



STATUTORY INSTRUMENTS.

S.I. No. 575 of 2011



EUROPEAN COMMUNITIES (GEOLOGICAL STORAGE OF CARBON
DIOXIDE) REGULATIONS 2011

(Prn. A11/2039)

EUROPEAN COMMUNITIES (GEOLOGICAL STORAGE OF CARBON DIOXIDE) REGULATIONS 2011

I, PAT RABBITTE, Minister for Communications, Energy and Natural Resources, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), with the consent of the Minister for the Environment, Community and Local Government, in so far as these Regulations relate to the activities specified in Regulations 5, 7 and 8, and for the purpose of giving effect to Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009¹, hereby make the following regulations:

Citation

1. These Regulations may be cited as the European Communities (Geological Storage of Carbon Dioxide) Regulations 2011.

Interpretation

2. (1) In these Regulations—

“competent authority” means, in respect of the State, the competent authority designated pursuant to Regulation 5, and in respect of another Member State of the European Communities, any competent authority specified in the national law of that State as notified by the Commission;

“Directive” means Directive 2009/31/EC of 23 April 2009¹ on the geological storage of carbon dioxide; and

“Minister” means the Minister for Communications, Energy and Natural Resources.

(2) A word or expression that is used in these Regulations and is also used in the Directive has the same meaning in these Regulations that it has in the Directive.

Purpose and Application

3. (1) These Regulations provide for the implementation in the State of the legal framework for the environmentally safe geological storage of carbon dioxide (CO₂) in such a way as to prevent and, where this is not possible, eliminate as far as possible negative effects and any risk to the environment and human health, and to contribute to the fight against climate change.

(2) These Regulations apply to the geological storage of CO₂ in the territory of the State, its exclusive economic zone and on its continental shelf within the meaning of the United Nations Convention on the Law of the Sea.

¹O.J. No. L140 5.6.2009 p. 114

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 18th November, 2011.

(3) These Regulations do not apply to geological storage of CO₂, with a total intended storage below 100 kilotonnes, undertaken for research, development or testing of new products and processes.

Selection of storage sites

4. (1) The storage of CO₂ in a storage site in part or in the whole of the area referred to in Regulation 3(2) is not permitted.

(2) The storage of CO₂ in a storage site with a storage complex extending beyond the area referred to in Regulation 3(2) is not permitted.

(3) The storage of CO₂ in the water column is not permitted.

Competent authority

5. The Minister, in consultation with the Minister for the Environment, Community and Local Government shall designate a competent authority for the purposes of these Regulations and the Directive.

Transboundary cooperation

6. In case of transboundary transport of CO₂, a transboundary storage site or a transboundary storage complex, the competent authority designated pursuant to Regulation 5, and the competent authority of the other Member State concerned shall jointly meet the requirements of the Directive and of other relevant Community legislation.

Information to the public

7. The Minister, in consultation with the Minister for the Environment, Community and Local Government shall make available to the public, environmental information relating to the geological storage of CO₂ in accordance with provisions of the European Communities (Access to Information on the Environment) Regulations 2007 (S.I. No. 133 of 2007).

Reporting to the Commission

8. The Minister, in consultation with the Minister for the Environment, Community and Local Government shall submit to the Commission a report on the implementation of the Directive, and in accordance with any detailed provisions of a questionnaire adopted by the Commission pursuant to Article 27 of the Directive.

Enforcement and penalties

9. (1) A person who fails to comply with Regulation 4 of these Regulations is guilty of an offence.

(2) A person guilty of an offence under these Regulations shall be liable—

(a) on summary conviction to a “Class A fine” or imprisonment for a term not exceeding 6 months or both, or

(b) on conviction on indictment, to a fine not exceeding €500,000 or to imprisonment for a term not exceeding 3 years or both.

(3) Summary proceedings for an offence under these Regulations may be brought and prosecuted by the Minister.

(4) Where an offence under these Regulations is committed by a body corporate and is proved to have been so committed with the consent, connivance of or to be attributable to any neglect on the part of a person, being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person, as well as the body corporate, is guilty of an offence and is liable to be proceeded against and punished as if he or she were guilty of the first mentioned offence.

(5) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act 1851 summary proceedings for an offence under these Regulations may be instituted not later than 2 years from the date of the offence.

The Minister for the Environment, Community and Local Government hereby consents to the foregoing Regulations in so far as they relate to the activities specified in Regulations 5, 7 and 8 of these Regulations.

L.S.

GIVEN under the Official Seal of the Minister for the Environment,
Community and Local Government,
11 November 2011.

PHIL HOGAN,
Minister for the Environment, Community and Local
Government.

L.S.

GIVEN under my Official Seal,
11 November 2011.

PAT RABBITTE,
Minister for Communications, Energy and Natural Resources.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

The purpose of these Regulations is to transpose Directive 2009/31/EC on the geological storage of carbon dioxide. That Directive establishes a legal framework for carbon capture and storage (CCS) so as to enable its safe operation in Europe.

CCS is considered to be a bridging technology that will contribute to mitigating climate change. It consists of the capture of carbon dioxide from industrial installations, its transport to a storage site, and its injection into a suitable underground geological formation for the purposes of permanent storage. CCS is a new, emerging and valuable technology with significant potential as a mitigation technique for carbon emissions.

Ireland considers it appropriate to await developments and progress by key players in this field, and the more advanced Member States who have committed substantial resources both financial and human to the implementation of the regulatory framework underpinning this technology.

Accordingly, Ireland has exercised its right, in accordance with Article 4 of the Directive, not to allow for any storage in part or in the whole of the State and therefore there is currently no area of Irish territory that would be free to be used for CO₂ storage. However, this issue will be kept under active review.

It is noted that Ireland is required under Article 27 to report annually to the European Commission on the implementation of this Directive. In addition and in accordance with Article 38 of the Directive, the European Commission is obliged to report to the European Parliament on the implementation of the Directive across Member States, and in particular to report in 2015 on specific aspects relating to experience with CCS, technical progress and scientific knowledge. This system will provide opportunities for the Minister for Communications, Energy and Natural Resources, in consultation with the Minister for the Environment, Community and Local Government to consider the issues and to review the policy and these Regulations, as appropriate.

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