

2007 No. 1996

GAS

PIPE-LINES

The Gas Transporter Pipe-line Works (Environmental Impact Assessment) (Amendment) Regulations 2007

<i>Made</i> - - - -	<i>9th July 2007</i>
<i>Laid before Parliament</i>	<i>12th July 2007</i>
<i>Coming into force</i> - -	<i>20th August 2007</i>

The Secretary of State has been designated for the purposes of section 2(2) of the European Communities Act 1972(a) in relation to measures relating to the requirement for an assessment of the impact on the environment of projects likely to have significant effects on the environment(b).

In exercise of the powers conferred upon him by section 2(2) of that Act, he makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Gas Transporter Pipe-line Works (Environmental Impact Assessment) (Amendment) Regulations 2007 and shall come into force on 20th August 2007.

Interpretation

2. In these Regulations “the 1999 Regulations” means the Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999(c).

Amendment of the 1999 Regulations

3. The 1999 Regulations are amended as follows.

4. In regulation 2 (Interpretation)—

(a) before the definition of “appropriate local planning authority”, insert—

(a) 1972 c. 68; section 2 is amended by section 27(1) of the Legislative and Regulatory Reform Act 2006 (c. 51).

(b) SI 1988/785, to which there is an amendment not relevant to these Regulations.

(c) SI 1999/1672; amended by section 76(7) of the Utilities Act 2000 (c. 27), section 73(2) of the Countryside and Rights of Way Act 2000 (c. 37), and regulation 47(8) of the Environmental Impact Assessment (Scotland) Regulations 1999 (SSI 1999/1). Certain functions under the 1999 Regulations are transferred, in so far as they are exercisable in or as regards Scotland, to the Scottish Ministers, by regulation 3 of, and Schedule 2 to, the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) (No 2) Order 2000 (SI 2000/3253); that Order was made under sections 30(3), 63, 113 and 124(2) of the Scotland Act 1998 (c. 46).

““additional information” means information which—

- (a) is made available to the Secretary of State—
 - (i) after the date on which the application for consent accompanied by an environmental statement is received by the Secretary of State; and
 - (ii) before determination by the Secretary of State of the application for consent pursuant to regulation 14(1) below;
- (b) is of material relevance to the environmental statement; and
- (c) is not further information or supplementary information;

“application for consent” means an application made by a gas transporter to the Secretary of State for his consent to the carrying out of proposed pipe-line works;”;

- (b) in the definition of “the consultation bodies”, after sub-paragraph (d), insert—
 - “and
 - (e) any other body designated by statutory provision as having specific environmental responsibilities which the Secretary of State considers is likely to have an interest in the pipe-line works in question;”;
- (c) for the definition of “EEA State” substitute—
 - ““EEA State” means a member State, Norway, Iceland or Liechtenstein;”;
- (d) before the definition of “gas”, insert—
 - ““further information” is to be construed in accordance with regulation 11(1);”;
- (e) before the definition of “in”, insert—
 - ““the Gazette” means—
 - (a) in relation to proposed pipe-line works along a route lying wholly in England and Wales, the London Gazette;
 - (b) in relation to proposed pipe-line works along a route lying wholly in Scotland, the Edinburgh Gazette; and
 - (c) in relation to pipe-line works along a route lying partly in England and Wales and partly in Scotland, the London Gazette and the Edinburgh Gazette;”;
- (f) before the definition of “working width”, insert—
 - ““supplementary information” means information which is—
 - (a) provided to the Secretary of State by the applicant in order to supplement the environmental statement; and
 - (b) submitted to the Secretary of State no later than 14 days after the date of receipt by the Secretary of State of the environmental statement; and”.

5. In regulation 7 (Pre-application requests to the Secretary of State for an opinion as to content of environmental statement), after paragraph (7), insert—

“(8) Where the Secretary of State has given an opinion in response to a request pursuant to paragraph (1) above, he shall forthwith send to the relevant planning authority, any other consultation body and such other persons he considers appropriate—

- (a) a copy of that opinion; and
- (b) a copy of the relevant request and the documents which accompanied it.”.

6. In regulation 8 (Availability of directions, determinations etc for inspection)—

- (a) for “regulation 3(3) above or” substitute “regulation 3(3) above,”; and
- (b) after “regulation 6(1) above,”, insert—

“or an opinion given in response to a request made pursuant to regulation 7(1) above (pre-application requests to the Secretary of State for an opinion as to content of environmental statement),”.

7. In regulation 9 (Provision of information), in sub-paragraph (b) of paragraph (1), before “bodies”, insert “consultation”.

8. In regulation 10 (Publicity for environmental statements)—

(a) for paragraphs (2), (3) and (4) substitute—

“(2) The gas transporter shall serve on the consultation bodies as soon as is reasonably practicable—

- (a) a copy of the application for consent, the environmental statement and any supplementary information; and
- (b) a notice stating that representations may be made to the Secretary of State by a date specified in the notice which shall be at least 28 days after the date on which the application for consent, the environmental statement and any supplementary information were served on the body,

and he shall inform the Secretary of State in writing of the names and addresses of every such body on whom he has served copies, and the dates on which they were served, in each case no later than 7 days after the date of such service.

(3) The gas transporter shall, as soon as is reasonably practicable, publish a notice which states—

- (a) the gas transporter’s name and address and that he is an applicant for consent under these Regulations for proposed pipe-line works;
- (b) the location and the nature of the proposed pipe-line works and, where relevant, the fact that such works would be likely to have a significant effect on the environment in another EEA State;
- (c) that an environmental statement has been prepared and that a copy of the application for consent, the environmental statement and any supplementary information may be inspected by members of the public at all reasonable hours;
- (d) the address of the relevant planning authority premises referred to in paragraph (6) below at which the application for consent, the environmental statement and any supplementary information may be inspected and the latest date (being a date not less than 28 days after the date on which the notice is to be last published, pursuant to paragraph (4) below) on which they will be available for inspection;
- (e) the address in Great Britain referred to in paragraph (5)(b) below at which copies of the application for consent, the environmental statement and any supplementary information may be obtained and that copies of the environmental statement may be obtained there and, subject to regulation 12 (charges) below, specify the amount of any charge to be made for a copy of the statement;
- (f) that any person wishing to make representations in relation to the application for consent should make them in writing to the Secretary of State by the date stated in accordance with sub-paragraph (d) above and specify the address to which any such representations should be sent;
- (g) the nature of possible decisions to be taken in response to the application for consent; and
- (h) the arrangements made for consulting the public pursuant to this regulation.

(4) The gas transporter shall publish the notice referred to in paragraph (3) above in two successive weeks—

- (a) in the Gazette; and
- (b) in one or more local newspapers circulating in each area in which the proposed pipe-line works would be carried out.”;

(b) in paragraph (5)—

(i) in sub-paragraph (a)—

- (aa) after “first published,” omit “whether pursuant to paragraph (3) or (4) above,”;

- (bb) for “a copy of the application and environmental statement” substitute “a copy of the application for consent, environmental statement and any supplementary information”;
- (ii) in sub-paragraph (b), for “environmental statement” substitute “application for consent, the environmental statement and any supplementary information”; and
- (iii) in sub-paragraph (c), for “environmental statement” substitute “application for consent, the environmental statement and any supplementary information”;
- (c) in paragraph (6), for “application for consent and the environmental statement” substitute “application for consent, the environmental statement and any supplementary information”; and
- (d) in paragraph (7), for “notices” substitute “notice”.

9. In regulation 11 (Further information and evidence respecting environmental statements)—

- (a) in paragraph (1), after “he may specify”, insert—
 - “, and such information provided by the gas transporter is referred to in this regulation, and regulations 2, 12 and 14 as “further information””;
- (b) in paragraph (2)—
 - (i) for “any of the information provided pursuant to a requirement imposed under paragraph (1) above” substitute “any further information”; and
 - (ii) for “such information” substitute “such further information”;
- (c) in paragraph (4)—
 - (i) for “the application and the environmental statement” substitute “the application for consent, the environmental statement and any supplementary information”; and
 - (ii) for “, in each case whether pursuant to paragraph (5) or (6) below” substitute “pursuant to that paragraph”;
- (d) for paragraphs (5) and (6) substitute—
 - “(5) The gas transporter shall publish a notice containing the information specified in paragraph (6) below in two successive weeks—
 - (a) in the Gazette; and
 - (b) in one or more local newspapers circulating in each area in which the proposed pipe-line works would be carried out.
 - (6) A notice published pursuant to paragraph (5) above shall—
 - (a) refer to the previous notice in respect of the application for consent, the environmental statement and any supplementary information and state that further information has been provided;
 - (b) state that a copy of the application for consent, the environmental statement, any supplementary information and the further information may be inspected by members of the public at all reasonable hours;
 - (c) give the address at which copies of those documents may be inspected and the latest date (being a date not less than 28 days after the date on which the notice is to be last published pursuant to paragraph (5) above) on which they will be available for inspection;
 - (d) give the address at which copies of the application for consent, the environmental statement, any supplementary information and the further information may be obtained and state that copies of those documents may be obtained there and, subject to regulation 12 (charges) below, specify the amount of any charge to be made for a copy of the statement or information; and
 - (e) state that any person wishing to make representations about the application for consent should make them in writing to the Secretary of State by a date not less than 28 days after the date on which the notice is to be last published pursuant to

(5) above and specify the address to which any such representations should be sent.”; and

- (e) in paragraph (7), for “notices referred to in paragraphs (5) and (6) above” substitute “notice referred to in paragraph (5) above”.

10. Before regulation 12 (Charges), insert—

“Additional information and publicity

11A.—(1) Where additional information is received by the Secretary of State, he shall serve a copy of the additional information on the consultation bodies and either—

- (a) in any case where the additional information is provided to the Secretary of State by the applicant, notify the applicant that the information has been served on the consultation bodies; or
- (b) in any case where the additional information is provided to the Secretary of State by a person other than the applicant, serve a copy of the additional information on the applicant.

(2) Where the applicant has been notified that additional information has been served on the consultation bodies in accordance with paragraph (1)(a) above or been served with a copy of the additional information pursuant to paragraph (1)(b) above, the applicant shall—

- (a) publish in accordance with paragraph (4) below a notice containing the information specified in paragraph (5) below; and
- (b) serve a copy of that notice on the Secretary of State.

(3) Where the Secretary of State receives a notice which has been served on him by the gas transporter pursuant to paragraph (2)(b) above, he shall serve a copy of that notice on the consultation bodies.

(4) The notice referred to in paragraph (2)(a) above shall be published in two successive weeks—

- (a) in the Gazette; and
- (b) in one or more local newspapers circulating in each area in which the proposed pipe-line works would be carried out.

(5) The notice referred to in paragraph (2)(a) above shall—

- (a) describe the application for consent in question and state that the Secretary of State has received additional information;
- (b) identify the relevant planning authority on whom the Secretary of State is required to serve a copy of the additional information pursuant to paragraph (1)(b) above;
- (c) state that the relevant planning authority identified in (b) above is required to take steps to ensure that the additional information is made available for inspection by the public at all reasonable hours;
- (d) state that requests for copies of the additional information may be sent to the Secretary of State and specify an address for that purpose;
- (e) state a date not less than four weeks after the date on which the notice is to be last published in accordance with paragraph (4) above by which any person may make representations to the Secretary of State in relation to the additional information and specify the address to which any such representations are to be sent; and
- (f) state that the requirements set out in sub-paragraphs (b) to (d) above will also apply in respect of any additional information received by the Secretary of State after the date of the notice.

(6) Paragraphs (2) to (5) above shall not apply where a notice containing the information specified in paragraph (5) has previously been—

- (a) published by the applicant in accordance with paragraph (4) above; and

(b) served on the Secretary of State pursuant to paragraph (3) above.

(7) The gas transporter shall provide the Secretary of State with copies of each of the newspapers and Gazettes in which the notice referred to in paragraph (2)(a) above appeared in each case no later than 7 days after the date of publication of that newspaper or Gazette.

(8) The Secretary of State shall not determine the application for consent until the later of—

(a) fourteen days after the last date on which a copy of the notice published pursuant to paragraph (2)(a) above was served in accordance with paragraph (3) above; or

(b) the date stated in the notice pursuant to paragraph (5)(e) above.”.

11. In regulation 12 (Charges)—

(a) at both places at which it occurs, for “environmental statement or any further information” substitute “environmental statement, any supplementary information or any further information”; and

(b) for “of the statement or further information” substitute “of the environmental statement, any supplementary information or any further information”.

12. In regulation 13 (Projects affecting other States)—

(a) in paragraph (2), in sub-paragraph (a)(i), after “a copy of the application for consent” omit “in respect of the proposed pipe-line works”; and

(b) in paragraph (5), after “a particular application for consent” omit “under these Regulations”.

13. In regulation 14 (Consent to pipe-line works)—

(a) in paragraph (1)—

(i) in sub-paragraph (a), for “regulations 10 and 11 above” substitute “regulations 10, 11 and 11A above”; and

(ii) for sub-paragraph (b)(i) and (ii) substitute—

“(i) the environmental statement and any supplementary information;

(ii) any further information or additional information;”;

(b) in paragraph (2), after “in relation to an application for consent” omit “for particular proposed pipe-line works”;

(c) in paragraph (4)—

(i) in sub-paragraph (a), after “relevant planning authority,” insert “other consultation bodies,”; and

(ii) for sub-paragraph (b)(i) to (iii) substitute—

“(i) the content of the decision and any conditions attached to it;

(ii) a summary of the concerns and opinions expressed by the persons affected or likely to be affected by, or having an interest in, the procedure for consent to development;

(iii) in the light of those concerns and opinions, the main reasons and considerations upon which the Secretary of State’s decision is based;

(iv) a description, where necessary, of the main measures to avoid, reduce and, if possible, offset the major adverse effects of the proposed pipe-line works; and

(v) an explanation of the right of a person aggrieved by a decision of the Secretary of State to make an application pursuant to regulation 16 below (application to court by person aggrieved)”;

(d) for paragraph (5) substitute—

“(5) The gas transporter shall, no later than 14 days after the date of the notification under paragraph (4)(a) above, inform the public of the decision by publishing a notice containing the information specified in paragraph (5A) below—

- (a) in the Gazette; and
- (b) in one or more local newspapers circulating in each area in which the proposed pipe-line works would be carried out.”;
- (e) before paragraph (6), insert—

“(5A) The notice referred to in paragraph (5) above shall state—

 - (a) the content of the decision and any conditions attached to it; and
 - (b) an address in Great Britain at which copies of the statement by the Secretary of State referred to in paragraph (4)(b) above may be obtained and that such copies may be obtained free of charge by making a request to the gas transporter during a period of not less than 8 weeks immediately following the date on which the notice is to be last published pursuant paragraph (5) above.

(5B) The gas transporter shall satisfy all reasonable requests made during the period mentioned in paragraph (5A)(b) above for copies of the statement referred to in paragraph (4)(b) above.”; and
- (f) in paragraph (6)—
 - (i) after “each of the newspapers”, insert “and the Gazettes”; and
 - (ii) after “publication of those newspapers”, insert “or the Gazettes”.

14. In regulation 18 (Offences), for sub-paragraphs (a) to (c) of paragraph (1) substitute—

- “(a) an environmental statement;
- (b) supplementary information;
- (c) appropriate particulars;
- (d) additional information; or
- (e) any information required to be submitted by virtue of any provision of these Regulations.”.

15. In Part 1 of Schedule 3 (Description of Pipe-line Works in Respect of which an Environmental Statement is Required), for “Pipe-line works in respect of a pipe-line with a diameter of more than 800 millimetres and a length of more than 40 kilometres.” substitute—

“Pipe-line works in respect of—

- (a) a pipe-line with a diameter of more than 800 millimetres and a length of more than 40 kilometres; or
- (b) an extension to a pipe-line which in itself meets the thresholds set out in (a) above.”.

Transitional provision

16. The amendments made by regulations 4 to 15 above shall not apply in relation to any application made under the 1999 Regulations which is received by the Secretary of State prior to the coming into force of these Regulations.

9th July 2007

Malcolm Wicks
Minister of State for Energy and Sustainable Development
Department for Business, Enterprise and Regulatory Reform

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999 (“the 1999 Regulations”). The 1999 Regulations implement, in relation to pipe-line installations, Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment as amended by Council Directive 97/11/EC of 3 March 1997. These Regulations implement Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003. Directive 2003/35/EC provides for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amends, with regard to public participation and access to justice, Council Directives 85/337/EEC and 96/61/EC.

Regulation 4 of these Regulations amends regulation 2 of the 1999 Regulations by inserting definitions for “additional information”, “application for consent”, “further information”, “the Gazette” and “supplementary information”. Regulation 4 also amends the definitions of “the consultation bodies” and “EEA State”.

Regulation 5 amends regulation 7 of the 1999 Regulations; it inserts a requirement on the Secretary of State to send to the consultation bodies and such other persons he considers appropriate, a copy of any request for an opinion as to the content of an environmental statement, the documents that accompanied any such request and his opinion in relation to that request.

Regulation 6 amends regulation 8 of the 1999 Regulations by requiring that the relevant planning authority makes any opinion as to the content of an environmental statement available for public inspection.

Regulation 8 amends regulation 10 of the 1999 Regulations to require supplementary information to be served on the consultation bodies. It also sets out the information to be contained in the notice which the gas transporter must publish after he makes an application for consent, and requires that such a notice is published as soon as is reasonably practicable.

Regulation 9 amends regulation 11 of the 1999 Regulations; the changes made concern how “further information” is to be construed, and also the publicity requirements for “further information”.

Regulation 10 inserts a new regulation 11A into the 1999 Regulations. This sets out the procedure which the Secretary of State must follow when he receives “additional information” and the publicity requirements relating to such “additional information”.

Regulation 11 amends regulation 12 of the 1999 Regulations to allow the applicant to charge for copies of any supplementary information.

Regulation 13 amends regulation 14 of the 1999 Regulations by inserting a new obligation on the Secretary of State to take into account the provisions of regulation 11A and any additional information received when making his decision on whether to grant consent. It also amends the information to be contained in the statement accompanying the Secretary of State’s decision and the publicity requirements for the decision and the statement.

Regulation 14 amends regulation 18 of the 1999 Regulations so that a person who knowingly or recklessly submits to the Secretary of State false or misleading information which is contained in supplementary information or additional information commits an offence.

Regulation 15 amends Part 1 of Schedule 3 to the 1999 Regulations; the amendments concern the descriptions of pipe-line works in respect of which an environmental statement is required.

An impact assessment covering changes to the gas transporter pipe-line works environmental impact assessment (“EIA”) regime as well as the EIA regimes for pipe-line works and electricity

works, is available from the Energy Development Unit, Department for Business, Enterprise and Regulatory Reform, 1 Victoria Street, London SW1H 0ET.

A Transposition Note is available and can also be obtained from the Energy Development Unit, Department for Business, Enterprise and Regulatory Reform, 1 Victoria Street, London SW1H 0ET.

The impact assessment and Transposition Note are also annexed to the Explanatory Memorandum, which is available alongside the instrument on the Office of Public Sector Information website: www.opsi.gov.uk.

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**The Gas Transporter Pipe-line Works (Environmental Impact
Assessment) (Amendment) Regulations 2007**

£3.00

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E1026 7/2007 171026T 19585

