
STATUTORY INSTRUMENTS

2017 No. 582

The Offshore Petroleum Production and Pipe-
lines (Environmental Impact Assessment and other
Miscellaneous Provisions) (Amendment) Regulations 2017

PART 2

Amendment of the 1999 Pipe-line Regulations

Introduction

24. The 1999 Pipe-line Regulations are amended in accordance with this Part.

25. In the 1999 Pipe-line Regulations, for “four weeks”, “4 weeks” or “28 days”, wherever each expression occurs, substitute “30 days”.

Amendment of regulation 2 (interpretation)

26. In regulation 2(1)—

(a) for the definition of “appropriate particulars”, substitute—

““appropriate particulars” means, in relation to a request for an environmental determination or a request under regulation 7(1) (pre-application request to the Secretary of State etc.), the name and address of the gas transporter and a description of the proposed pipe-line works which—

(a) includes—

- (i) the physical characteristics of the whole works, and where relevant, of demolition works;
- (ii) the location of the works with particular regard to the environmental sensitivity of the geographical areas likely to be affected by the works;
- (iii) the aspects of the environment likely to be significantly affected by the works;
- (iv) any likely significant effects, to the extent of the information available on such effects, of the works on the environment resulting from—
 - (aa) the expected residues and emissions and the production of waste, where relevant; and
 - (bb) the use of natural resources, in particular soil, land, water and biodiversity;

(b) takes into account the matters set out in Schedule 2 (matters to be taken into account in making an environmental determination etc.) and, where relevant, the results of other relevant assessments of the effects on the environment carried out pursuant to EU legislation other than the Directive; and

- (c) may also include any features of the proposed pipe-line works or measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment;”;
- (b) after the definition of “the consultation bodies”, insert—
 ““the Directive” means [Directive 2011/92/EU\(1\)](#) of the European Parliament and of the Council on the assessment of the effects of certain public and private projects on the environment;”;
- (c) omit the definition of “environmental statement”, and insert—
 ““environmental impact assessment” shall be interpreted in accordance with regulation 2A;
 “environmental statement” has the meaning set out in regulation 2B;”;
- (d) after the definition of “gas transporter”, insert—
 ““public website” means a website accessible to the public where the public can view and download information placed on it;”;
- (e) in the definition of “relevant planning authority”, in paragraph (c), after “is required” insert “or in regulation 3A(1) (exempt pipe-line works);”;
- (f) in the definition of “sensitive area”—
 (i) for paragraph (h), substitute—
 “(h) an area of outstanding natural beauty designated as such by an order made under section 82 (designation of areas) of the Countryside and Rights of Way Act 2000;(2)
 (ii) at the end of paragraph (i), insert “or regulation 8 of the Conservation of Habitats and Species Regulations 2010(3)”;
- (iii) at the end of paragraph (j), omit “and” and at the end of paragraph (k), insert “and”;
 and
 (iv) after sub-paragraph (k), insert—
 “(l) a wetland designated under paragraph 1 of Article 2 of the Ramsar Convention, as defined in section 37A of the Wildlife and Countryside Act 1981, for inclusion in the list of wetlands of international importance referred to in that Article(4).”.

New regulation 2A (environmental impact assessment) and regulation 2B (environmental statement)

27. After regulation 2, insert—

“Environmental impact assessment

2A.—(1) In these Regulations, “environmental impact assessment” means the process consisting of—

(1) OJ L 26 28.1.2012 p1.
 (2) [2000 c. 37](#). Section 82 was amended by the Natural Environment and Rural Communities Act [2006 \(c.16\)](#) section 105(1), Schedule 11, Part 1, paragraph 163(a) and (b), and [SI 2013/755](#).
 (3) [S.I. 2010/490](#); this instrument was amended by [S.I. 2012/1927](#).
 (4) [1981 c.69](#). Section 37A was inserted by the Countryside and Rights of Way Act [2000 \(c. 37\)](#) and amended by the Natural Environment and Rural Communities Act [2006 \(c.16\)](#) section 105(1), Schedule 11, Part 1, paragraph 86, the [Planning \(Wales\) Act 2015 \(anaw.4\)](#) section 16, Schedule 2, paragraphs 5 and 7 and [S.I. 2013/755](#).

- (a) the preparation and submission of an environmental statement by a gas transporter;
 - (b) the carrying out of the consultations referred to in regulations 9 to 11A and, where relevant, regulation 13;
 - (c) the Secretary of State's consideration of the information presented in the environmental statement, any further information or additional information provided in accordance with regulation 11 or 11A, and any representations or opinions received as the result of the consultations referred to in sub-paragraph (b);
 - (d) the Secretary of State's reasoned conclusion as required by regulation 14(1); and
 - (e) the integration of that conclusion into the decision as to whether the grant of consent is to be given as required by regulation 14(1).
- (2) In carrying out the steps described in paragraph (1)(a), the gas transporter shall identify, describe and assess in an appropriate manner—
- (a) the direct and indirect significant effects of the proposed pipe-line works on the following factors—
 - (i) population and human health;
 - (ii) biodiversity, with particular attention to species and habitats protected under Council [Directive 92/43/EEC](#) on the conservation of natural habitats and of wild fauna and flora and [Directive 2009/147/EC](#) of the European Parliament and of the Council on the conservation of wild birds;
 - (iii) land, soil, water, air and climate;
 - (iv) material assets, cultural heritage and the landscape; and
 - (v) the interaction between the factors referred to in sub-paragraphs (i) to (iv); and
 - (b) the operational effects of the proposed pipe-line works (where the works will have operational effects) and the expected effects deriving from the vulnerability of the works to risks of major accidents or disasters that are relevant to the works concerned.

Environmental statement

2B.—(1) In these Regulations, an “environmental statement” means a report prepared as part of an environmental impact assessment in respect of proposed pipe-line works which includes—

- (a) a description of the works comprising information on the site, design, size and other relevant features of the works;
- (b) a description of the likely significant effects of the works on the environment;
- (c) a description of the features of the works or measures envisaged in order to avoid, prevent or reduce, and if possible, offset likely significant adverse effects on the environment;
- (d) a description of the reasonable alternatives studied by the gas transporter which are relevant to the works and their specific characteristics and an indication of the main reasons for the option chosen, taking into account the effects of the works on the environment;
- (e) a non-technical summary of the information referred to in sub-paragraphs (a) to (d); and

- (f) any additional information set out in Schedule 1 (information for the environmental statement) relevant to the specific characteristics of the particular proposed pipe-line works or type of works and to the environmental features likely to be affected.
- (2) In preparing the environmental statement, the gas transporter shall also take into account any available results of other relevant assessments under EU or national legislation.
- (3) Where the Secretary of State has given an opinion under regulation 7 on the matters to be included in the environmental statement, the statement shall be based on that opinion and include the information that may be reasonably required for reaching a reasoned conclusion on the significant effects of the proposed pipe-line works on the environment, taking into account current knowledge and methods of assessment.
- (4) In order to ensure the completeness of the environmental statement, the gas transporter shall ensure that—
- (a) the statement is prepared by competent experts; and
 - (b) the statement is accompanied by a statement from the gas transporter outlining the relevant expertise or qualifications of such experts.”.

Amendment of regulation 3 (environmental statements)

28. In regulation 3—

- (a) in paragraph (1), after “(5) and regulations”, insert “3A (exempt pipe-line works),”;
- (b) after paragraph (5), insert—

“(5A) Where in relation to EIA development there is, in addition to a requirement for an environmental statement to be prepared in accordance with these Regulations, also a requirement to carry out a Habitats Regulations Assessment, the Secretary of State shall where appropriate ensure that the preparation of that assessment and the environmental statement are coordinated.”; and
- (c) after paragraph (6), insert—

“(7) In this regulation, a “Habitats Regulations Assessment” means an assessment under regulation 61 of the Conservation of Habitats and Species Regulations 2010 in respect of the proposed pipe-line works.”.

New regulation 3A (exempt pipe-line works)

29. After regulation 3, insert—

“Exempt pipe-line works

3A.—(1) The Secretary of State may direct that—

- (a) these Regulations do not apply in relation to proposed pipe-line works if those works comprise or form part of works—
 - (i) having national defence as their sole purpose; or
 - (ii) having the response to a civil emergency as their sole purpose, and in the opinion of the Secretary of State compliance with these Regulations would have an adverse effect on that purpose; or
- (b) where the proposed pipe-line works are the subject of an Act of Parliament or a measure made under powers contained in such an Act, and providing that the

objectives of the Directive are met, the provisions of these Regulations relating to public consultation do not apply in respect of those works.

(2) Subject to paragraph (4), the Secretary of State may, in exceptional cases, direct that any proposed pipe-line works shall be exempt in whole or in part from the requirements of these Regulations if circumstances exist such that the application of all or some of the provisions of these Regulations would adversely affect the purpose of those works.

(3) Where a direction is given under paragraph (1) or (2), the Secretary of State shall send a copy of any such direction to the relevant planning authority.

(4) A direction shall not be given under paragraph (2) unless the Secretary of State —

- (a) has considered whether another form of assessment is appropriate, and
- (b) in a case where the Secretary of State considers that the proposed pipe-line works are likely to have significant environmental effects on the environment in another EEA State, is satisfied that a form of consultation with that state broadly equivalent to the form described in regulation 13 (projects affecting other states) will take place before any consent is given in respect of the works, and
- (c) has informed the Commission of the European Union of the reasons justifying the exemption to be granted and has provided it with details of the information to be made available to the public pursuant to paragraph (5).

(5) A direction given by the Secretary of State under paragraph (2) may disapply such provisions of the Regulations as may in the circumstances appear to the Secretary of State to be appropriate and shall—

- (a) require the carrying out of such form of assessment as the Secretary of State considers appropriate in order to ensure a high level of protection of the environment and of human health;
 - (b) require that all information relating to the main effects the works are likely to have on the environment collected pursuant to sub-paragraph (a) is to be made available to the public and specify the manner in which it is to be made available;
 - (c) specify the extent to which these Regulations are to apply or that they are not going to apply at all; and
 - (d) include a statement of the Secretary of State's reasons for giving the direction and the information on which that decision is based.
- (6) The Secretary of State shall publish—
- (a) details of the direction given under paragraph (2) in the Gazettes together with information as to how the public concerned may obtain a copy of the direction; and
 - (b) the direction itself on a public website.”.

Amendment of regulation 6 (requests to the Secretary of State for an environmental determination)

30. In regulation 6—

- (a) at the start of paragraph (1), insert “Subject to paragraph (1B),”;
- (b) after paragraph (1), insert—

“(1A) If the Secretary of State considers that proposed pipe-line works are highly likely to have a significant effect on the environment given the environmental sensitivity of the location of the works, the Secretary of State may determine that no request for an environmental determination may be made under regulation 6 in respect of those works

and direct that an environmental statement be prepared in respect of those works, and sub-paragraphs (a) and (b) to regulation 3(3) shall apply.

(1B) Where a direction under paragraph (1A) is in force in respect of proposed pipe-line works, the Secretary of State shall not make an environmental determination under paragraph (2) in respect of those works (whether or not that project has been modified or is to be carried out in any particular manner or time).”;

- (c) in paragraph (2), at the end of sub-paragraph (a), insert “and the results of preliminary verifications or assessments on the environment carried out pursuant to European Union legislation other than the Directive”;
- (d) in paragraph (6)—
 - (i) after “for the same”, insert “as soon as possible and in any event”;
 - (ii) at the end of paragraph (6), insert “where the application is in respect of proposed pipe-line works that are, in the Secretary of State’s opinion, an exceptional case, for example in relation to their nature, complexity, location or size, and the agreement shall include the reasons why the Secretary of State considers the extra time is needed.”; and
- (e) for paragraph (7), substitute —

“(7) Where in response to a request for an environmental determination, the Secretary of State determines that either—

 - (a) the proposed pipe-line works are EIA development; or
 - (b) the proposed pipe-line works are not EIA development,

the Secretary of State shall provide with the determination a written statement of the main reasons for the determination and these reasons shall make reference to the relevant criteria set out in Schedule 2 and where it is determined that the proposed works are not EIA development, shall state any features of the proposed works or measures imposed that are proposed by the gas transporter to avoid or prevent significant adverse effects.”.

Amendment of regulation 7 (pre-application requests to the Secretary of State for an opinion as to content of environmental statement)

31. In regulation 7—

- (a) in paragraph (1), for “the information to be provided” substitute “the scope and level of detail to be included by the gas transporter”; and
- (b) in paragraph (2)(a)—
 - (i) after “into account”, insert “on the information provided”;
 - (ii) in paragraph (i), after “works”, insert “including its location and technical capacity”, and
 - (iii) omit paragraph (iv).

Amendment of regulation 8 (availability of directions, determinations etc. for inspection)

32. In regulation 8—

- (a) after “regulation 6(1) above,” insert “or a direction pursuant to 6(1A)”;
- (b) after “reasonably practicable”, insert “published on a public website and”.

Amendment of regulation 9 (provision of information)

33. In regulation 9(1), after “regulation 3(3),” insert “or regulation 6(1A)”.

Amendment of regulation 10 (publicity for environmental statements)

34. In regulation 10—

(a) for paragraph (4), substitute—

“(4) The gas transporter shall publish the notice referred to in paragraph (3)—

(a) in two successive weeks in—

(i) the Gazette, and

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

(b) on a public website, alongside the application for consent and the environmental statement.”; and

(b) at the end of paragraph (7), insert “and also the address of the public website on which the notice was published in accordance with paragraph (4).”.

Amendment of regulation 11 (further information and evidence respecting environmental statements)

35. In regulation 11—

(a) in paragraph (1), after “specify”, insert “which is directly relevant to enabling the Secretary of State to reach the reasoned conclusion on the significant effects of the proposed pipe-line works on the environment under regulation 14 (consent to pipe-line works)”; and

(b) for paragraph (5), substitute—

“(5) The gas transporter shall publish a notice containing the information specified in paragraph (6)—

(a) in two successive weeks in—

(i) the Gazette, and

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

(b) on a public website alongside the further information and any supplementary information.”; and

(c) at the end of paragraph (7), insert “and also the address of the public website on which the notice was published in accordance with paragraph (5).”.

Amendment of regulation 11A (additional information and publicity)

36. In regulation 11A—

(a) for paragraph (4), substitute—

“(4) The notice referred to in paragraph (2)(a) shall be published—

(a) in two successive weeks in—

(i) the Gazette, and

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

(b) on a public website alongside the additional information.”; and

(b) at the end of paragraph (7), insert “and also the address of the public website on which the notice was published in accordance with paragraph (4).”.

Amendment of regulation 13 (projects affecting other states)

37. In regulation 13—

- (a) for “member State”, where ever it occurs, substitute “EEA State”;
- (b) in paragraph (1), after “regulation 3(3),” insert “or regulation 6(1A)”;
- (c) in paragraph (2)(a)(iii), after “these Regulations”, insert “including the address of the public website referred to in regulation 10(4)”;
- (d) omit paragraph (3); and
- (e) in paragraph (5)—
 - (i) omit “or (3)”, “either” and “or paragraph (3) above, as appropriate; and
 - (ii) for “apply” substitute “applies”.

Amendment of regulation 14 (consent to pipe-line works)

38. In regulation 14—

- (a) in paragraph (1)—
 - (i) in sub-paragraph (b)(i), after “information”, insert “, ensuring that where necessary, advice has been obtained from persons with appropriate expert knowledge who have examined the statement”; and
 - (ii) at the end of sub-paragraph (b), omit “and”; and
 - (iii) for the words appearing after sub-paragraph (c), substitute—
 - “; and
 - (d) having reached a reasoned conclusion on the significant effects of the proposed pipe-line works on the environment, taking into account the information and representations referred to in sub-paragraph (b),

shall, subject to paragraph (2), integrate that conclusion into the Secretary of State’s decision as to whether or not to consent to the carrying out of the proposed pipe-line works.”;
- (b) after paragraph (1), insert—
 - “(1A) If consent is to be given under paragraph (1), the consent should set out—
 - (a) any environmental conditions attached to the consent;
 - (b) a description of any features of the proposed pipe-line works or measures envisaged to avoid, reduce or prevent and if possible offset any significant adverse effect on the environment; and
 - (c) any measures to monitor conditions imposed to avoid, prevent, or reduce and if possible offset significant adverse effects on the environment (“a monitoring condition”).
 - (1B) If consent is to be refused under paragraph (1), the decision to refuse consent shall state the main reasons for the refusal.
 - (1C) The reasoned conclusion referred to in paragraph (1)(d) shall be up to date at the time that the decision to consent to the carrying out of the proposed pipe-line works is made but that conclusion shall be take to be up to date if, in the opinion of the Secretary of State, it continues to address the significant effects that are likely to arise as a result of the proposed works.

(1D) When considering whether to impose a monitoring condition under paragraph (1A)(c), the Secretary of State shall—

- (a) consider whether to make provision for potential remedial action;
- (b) consider whether there are appropriate existing monitoring arrangements under EU legislation other than the Directive, or under national legislation, to make the imposition of a monitoring condition unnecessary; and
- (c) take steps to ensure that the type of parameters to be monitored and the duration of the monitoring are proportionate to the nature, location and size of the proposed pipe-line works and the significance of their effects on the environment.

(1E) The decision of the Secretary of State referred to in paragraph (1) shall be taken within a reasonable period of time, taking into account the nature and complexity of the proposed pipe-line works, from the date on which the Secretary of State has been provided with the information referred to in paragraph (1)(b).”;

(c) in paragraph (2)—

- (i) for “member State”, wherever it occurs, substitute “EEA State”; and
- (ii) in sub-paragraph (c)(ii), after “reasonable time” insert “ (in respect of the public, at least 30 days);”;

(d) in paragraph (4)—

- (i) after “Secretary of State shall”, insert “promptly”;
- (ii) at the end of sub-paragraph (b)(i), insert “including any monitoring conditions”; and
- (iii) at the end of sub-paragraph (b)(ii), insert “including where regulation 13 (projects affecting other states) applies, any representations made by an EEA State affected by the proposed pipe-line works or the public concerned and authorities in that state.”;

(e) in paragraph (5), after sub-paragraph (b), insert—

“and

(c) on a public website.”;

(f) for paragraph (5A), substitute—

“(5A) A notice published under paragraph (5) shall—

(a) set out—

- (i) the contents of the decision;
- (ii) the main reasons and considerations on which the decision is based;
- (iii) a summary of all representations made to the Secretary of State by any person in respect of the proposed pipe-line works, including where regulation 13 (projects affecting other states) applies, any representations made by an EEA State affected by the works, the public concerned or authorities in that state, together with details of how those representations were taken into account; and

(b) specify where details of these matters may be obtained, including the address of the public website on which a copy of the notice is published.”;

(g) omit paragraph (5B); and

(h) at the end of paragraph (6), insert “and also the address of the public website on which the notice was published in accordance with paragraph (5).”.

Amendment of regulation 16 (application to the court by person aggrieved), regulation 17 (application to court by Secretary of State) and regulation 18 (offences)

- 39.—(1) In regulation 16(1)(b) and 17(1)(b), for “paragraph (1)”, substitute “paragraph (1A)”.
- (2) In regulation 18(2)(a), for “regulation 14(1), substitute “regulation 14(1A)”.

New review regulation

40. After regulation 19 (service of notices), insert—

“Review

- 20.—(1) The Secretary of State must from time to time—
- (a) carry out a review of the regulatory provision contained in these Regulations, and
 - (b) publish a report setting out the conclusions of the review.
- (2) The first report must be published before 16th May 2022.
- (3) Subsequent reports must be published at intervals not exceeding 5 years.
- (4) Section 30(3) of the Small Business, Enterprise and Employment Act 2015⁽⁵⁾ requires that a review carried out under this regulation must, so far as is reasonable, have regard to how the Directive is implemented in other member States.
- (5) Section 30(4) of the Small Business, Enterprise and Employment Act 2015 requires that a report published under this regulation must, in particular—
- (a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a);
 - (b) assess the extent to which those objectives are achieved;
 - (c) assess whether those objectives remain appropriate; and
 - (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.
- (6) In this regulation, “regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).”.

Substitution of Schedule 1 (information to be included in an environmental statement)

41. For Schedule 1, substitute the schedule that is set out in Schedule 3 to these Regulations.

Substitution of Schedule 2 (matters to be taken into account in making an environmental determination or giving a direction under regulation 3(3))

42. For Schedule 2, substitute the schedule that is set out in Schedule 4 to these Regulations.

Transitional provisions in respect of the 1999 Pipe-line Regulations

- 43.—(1) Subject to paragraphs (2) and (3), the following must be dealt with under the 1999 Pipe-line Regulations as if they had not been amended by these Regulations—
- (a) any notice of preparation of environmental statement referred to in regulation 3;
 - (b) any request for an environmental determination referred to in regulation 6;
 - (c) any pre-application request for an opinion referred to under regulation 7; or

(5) 2015 c. 26; section 30 was amended by the Enterprise Act 2016 (c. 12), section 19.

(d) any application for consent referred to in regulation 14,
received by the Secretary of State before these Regulations come into force.

(2) This regulation is subject to regulation 3A (exempt pipe-line works).

(3) Where paragraph (1) applies in respect of an application for a pre-application request for an opinion under regulation 7, the 1999 Pipe-line Regulations as unamended by these regulations shall apply for all purposes, save for regulation 3A, in respect of the proposed pipe-line works to which the opinion relates.

(4) In this regulation, a reference to a numbered regulation is to that regulation so numbered in the 1999 Pipe-line Regulations.