can be found here: https://www.gov.uk/government/consultations/carbon-capture-usage-and-storage-ccus-offshore-decommissioning-regime-for-co2-transport-and-storage

7.2 In accordance with section 94(1) of the Energy Act 2023, before making these Regulations, the Secretary of State served a notice on each relevant devolved authority and has considered any representations duly made by those authorities.

8. Applicable Guidance

8.1 The Regulations are comprehensive in setting out the requirements which licensed companies need to meet in establishing their decommissioning funds and the approvals needed. The Regulations do not require guidance to be implemented, however the Department for Energy Security and Net Zero intends to keep in view the potential benefits of additional guidance on practical aspects of the Regulations to support carbon dioxide transport and storage companies.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because the Department found the Regulations to fall below the threshold for producing one. The Regulations do not introduce new primary decommissioning obligations; these are already provided for in existing legislation. The instrument instead establishes an administrative framework for the accrual and governance of funds to meet those existing liabilities. Any impacts are limited to familiarisation and ongoing compliance activities affecting a small number of licensed operators. Decommissioning-related costs are recoverable through regulated charges and do not represent a net direct cost to business. In addition, the initial users of transport and storage networks are publicly funded. On this basis, the Equivalent Annual Net Direct Cost to Business is expected to be below £10 million.

Impact on businesses, charities and voluntary bodies

9.2 The impact on business is on companies licensed under section 7 of the Energy Act 2023, to establish and pay into a decommissioning fund to meet the expected costs of the company's offshore end-of-life liabilities.

9.3 Setting requirements on these companies to establish and maintain a decommissioning fund to finance the costs of offshore CCUS decommissioning requirements will incur compliance costs. As the specific type of arrangement for the set up and running of a decommissioning fund is not dictated by the Regulations, it is not possible to quantify these costs at this time.

9.4 There are currently two CO_2 transport and storage companies licensed under section 7 of the Energy Act 2023[2] in scope of these Regulations. The Office for National Statistics (ONS) is reviewing the classification of these companies to determine if these new entities, associated assets, and transactions should be classified within the public sector.

9.5 Decommissioning liabilities can be a significant proportion of overall project cost, and it is right that this is appropriately managed. The Government considers that the benefits of a funded approach to decommissioning, thereby reducing the risk to the taxpayer as decommissioner of last resort, justifies the associated costs. The Regulations require that the form of and management arrangements for the offshore decommissioning fund must demonstrate value for money.

9.6 There is no, or no significant, impact on charities or voluntary bodies.

9.7 The legislation does not impact small or micro businesses.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation will be through the ongoing development of the CO_2 transport and storage regulatory model.

10.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, Michael Shanks MP, Minister of State for Energy at the Department for Energy Security and Net Zero, has made the following statement: "It would not be appropriate in the circumstances to make provision for a review as a review would be disproportionate taking into account the economic impact the instrument is likely to have".

[2] https://www.gov.uk/government/publications/award-of-carbon-dioxide-transport-and-storage-licence https://www.gov.uk/government/publications/award-of-carbon-dioxide-transport-and-storage-licence-liverpool-bay-ccs-limited

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 The Regulations introduce obligations on persons granted a licence under section 7 of the Energy Act 2023 to establish, pay into, and maintain, a decommissioning fund to accrue effective security for decommissioning costs and enable accountable persons to meet decommissioning obligations and duties. The enforcement mechanism for these obligations exists in other legislation, namely the enforcement powers in section 32 and Schedule 3 of the Energy Act 2023, as it is intended that compliance with the requirements of the Regulations will be incorporated as a condition of the section 7 licence. It is also intended that the conditions of the section 7 licence would not allow a licensee to proceed to begin commercial operation of a CO_2 transport and storage network without an approved decommissioning fund, and the requirement in the regulations to make a regular payment into the fund will be enforceable via the section 7 licence.

11.2 In addition, as mentioned in paragraph 6.2 above, transport and storage companies have financial security requirements under their storage licence and associated secondary legislation (such as the Storage of Carbon Dioxide (Licensing etc.) Regulations 2010). If the transport and storage company fails to establish an offshore decommissioning fund in accordance with the Regulations, the licensing authority may determine that the company has not provided sufficient financial security. Under the storage licensing requirements, sufficient financial security must be in force before the transport and storage company commences injection. The NSTA has set out in guidance its expectations regarding financial soundness for the first licensed CO_2 transport and storage companies[3].

11.3 The Department will continue to keep in view the effectiveness and adequacy of these enforcement mechanisms, and if it is considered appropriate to establish additional enforcement or penalties provisions, this would be done through a separate SI, under the affirmative procedure as required under section 93 of the Energy Act 2023.

12. European Convention on Human Rights

12.1 As the instrument is subject to the negative resolution 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").

[3] https://www.nstauthority.co.uk/media/1uwfbip5/ccs-clarification-note.pdf