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STATUTORY INSTRUMENTS

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**2011 No. 2741**

**INFRASTRUCTURE PLANNING**

**The Infrastructure Planning (Environmental Impact Assessment) (Amendment) Regulations 2011**

<i>Made</i>	- - - -	<i>14th November 2011</i>
<i>Laid before Parliament</i>		<i>21st November 2011</i>
<i>Coming into force</i>	- -	<i>21st December 2011</i>

The Secretary of State for Communities and Local Government being a designated<sup>(1)</sup> Minister for the purposes of section 2(2) of the European Communities Act 1972<sup>(2)</sup> in relation to the environment, in exercise of the powers conferred by that section makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Infrastructure Planning (Environmental Impact Assessment) (Amendment) Regulations 2011 and shall come into force on 21st December 2011.

**Interpretation**

2. In these Regulations—

“the 2009 Regulations” means the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009<sup>(3)</sup>.

**Amendment to the 2009 Regulations**

3. After regulation 1 insert—

**“Review**

**1A.—**(1) Before the end of each review period, the Secretary of State must—

- (a) carry out a review of these Regulations,
- (b) set out the conclusions of the review in a report, and

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(1) The Secretary of State is so designated by [S.I. 2008/301](#).  
(2) [1972 c.68](#). Section 2(2) includes power to make certain provision in relation to the European Economic Area by virtue of section 2(5) of the European Economic Area Act [1993 \(c.51\)](#).  
(3) [S.I. 2009/2263](#).

- (c) publish the report.
- (2) In carrying out the review, the Secretary of State must, so far as is reasonable, have regard to how the EIA Directive<sup>(4)</sup> (which is implemented in relation to infrastructure planning by these regulations) is implemented in other member States.
- (3) The report must in particular—
  - (a) set out the objectives intended to be achieved by the regulatory system established by these regulations,
  - (b) assess the extent to which those objectives are achieved, and
  - (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.
- (4) “Review period” means—
  - (a) the period of five years beginning with the date on which this regulation comes into force, and
  - (b) subject to paragraph (5), each successive period of five years.
- (5) If a report under this regulation is published before the last day of the review period to which it relates, the following review period is to begin with the day on which that report is published.”

#### **Amendments to Schedule 1 to the 2009 Regulations**

**4.—**(1) Schedule 1 to the 2009 Regulations (development that always requires an assessment) is amended as follows.

- (2) For paragraph 16 substitute—
  - “**16.** Pipelines with a diameter of more than 800 millimetres and a length of more than 40 kilometres:
    - for the transport of gas, oil, chemicals, or
    - for the transport of carbon dioxide streams for the purposes of geological storage, including associated booster stations.”
- (3) For paragraphs 20 and 21 substitute—
  - “**20.** Construction of overhead electrical power lines with a voltage of 220 kilovolts or more and a length of more than 15 kilometres.
  - 21.** Installations for storage of petroleum, petrochemical or chemical products with a capacity of 200,000 tonnes or more.
  - 22.** Any change to or extension of development listed in this Schedule where such a change or extension itself meets the thresholds, if any, or description of development set out in this Schedule.
  - 23.** Storage sites pursuant to Directive [2009/31/EC](#) of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide<sup>(5)</sup>.
  - 24.** Installations for the capture of carbon dioxide streams for the purposes of geological storage pursuant to Directive [2009/31/EC](#) from installations covered by this Schedule, or where the total yearly capture of carbon dioxide is 1.5 megatonnes or more.”

(4) Council Directive [85/337/EEC](#), O.J. L. 175, 5.7.1985, p. 40, as amended by: Council Directive [97/11/EC](#), O.J. L. 73, 14.3.1997, p. 5; Directive [2003/35/EC](#) of the European Parliament and of the Council, O.J. L. 156, 25.6.2003, p. 17; and Directive [2009/31/EC](#) of the European Parliament and of the Council, O.J. L. 140, 5.6.2009, p. 114.

(5) O.J. No. L 140, 5.6.2009, p. 114.

### **Amendments to Schedule 2 to the 2009 Regulations**

5.—(1) Schedule 2 to the 2009 Regulations (development that may require an assessment) is amended as follows.

(2) After paragraph 3(i) (energy industry) insert—

“(j) Installations for the capture of carbon dioxide streams for the purposes of geological storage pursuant to Directive 2009/31/EC from installations not included in Schedule 1.”

(3) For paragraph 10(k) (infrastructure projects) substitute—

“(k) Oil and gas pipeline installations and pipelines for the transport of carbon dioxide streams for the purposes of geological storage (unless included in Schedule 1).”

Signed on behalf of the Secretary of State for Communities and Local Government

14th November 2011

*Bob Neill*  
Parliamentary Under Secretary of State  
Department for Communities and Local  
Government

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (the “2009 Regulations”) [S.I. 2009/2263](#). The 2009 Regulations implemented, in relation to nationally significant infrastructure projects, Council Directive [85/337/EEC](#) on the assessment of the effects of certain public and private projects on the environment (O.J. No L 175, 5.7.19985, p. 40), as amended by Council Directive [97/11/EC](#) (O.J. No. L 73, 14.3.1997, p. 5).

Regulation 3 inserts new regulation 1A into the 2009 Regulations. Regulation 1A requires the Secretary of State to review the operation and effect of the 2009 Regulations and publish a report within five years after regulation 1A comes into force and within every five years after that. Following a review it will fall to the Secretary of State to consider whether the 2009 Regulations should remain as they are, or be revoked or be amended. A further instrument would be needed to revoke the 2009 Regulations or to amend them.

Since the 2009 Regulations came into force, Council Directive [85/337/EEC](#) has been amended by Council Directive [2009/31/EC](#) (O.J. No. L 140, 5.6.2009, p. 114). These Regulations amend the 2009 Regulations to implement the amendments made by Council Directive [2009/31/EC](#). The amendments are to Schedule 1 and Schedule 2 to the 2009 Regulations. Schedule 1 lists development that always requires an environmental impact assessment to be carried out. Schedule 2 lists development that requires an environmental impact assessment if it is likely to have a significant effect on the environment.

These Regulations also correct an omission made in Schedule 1 when the 2009 Regulations were drafted. Schedule 1 to the 2009 Regulations was intended to be a copy of Annex 1 to Council Directive [85/337/EEC](#) as amended by Council Directive [97/11/EC](#). However, paragraph 20 of Annex 1 was omitted from Schedule 1 by mistake. These Regulations correct that error.

An impact assessment has been prepared in relation to these Regulations. The assessment has been placed in the Library of each House of Parliament and can be found on the Department for Communities and Local Government website (<http://www.communities.gov.uk>).