EXPLANATORY MEMORANDUM TO

THE OIL AND GAS AUTHORITY (CARBON STORAGE) (RETENTION OF INFORMATION AND SAMPLES) REGULATIONS 2025

2025 No. 498

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 Sarah Jones, Minister of State at the Department of Energy Security and Net Zero confirms that this Explanatory Memorandum meets the required standard.

2.2 Matthew Taylor, Deputy Director for Carbon Dioxide Transport and Storage Policy, at the Department of Energy Security and Net Zero confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Jasline Bagga at the Department of Energy Security and Net Zero (jasline.bagga@energysecurity.gov.uk) can be contacted 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 These Regulations are made using the powers in section 108 of the Energy Act 2023 that enable the Secretary of State to make provisions, by way of regulations, about the retention of carbon storage information and samples.

4.2 Carbon storage information refers to data acquired or created by or on behalf of a licensee, while carrying out activities as set out in section 17(2) Energy Act 2008 under the licensee's carbon storage licence issued under section 18(1) Energy Act 2008. This can include geophysical survey information, monitoring information, and well information.

4.3 Carbon storage samples are samples of substances acquired by or on behalf of a licensee during the course of activities under the licensee's carbon storage licence. These samples can include drilling samples of fluid or strata acquired during the drilling of a well, as well as monitoring samples of fluid or strata.

4.4 These Regulations set out: the specified types of information and samples that are to be retained by carbon storage licensees and, when the obligation to retain may commence and end. These Regulations only apply to carbon dioxide storage and licences granted by, or treated as granted by the Oil and Gas Authority ("OGA"), under the business name of the North Sea Transition Authority ("NSTA").

4.5 This licence allows the entity to explore or use geological features for the long-term storage of carbon dioxide. The licensee is responsible for complying with various obligations, including monitoring and reporting carbon storage information and samples to regulatory authorities.

Where does the legislation extend to, and apply?

4.6 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.

4.7 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the 'United Kingdom'. The activities of a carbon dioxide transport and storage company may take place in the United Kingdom, in, above or below the territorial sea adjacent to 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 The Energy Act 2023 allows the Secretary of State to require, by regulations, holders of carbon storage licences granted by, or treated as granted by, the OGA to retain specified carbon storage information and carbon storage samples. The Act then also makes provision for the OGA to require licensees to provide it with such of that information or those samples as it may request, and for the subsequent public disclosure of that information.

5.2 Carbon capture and storage ("CCS") is the process of capturing carbon dioxide (CO2) and permanently storing it, deep underground where it cannot enter the atmosphere. CCS has a key role in the UK's Net Zero Strategy, helping the UK to meet the UK's legally binding commitment to reduce greenhouse gas emissions to net zero by 2050. As CCS will also provide flexible energy deployment across power, it has the potential to strengthen UK energy security and reduce reliance on unabated fossil fuels, as well as enabling greenhouse gas removals.

5.3 With an estimated 78 billion tonnes of theoretical CO2 storage capacity in the UK Continental Shelf ("UKCS")[1], the UK can lead the world both in the provision of CO2 services and in the storage of domestic and, potentially, international CO2 emissions. To date, the OGA has awarded 27 carbon storage licences, with the first CO2 injection still to take place following the progression of the government's Cluster Sequencing Process.

5.4 These Regulations set out the types of information and samples that are to be retained by carbon storage licensees, which have been obtained through the conduct of their activities for the storage of CO2. These Regulations only apply to carbon storage licences granted, or having effect as if granted, by the OGA under section 18(1) of the Energy Act 2008. The Regulations enable the safeguarding of information and samples from the point of their creation or acquisition. An example of relevant data includes geophysical survey information, monitoring data, well reports and physical samples. It is critical that these carbon storage information and samples are protected as their acquisition is both time sensitive and expensive.

5.5 Only information and samples that have been retained can be subsequently reported to the OGA. This is essential in supporting the OGA's regulatory functions, ensuring that carbon storage sites present no significant risk of leakage or harm to the

[1] https://www.co2stored.co.uk/home/index

environment or human health. Once the retention period ends, as defined by these Regulations, carbon storage licensees will be relieved of their requirements to retain such data.

5.6 Following this process of retention and reporting, by way of future regulations, it is intended that the OGA will be able to publicly disclose this information following a suitable confidentiality period. This is subject to Parliament approval of such regulations. Access to high-quality information and samples by industry, academia and the public will help to deliver more effective and efficient ways to utilise the UKCS's storage potential. As a result, these Regulations support government's vision for CCS.

What was the previous policy, how is this different?

5.7 Prior to this instrument, the requirement to retain information and samples acquired through carbon storage activities was under the licence model clauses which don't provide the specific detail required.

6. Legislative and Legal Context

How has the law changed?

6.1 The Energy Act 2008 established a licensing framework for the storage of carbon dioxide, with the OGA established as the relevant licensing authority for carbon storage on the UKCS.

6.2 Part 2, Chapter 5 of the Energy Act 2023 provides powers to require the holders of carbon storage licences granted by, or treated as granted by, the OGA to retain specified carbon storage information and carbon storage samples. This instrument is enacted under section 108, which provides the power for the Secretary of State to require licensees to provide it with such of that information or those samples as it may request.

6.3 This instrument was made in consideration of similar, existing powers held by the OGA in relation to petroleum information and samples, as provided under The Oil and Gas Authority (Offshore Petroleum) (Retention of Information and Samples) Regulations 2018. These Regulations look to follow that precedent where relevant.

6.4 The Secretary of State is also provided powers (subject to Parliamentary approval) to make regulations under Paragraph 4, Schedule 7 of the Energy Act 2023 which will enable carbon storage information and samples, once reported to the OGA, to become publicly available ("disclosed") after specified time periods. This instrument will support future legislation on the disclosure of carbon storage information and samples.

Why was this approach taken to change the law?

6.5 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 Ahead of the introduction of enabling powers within Energy Act 2023, the OGA ran a public consultation on information and sample related matters in carbon dioxide appraisal and storage and petroleum licences. This consultation ran between 18 January 2023 and 1 March 2023, with a response published on 6 April 2023.

7.2 The OGA received eleven responses which were broadly supportive on the principle of applying similar data gathering powers currently exercised by the OGA in respect of petroleum licensees to carbon storage licences.

7.3 This consultation highlighted respondents desire for timely and transparent access to carbon storage data. Some respondents raised concerns regarding the need for appropriate confidentiality periods for the data's subsequent disclosure. Further feedback was provided regarding the types of data collected which would be collected through the conduct of carbon storage activities. These representations were taken into account in the development of powers in the Energy Act 2023 and subsequently in the drafting of these regulations.

7.4 The OGA consultation and response are published online at: https://www.OGAuthority.co.uk/news-publications/consultation-response-on-proposals-on-new-carbon-storage-data-powers/

7.5 Whilst there was no statutory requirement to publicly consult on these regulations, the OGA carried out an informal stakeholder consultation ("road test") between November 2023 and January 2024, gathering further industry views on the implementation of retention requirements for carbon storage information and samples.

7.6 This road test was presented in the form of written correspondence, shared with Offshore Energies UK ("OEUK"), Carbon Capture and Storage Association ("CCSA"), OGA Subsurface Taskforce and Transportation and Storage Taskforce, British Geological Survey ("BGS") and provided general information regarding future policy intent to allow for comments and representations to be made. This road test received positive responses, with all respondents agreeing to the proposals in principle. These responses were appropriately considered ahead of the drafting of these regulations.

7.7 Section 108(7) of the Energy Act 2023 requires the Secretary of State to consult each licensing authority that may under section 18(1) of the Energy Act 2008 grant a licence in respect of the carrying on, in a place to which the regulations would apply, of carbon storge activities within section 17(2) of the Energy Act 2008. Whilst these Regulations only apply to carbon storage licences issued under the authority of the OGA, this consultation enabled the Devolved Administrations of Wales, Scotland and Northern Ireland, to appropriately consider these requirements in respect of potential cross-border storage sites, where both the OGA and a relevant minister could act as the licensing authority for a site (provided under Energy Act 2008 sections 18(2)(c), (ce), and (cd)).

7.8 The Secretary of State consulted the licensing authorities on these draft regulations on 27 February 2025.

8. Applicable Guidance

8.1 The OGA intends to issue guidance in due course, to aid industry's understanding of and compliance with the regulations. The intent is that this document would provide context and examples of documents that will fall within the different categories of information that the regulations will require to be retained.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment (IA) has not been prepared for this instrument because the requirement for carbon storage licensees to retain information and samples does not meet the threshold for such an assessment. The Equivalent Annual Net Direct Cost to Business (EANDCB) is estimated to be below +/-£10 million, and therefore falls below the threshold to produce a IA.

9.2 Mandating the retention of information and samples is an administrative measure. This measure reduces the risk of information and samples not being available when requested by the OGA. Additionally, it is expected that information and samples would be retained for operational reasons by carbon storage licensees, regardless of whether the carbon storage licensee is required to do so by the OGA or not. Therefore, the introduction of this obligation will not impose new or additional costs to licensees.

Impact on businesses, charities and voluntary bodies

9.3 There is no, or no significant, impact on business, charities or voluntary bodies because there is no additional administrative burden on carbon storage licensees, as they would retain information and samples regardless of their obligation to do so by the OGA. Information and samples will not be required to be held indefinitely by the licensee as once the OGA has received the information and samples, retention requirements will cease. This instrument will minimise uncertainty for the licensee regarding the duration required for their retention of information and samples.

9.4 The legislation does not disproportionately impact small or micro businesses.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The OGA has a responsibility to keep the requirements in the regulations under review to ensure they are operating effectively. This is part of the broader regulatory framework that governs the OGA's activities.

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. Minister Jones has made the following statement:

"In my view the provisions of the Oil and Gas Authority (Carbon Storage) (Retention of Information and Samples) Regulations 2024 do not require a review clause as a review would be disproportionate taking into account the economic impact of the regulatory provision on the qualifying activity."

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 This instrument relates to a subsequent SI to be laid in 2025 regarding the periods of disclosure for carbon storage information and samples. That SI, (if approved), is enabled under Paragraph 4, Schedule 7 of the Energy Act 2023. It is intended to compliment this instrument, by allowing the OGA to publicly disclose information and samples that have been retained and subsequently reported to them. This will enhance knowledge sharing across the CCS industry and support the effectiveness and efficiency of UK carbon storage.

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 regarding Human Rights 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”).