

1999 No. 1672

GAS

PIPE-LINES

The Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999

Made - - - - *12th June 1999*

Laid before Parliament *15th June 1999*

Coming into force *15th July 1999*

The Secretary of State, being a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) 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, in exercise of the powers conferred on him by that section hereby makes the following Regulations:—

Citation, commencement, extent and application

1.—(1) These Regulations may be cited as the Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999 and shall come into force on 15th July 1999.

(2) These Regulations do not extend to Northern Ireland.

(3) These Regulations apply to pipe-line works which fall within the class of development described as permitted development in Class F(a) of Part 17 of Schedule 2 to the 1995 Order or specified in Class 39(1)(a) of Part 13 of Schedule 1 to the 1992 Order, as appropriate, but do not apply to any such pipe-line works—

- (a) which were commenced by a public gas transporter or for the execution of which a public gas transporter invited tenders, before the date on which these Regulations come into force;
- (b) to the extent specified by regulations 4 (pipe-line works subject to planning permission in England and Wales) and 5 (pipe-line works subject to planning permission in Scotland) below.

Interpretation

2.—(1) In these Regulations—

(a) S.I. 1988/785.

(b) 1972 c. 68. By virtue of the amendment of section 1(2) of the European Communities Act 1972 by section 1 of the European Economic Area Act 1993 (c. 51) regulations may be made under section 2(2) of the European Communities Act 1972 to implement obligations created or arising by or under the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 (Cm 2073) and the Protocol adjusting the Agreement signed at Brussels on 17th March 1993 (Cm 2183).

“the 1986 Act” means the Gas Act 1986**(a)**;

“the 1988 Scottish EIA Regulations” means the Environmental Assessment (Scotland) Regulations 1988**(b)**;

“the 1992 Order” means the Town and Country Planning (General Permitted Development) (Scotland) Order 1992**(c)**;

“the 1995 Order” means the Town and Country Planning (General Permitted Development) Order 1995**(d)**;

“the 1999 EIA Regulations” means the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999**(e)**;

“appropriate local planning authority” has the same meaning as in article 4(6) of the 1995 Order**(f)**;

“appropriate particulars” means, in relation to a request for an environmental determination or a request under regulation 7(1) below (pre-application opinion on content of environmental statement),—

- (a) a plan sufficient to identify the proposed pipe-line works and the land in which the proposed pipe-line works would be carried out; and
- (b) a brief description of the nature and purpose of the proposed pipe-line works and what the public gas transporter considers to be likely to be their main effects on the environment;

“authorised area”, in relation to a public gas transporter, means so much of any area specified in the licence granted to the transporter concerned under section 7 of the 1986 Act or an extension of such licence as is not specified in a subsequent licence or extension granted under that section to another person;

“construction”, in relation to a pipe-line, includes placing and cognate expressions shall be construed accordingly;

“the consultation bodies”, in relation to proposed pipe-line works, means—

- (a) the relevant planning authority;
- (b) in the case of proposed pipe-line works in England, the Countryside Commission**(g)**, the Nature Conservancy Council for England**(h)** and the Environment Agency**(i)**;
- (c) in the case of proposed pipe-line works in Scotland, Scottish Natural Heritage**(j)** and the Scottish Environment Protection Agency**(k)**;
- (d) in the case of proposed pipe-line works in Wales, the Countryside Council for Wales**(l)** and the Environment Agency;

“distribution main”, in relation to a public gas transporter, means any main of the transporter through which the transporter is for the time being distributing gas and which is not being used only for the purpose of conveying gas in bulk;

“EEA State” means a State which is a contracting party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992**(m)** as adjusted by the Protocol signed at Brussels on 17th March 1993**(n)**;

(a) 1986 c. 44.

(b) S.I. 1988/1221; amended by S.I. 1990/526, S.I. 1994/2012 and S.I. 1997/1870.

(c) S.I. 1992/223. Relevant amending instruments are S.I. 1993/1036, S.I. 1994/3294, S.I. 1996/252 and S.I. 1997/1871 and S.I. 1992/223 should be read with Part IV of S.I. 1994/2716.

(d) S.I. 1995/418. Relevant amending instruments are S.I. 1996/252 and S.I. 1996/528.

(e) S.I. 1999/293.

(f) Article 4(6) of the 1995 Order was amended by S.I. 1996/528.

(g) See section 1(1) of the National Parks and Access to the Countryside Act 1949 (c. 97), as substituted by the Environmental Protection Act 1990 (c. 43), section 130 and Schedule 8, paragraph 1.

(h) See section 128 of the Environmental Protection Act 1990.

(i) See section 1(1) of the Environment Act 1995 (c. 25).

(j) See section 1 of the Natural Heritage (Scotland) Act 1991 (c. 28).

(k) See section 20 of the Environment Act 1995.

(l) See section 130 of the Environmental Protection Act 1990.

(m) Cm 2073.

(n) Cm 2183.

“effect” includes, except where the context otherwise requires, any direct, indirect, secondary, cumulative, short, medium or long-term, permanent or temporary, or positive or negative effect;

“EIA development” means pipe-line works which are likely to have significant effects on the environment by virtue of factors such as their nature, size or location;

“emergency works” means any works whose execution at the time when they are executed is required in order to put an end to, or to prevent the occurrence of, circumstances then existing or imminent which are likely to cause danger to persons or property;

“environmental determination”, in relation to any proposed pipe-line works, means a determination by the Secretary of State as to whether the proposed works are EIA development;

“environmental statement” means a statement prepared in respect of proposed pipe-line works which includes—

- (a) such information of the descriptions referred to in Schedule 1 to these Regulations as is relevant, taking into account the specific characteristics of the pipe-line works or type of pipe-line works proposed and the environmental features likely to be affected, and which the public gas transporter can, having regard in particular to current knowledge and methods of assessment, reasonably be required to compile, and
- (b) in every case, the following—
 - (i) a description of the pipe-line works proposed, comprising information about the route, the design and size of the pipe-line works;
 - (ii) a description of the measures envisaged in order to prevent, reduce and, if possible, offset significant adverse effects;
 - (iii) the data required to identify and assess the main effects which the pipe-line works are likely to have on the environment;
 - (iv) an outline of the main alternatives studied by the public gas transporter and an indication of the main reasons for choosing the pipe-line works proposed, taking into account the environmental effects;
 - (v) a non-technical summary of the information provided under sub-sub-paragraphs (i) to (iv) above;

“gas” means—

- (a) any substance in a gaseous state which consists wholly or mainly of—
 - (i) methane, ethane, propane, butane, hydrogen or carbon monoxide;
 - (ii) a mixture of two or more of those gases; or
 - (iii) a combustible mixture of one or more of those gases and air; and
- (b) any other substance in a gaseous state which is gaseous at a temperature of 15°C and a pressure of 1013.25 millibars and is specified in an order made by the Secretary of State under the 1986 Act**(a)**;

“in”, in a context referring to a pipe-line or works or operations in land, includes a reference to a pipe-line, works or operations under, over, across, along or upon it;

“local planning authority” means an authority which is a local planning authority for the purposes of the Town and Country Planning Act 1990**(b)**;

“notice” means notice in writing and cognate expressions shall be construed accordingly;

“notice of preparation of environmental statement”, in relation to proposed pipe-line works, means a notice to the Secretary of State—

- (a) stating that the public gas transporter proposing to carry out the works in question will prepare and submit to the Secretary of State an environmental statement relating to those works;
- (b) including the information necessary to identify, or being accompanied by documents identifying, the proposed pipe-line works, the land in which the proposed pipe-line works would be carried out and the nature and purpose of the works; and
- (c) indicating the main environmental consequences to which the public gas transporter proposes to refer in his environmental statement.

(a) On the date these Regulations were made no such order (under section 48(1) of the 1986 Act) had been made.

(b) 1990 c. 8.

“pipe-line” means a pipe-line, other than a small service pipe, within the meaning of section 65 of the Pipe-lines Act 1962**(a)** which is intended to convey gas;

“pipe-line works” means the carrying out of building, engineering or other operations in land for the construction of a pipe-line, not being emergency works;

“planning authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994**(b)**;

“public gas transporter” means the holder of a licence under section 7(1) of the 1986 Act**(c)** except where the holder is acting otherwise than for purposes connected with–

- (a) the carrying on of activities authorised by the licence;
- (b) the conveyance of gas through pipes which–
 - (i) are situated in an authorised area of his; or
 - (ii) are situated in an area which was an authorised area of his, or an authorised area of a previous holder of the licence, and were so situated at a time when it was such an area; or
- (c) the conveyance through pipes of gas which is in the course of being conveyed to or from a country or territory outside Great Britain;

“register” means–

- (a) in relation to proposed pipe-line works in England and Wales, a register kept pursuant to section 69 (registers of applications etc.) of the Town and Country Planning Act 1990; and
- (b) in relation to proposed pipe-line works in Scotland, a register kept pursuant to section 36 (registers of applications etc.) of the Town and Country Planning (Scotland) Act 1997**(d)**,

and in each case, “appropriate register” means the register on which particulars of a planning application for the relevant pipe-line works would fall to be placed in the event of such an application being made;

“relevant planning authority” means in the case of proposed pipe-line works the subject of–

- (a) a request for an environmental determination;
- (b) a notice of preparation of environmental statement; or
- (c) a direction by the Secretary of State pursuant to regulation 3(3) below (direction that an environmental statement is required),

as the case may be, each local planning authority or planning authority within whose area any of the works are proposed to be carried out;

“request for an environmental determination” means a request for an environmental determination which is made to the Secretary of State in writing and is accompanied by the appropriate particulars;

“selection criteria” means the criteria set out in Schedule 2 to these Regulations;

“sensitive area” means any of the following–

- (a) land notified under subsection (1) of section 28 (areas of special scientific interest) of the Wildlife and Countryside Act 1981**(e)**;
- (b) an area to which paragraph (u)(ii) in the table in article 10 of the Town and Country Planning (General Development Procedure) Order 1995**(f)** applies;
- (c) land to which subsection (3) of section 29 (nature conservation orders) of the Wildlife and Countryside Act 1981 applies;
- (d) a National Park within the meaning of the National Parks and Access to the Countryside Act 1949**(g)**;

(a) 1962 c. 58.

(b) 1994 c. 39.

(c) Section 7 of the Gas Act 1986 was substituted by section 5 of the Gas Act 1995.

(d) 1997 c. 8.

(e) 1981 c. 69, amended by the Wildlife and Countryside (Amendment) Act 1985 (c. 31), the Wildlife and Countryside (Service of Notices) Act 1985 (c. 59), the Norfolk and Suffolk Broads Act 1988 (c. 4) and the Planning (Consequential Provisions) Act 1990 (c. 11).

(f) S.I. 1995/419, to which there are amendments not relevant to these Regulations.

(g) 1949 c. 97. Relevant amendments were made by the Environment Act 1995 (c. 25), Schedule 10, paragraph 2.

- (e) the Broads**(a)**;
- (f) a property appearing on the World Heritage List kept under article 11(2) of the 1972 UNESCO Convention for the Protection of the World Cultural and Natural Heritage**(b)**;
- (g) a scheduled monument within the meaning of the Ancient Monuments and Archaeological Areas Act 1979**(c)**;
- (h) an area of outstanding natural beauty designated as such by an order made under section 87 (designation of areas of outstanding natural beauty) of the National Parks and Access to the Countryside Act 1949**(d)** as confirmed by the Secretary of State;
- (i) a European site within the meaning of regulation 10 of the Conservation (Natural Habitats, etc.) Regulations 1994**(e)**;
- (j) an area designated as a Natural Heritage Area by a direction made by the Secretary of State under section 6(2) of the Natural Heritage (Scotland) Act 1991**(f)** or as a National Scenic Area by a direction made by the Secretary of State under section 262C of the Town and Country Planning (Scotland) Act 1972**(g)**; and
- (k) a national nature reserve designated by Scottish Natural Heritage**(h)** under section 35 of the Wildlife and Countryside Act 1981;

“small service pipe” means a pipe-line, other than a distribution main of a public gas transporter, not exceeding 500 metres in length which has a design operating pressure not exceeding 2 bar gauge and the purpose of which is the conveyance of gas from such a main to any premises, and includes part of any such pipe-line;

“working width” means in relation to a proposed pipe-line, the area occupied by apparatus, equipment, machinery, materials, plant, spoil heaps or other facilities or stores required for the construction or installation of the pipe-line.

(2) References in these Regulations to proposed pipe-line works include, in the case of pipe-line works in respect of which the Secretary of State has made a direction under regulation 3(3) below (direction that an environmental statement is required) after the works in question have already been commenced, references to any pipe-line works necessary for the completion of those works.

Environmental statements

3.—(1) Subject to paragraph (5) and regulations 4 (pipe-line works subject to planning permission in England and Wales) and 5 (pipe-line works subject to planning permission in Scotland) below, where a public gas transporter proposes to carry out any pipe-line works of the kind described in Part 1 of Schedule 3 to these Regulations, he shall not commence such works without first giving the Secretary of State a notice of preparation of environmental statement.

(2) Subject to paragraph (5) and regulations 4 and 5 below, where a public gas transporter proposes to carry out any pipe-line works of a kind described in Part 2 of Schedule 3 to these Regulations, he shall not commence such works unless either—

- (a) in response to a request from the public gas transporter, the Secretary of State has made an environmental determination and such determination has not at the time of commencement of such works ceased to have effect in accordance with regulation 6(8) below (determination to cease to have effect where works not commenced within 5 years), or
- (b) the public gas transporter has given the Secretary of State a notice of preparation of environmental statement.

(3) Subject to paragraph (4) and regulations 4 and 5 below, in any case (other than in response to a request for an environmental determination) where it appears to the Secretary of State, having taken into account the selection criteria, that a public gas transporter proposes to carry out

(a) See the Norfolk and Suffolk Broads Act 1988 (c. 4).

(b) See Cm 9424.

(c) 1979 c. 46. See the definition in section 1(11).

(d) 1949 c. 97. Section 87 was amended by paragraph 1(12) of Schedule 8 to the Environmental Protection Act 1990 (c. 43).

(e) S.I. 1994/2716.

(f) 1991 c. 28.

(g) 1972 c. 52. Section 6(9) of the Natural Heritage (Scotland) Act 1991 contains a saving provision for any areas which were designated as national scenic areas under section 262C of the Town and Country Planning (Scotland) Act 1972 as at the date of the repeal of section 262C by section 27 of and Schedule 11 to the Natural Heritage (Scotland) Act 1991.

(h) See section 1 of the Natural Heritage (Scotland) Act 1991 (c. 28).

or is carrying out any pipe-line works which are EIA development, and the public gas transporter has not given a notice of preparation of environmental statement, the Secretary of State shall—

- (a) giving his reasons for his opinion, in writing direct the public gas transporter to prepare an environmental statement, and
- (b) send a copy of the direction to the relevant planning authority and to such other persons as he thinks fit, together with, where necessary, documents sufficient to identify the proposed pipe-line works and the land in which the proposed pipe-line works would be carried out.

(4) Before making a direction pursuant to paragraph (3) above, the Secretary of State shall consult the public gas transporter who is proposing to carry out or is carrying out such works and such other persons as he thinks fit.

(5) Where—

- (a) the Secretary of State determines in response to a request for an environmental determination that the pipe-line works in question are EIA development,
- (b) the Secretary of State directs that an environmental statement be prepared pursuant to paragraph (3) above, or
- (c) the public gas transporter gives the Secretary of State a notice of preparation of environmental statement,

the public gas transporter shall not commence or continue the pipe-line works in question without first making an application for and obtaining the consent of the Secretary of State under regulation 14 below (consent to pipe-line works) to the carrying out of those works.

(6) An application under paragraph (5) above for the consent of the Secretary of State to the carrying out of proposed pipe-line works shall be made by letter addressed to the Secretary of State, shall be accompanied by a copy of the environmental statement and shall include, or be accompanied by documents containing, the following information—

- (a) the name and address of the public gas transporter;
- (b) the location of the proposed pipe-line works; and
- (c) a brief description of the nature and purpose of the proposed pipe-line works and of the main environmental consequences referred to in the environmental statement relating to the works.

Pipe-line works subject to planning permission in England and Wales

4.—(1) Regulation 3 above (environmental statements) shall not apply or, subject to paragraph (3) below, shall cease to apply, as the case may be, in respect of any pipe-line works in relation to which a direction has been given pursuant to article 4(1) of the 1995 Order that the planning permission granted by article 3 of that Order shall not apply.

(2) A direction given by the appropriate local planning authority pursuant to article 4(1) of the 1995 Order which requires the approval of the Secretary of State under that Order shall not be treated for the purposes of this regulation as having been given until the date on which notice of such approval is served, or first published, as the case may be, by the authority in accordance with the provisions of article 5 of the 1995 Order.

(3) Where, in relation to proposed pipe-line works, the Secretary of State makes an environmental determination or gives a direction pursuant to regulation 3(3) above (direction that an environmental statement is required) before the date on which a direction pursuant to article 4(1) of the 1995 Order is given, that determination or direction shall, notwithstanding any provisions to the contrary in the 1999 EIA Regulations,

- (a) be conclusive for the purposes of those Regulations of the question of whether the pipe-line works in question are, or are not, EIA development within the meaning of the 1999 EIA Regulations; and
- (b) be treated for the purposes of those Regulations as if it were a direction by the Secretary of State under regulation 6 of the 1999 EIA Regulations.

Pipe-line works subject to planning permission in Scotland

5.—(1) Regulation 3 above (environmental statements) shall not apply or, subject to paragraph (3) below, shall cease to apply, as the case may be, in respect of any pipe-line

works in relation to which a direction has been given pursuant to article 4(1) of the 1992 Order that the planning permission granted by article 3 of that Order shall not apply.

(2) A direction given by a planning authority pursuant to article 4(1) of the 1992 Order which requires the approval of the Secretary of State under that Order shall not be treated for the purposes of this regulation as having been given until the date on which notice of such approval is served, or first published, as the case may be, by the planning authority in accordance with the provisions of article 5 of the 1992 Order.

(3) Where in relation to proposed pipe-line works the Secretary of State makes an environmental determination or gives a direction pursuant to regulation 3(3) above (direction that an environmental statement is required) before the date on which a direction pursuant to article 4(1) of the 1992 Order is given, that determination or direction shall, notwithstanding any provisions to the contrary in the 1988 Scottish EIA Regulations,

- (a) be conclusive for the purposes of those Regulations of the question of whether consideration of environmental information within the meaning of regulation 2 of those Regulations is required before planning permission for the pipe-line works in question could be granted; and
- (b) be treated for the purposes of the 1988 Scottish EIA Regulations as if it were a direction by the Secretary of State under regulation 9 of those Regulations.

Requests to the Secretary of State for an environmental determination

6.—(1) This regulation applies where a public gas transporter—

- (a) makes a request for an environmental determination as referred to in regulation 3(2)(a) above, or
 - (b) proposes to carry out pipe-line works which are not of a kind described in either Part 1 or Part 2 of Schedule 3 to these Regulations, but nevertheless, before commencing such works, makes a request for an environmental determination.
- (2) The Secretary of State shall, subject to paragraph (4) below, having—
- (a) taken into account the selection criteria; and
 - (b) consulted the relevant planning authority, unless the public gas transporter making the request has already conveyed the written views of the relevant planning authority concerned to the Secretary of State,

make such environmental determination as he thinks fit and send a copy to the public gas transporter who made the request.

(3) The public gas transporter making the request shall supply the Secretary of State with such number of additional copies of the plan accompanying the request as the Secretary of State may reasonably require.

(4) The Secretary of State on receiving a request for an environmental determination shall, if he considers that he has not been provided with sufficient information to enable him to make a determination or to consult in accordance with paragraph (2)(b) above, notify the public gas transporter making the request of the particular points on which he requires further information.

(5) If the relevant planning authority wishes to give any views to the Secretary of State, it shall do so by a date no later than 4 weeks after the date on which it was consulted under paragraph (2)(b) above.

(6) The Secretary of State shall make an environmental determination in response to a request for the same by a date no later than 4 weeks after whichever is the latest of—

- (a) the date of the receipt of the request by the Secretary of State;
- (b) the date of receipt by him of further information pursuant to a notice under paragraph (4) above; or
- (c) if the Secretary of State has consulted the relevant planning authority under paragraph (2)(b) above, the expiry of the period for the relevant planning authority to give its views to the Secretary of State in accordance with paragraph (5) above, or, if earlier, the date by which he has received the views of the relevant planning authority,

or by such later date as may be agreed in writing with the public gas transporter.

(7) Where, in response to a request for an environmental determination, the Secretary of State determines that proposed pipe-line works are EIA development, he shall provide with the determination a written statement of the reasons for his determination.

(8) A determination made by the Secretary of State in response to a request for an environmental determination that proposed pipe-line works are not EIA development shall cease

to have effect after the expiration of 5 years from the date on which the determination is made, unless the pipe-line works to which it relates have been substantially begun before the expiration of that period.

(9) Where the Secretary of State makes an environmental determination, he shall forthwith send a copy of the determination and the statement of reasons, if any, accompanying the determination to the relevant planning authority and to such other persons as he considers should receive a copy and shall also send a copy of the relevant request and the documents which accompanied it.

Pre-application requests to the Secretary of State for an opinion as to content of environmental statement

7.—(1) This regulation applies where a public gas transporter, either at the same time as making a request for an environmental determination or at any other time before applying to the Secretary of State for his consent to the carrying out of proposed pipe-line works, makes a request to the Secretary of State accompanied by the appropriate particulars for the Secretary of State's opinion in writing as to the information to be provided in the environmental statement to be submitted by the public gas transporter to the Secretary of State under these Regulations.

(2) Subject to paragraph (3) below, the Secretary of State shall give an opinion in response to a request under paragraph (1) above, having first—

(a) taken into account—

- (i) the specific characteristics of the particular proposed pipe-line works;
- (ii) the specific characteristics of pipe-line works of the type concerned;
- (iii) the environmental features likely to be affected by the pipe-line works; and
- (iv) the extent to which the public gas transporter who made the request under paragraph (1) above may reasonably be required to compile the information, having regard, inter alia, to current knowledge and methods of assessment, and

(b) consulted the public gas transporter who made the request and the consultation bodies.

(3) The Secretary of State on receiving a request under paragraph (1) above shall, if he considers that he has not been provided with sufficient information to enable him to give an opinion on the questions raised or to consult in accordance with paragraph (2)(b) above, notify the public gas transporter making the request of the particular points on which he requires further information.

(4) The public gas transporter making the request shall supply the Secretary of State with such number of additional copies of the plan accompanying the request as the Secretary of State may reasonably require.

(5) If the public gas transporter and the consultation bodies wish to give any views to the Secretary of State, they shall do so by a date no later than 4 weeks after the date on which they were consulted under paragraph (2)(b) above.

(6) The Secretary of State shall give an opinion in response to a request under paragraph (1) above no later than 4 weeks after whichever is the latest of—

- (a) the date of the receipt of the request by the Secretary of State;
- (b) the date of receipt by him of further information pursuant to a notice under paragraph (3) above; or
- (c) the expiry of the period for the public gas transporter and the consultation bodies to give their views to the Secretary of State in accordance with paragraph (5) above, or, if earlier, the date by which he has received the views of the public gas transporter and all the consultation bodies consulted under paragraph (2)(b) above,

or by such later date as may be agreed in writing with the public gas transporter.

(7) Where the Secretary of State has given an opinion in response to a request under paragraph (1) above, he shall not be precluded from requiring of the public gas transporter to whom that opinion was given further information in connection with any environmental statement that may be submitted by the public gas transporter in connection with the same, or substantially the same, pipe-line works as were referred to in the request.

Availability of directions, determinations etc. for inspection

8. Where the Secretary of State sends a relevant planning authority a copy of a direction made pursuant to regulation 3(3) above or an environmental determination made pursuant to

regulation 6(1) above, the relevant planning authority shall ensure that a copy of the determination or direction and the documents sent with it are as soon as reasonably practicable made available for public inspection at all reasonable hours at the place where the appropriate register (or relevant section of that register) is kept and that all such copies remain so available for a period of two years.

Provision of information

9.—(1) Where the Secretary of State determines in response to a request for an environmental determination that proposed pipe-line works are EIA development, receives a notice of preparation of environmental statement or directs that such a statement be prepared pursuant to regulation 3(3) above, he shall,

- (a) notify the consultation bodies of the name and address of the public gas transporter concerned and of the duty imposed on them by paragraph (2) below to make information available to the public gas transporter; and
- (b) inform the public gas transporter in writing of the names and addresses of the bodies so notified.

(2) Subject to paragraph (3) below, any consultation body notified in accordance with paragraph (1) above that a public gas transporter is to submit an environmental statement shall, if so requested in writing by the public gas transporter, enter into consultation with the public gas transporter to determine whether the body has in its possession any information which it or the public gas transporter considers relevant to the preparation of an environmental statement and which, but for the provisions of this paragraph, could not readily be obtained by the public gas transporter, and if it has such information, the body shall make it available to the public gas transporter.

(3) A reasonable charge reflecting the cost of making the relevant information available may be made by any body supplying it.

(4) Nothing in this regulation shall require the disclosure of any information which is by virtue of any rule of the law of any part of Great Britain subject to any obligation of confidentiality.

Publicity for environmental statements

10.—(1) In any case where a public gas transporter has made an application to the Secretary of State for consent to the carrying out of proposed pipe-line works, accompanied by an environmental statement relating to those works, the following provisions of this regulation shall apply.

- (2) The public gas transporter shall serve on the consultation bodies,
 - (a) a copy of the application for consent and the environmental statement; 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 and environmental statement 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 public gas transporter shall publish in two successive weeks in one or more local newspapers circulating in each area in which the proposed pipe-line works would be carried out a notice stating—

- (a) his 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;
- (c) that an environmental statement has been prepared and that a copy of it and of the application for consent 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 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, whether

- pursuant to this paragraph or 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 and environmental statement may be obtained and that copies of the environmental statement may be obtained there and, subject to regulation 12 (charges) below, specifying the amount of any charge to be made for a copy of the statement; and
 - (f) that any person wishing to make representations in relation to the application should make them in writing to the Secretary of State by the date stated in accordance with sub-paragraph (d) above and specifying the address to which any such representations should be sent.
- (4) The public gas transporter shall also publish a copy of the notice referred to in paragraph (3) above in the London or the Edinburgh Gazette, or in both of them, as appropriate, depending on the location of the proposed pipe-line works.
- (5) The public gas transporter shall—
- (a) at least 7 days before the date on which the notice referred to in paragraph (3) above is to be first published, whether pursuant to paragraph (3) or (4) above, supply free of charge to the relevant planning authority a copy of the application and environmental statement for the purposes of inspection by members of the public in accordance with paragraph (6) below and notify the authority of the intended date of first publication;
 - (b) make available at an address in Great Britain enough copies of the environmental statement to be likely to satisfy all reasonable demands for copies pursuant to paragraph (3)(e) above; and
 - (c) subject to sub-paragraph (b) above and to the receipt by the public gas transporter of any sum referred to in paragraph (3)(e) above, supply during the period referred to in paragraph (6) below to any person on request a copy of the environmental statement.
- (6) The relevant planning authority shall make available premises at which copies of the application for consent and the environmental statement may be inspected by members of the public free of charge at all reasonable hours for a period commencing on the date of first publication notified to it by the public gas transporter in accordance with paragraph (5)(a) above and expiring on the date stated in accordance with paragraph (3)(d) above.
- (7) The public gas transporter shall provide the Secretary of State with copies of each of the newspapers and Gazettes in which the notices referred to in paragraphs (3) and (4) above appeared in each case no later than 7 days after the date of publication of those newspapers or Gazettes.

Further information and evidence respecting environmental statements

11.—(1) Where the Secretary of State has been provided with an environmental statement he may in writing require the public gas transporter to provide in respect of such statement such further information as he may specify.

(2) Where, in the opinion of the Secretary of State, any of the information provided pursuant to a requirement imposed under paragraph (1) above ought to have been included in the environmental statement in question, the Secretary of State shall notify the public gas transporter and the relevant planning authority in writing accordingly, specifying the information in question, and the provisions of paragraphs (3) to (7) below shall apply in respect of such information.

(3) The public gas transporter shall serve a copy of the further information on the consultation bodies, together with a notice referring to the material previously served on that body and stating that further representations may be made in writing 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 further information and notice were served on the body and the public gas transporter shall inform the Secretary of State in writing of the names and addresses of every such body on whom he has served those documents, and the dates on which they were served.

(4) The public gas transporter and the relevant planning authority shall make available to the public copies of the application for consent, the environmental statement and the further information in the same way as they each previously made available the application and the environmental statement for the period commencing on the date of first publication of the notice

referred to in paragraph (5) below and expiring on a date not less than 28 days after the date on which the notice is to be last published, in each case whether pursuant to paragraph (5) or (6) below.

(5) The public gas transporter shall publish in two successive weeks in one or more local newspapers circulating in each area in which the proposed pipe-line works would be carried out a notice—

- (a) referring to the previous notice in respect of the application and environmental statement and stating that further information is available supplementing the environmental statement which has already been provided;
- (b) stating that a copy of the application, environmental statement and further information may be inspected by members of the public at all reasonable hours;
- (c) giving 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, whether pursuant to this paragraph or paragraph (6) below) on which they will be available for inspection;
- (d) giving the address at which copies of the environmental statement and further information may be obtained and stating that copies of those documents may be obtained there and, subject to regulation 12 (charges) below, specifying the amount of any charge to be made for a copy of the statement or information; and
- (e) stating that any person wishing to make representations about the application 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, whether pursuant to this paragraph or paragraph (6) below and specifying the address to which any such representations should be sent.

(6) The public gas transporter shall also publish a copy of the notice referred to in paragraph (5) above in the London or the Edinburgh Gazette, or in both of them, as appropriate, depending on the location of the proposed pipe-line works.

(7) The public gas transporter shall provide the Secretary of State with copies of each of the newspapers and Gazettes in which the notices referred to in paragraphs (5) and (6) above appeared in each case no later than 7 days after the date of publication of those newspapers and Gazettes.

(8) The Secretary of State may in writing require a public gas transporter to produce such evidence as he may reasonably require in support of anything contained in the public gas transporter's environmental statement.

Charges

12. A public gas transporter may make—

- (a) the supply to a member of the public of a copy of an environmental statement or any further information in accordance with regulations 10 (publicity for environmental statements) and 11 (further information and evidence respecting environmental statements) above; and
- (b) the supply to the consultation bodies of any copy, in excess of one, of an environmental statement or any further information in accordance with regulations 10(2) or 11(3) above,

conditional on the receipt by the public gas transporter, in relation to each supply, of a reasonable sum (in case of dispute, to be determined by the Secretary of State) calculated by reference to the cost of printing and distributing copies of the statement or further information, as the case may be.

Projects affecting other States

13.—(1) Where in the case of any pipe-line works proposed to be carried out in Great Britain the Secretary of State determines in response to a request for an environmental determination that proposed pipe-line works are EIA development, or receives a notice of preparation of environmental statement or directs that an environmental statement be prepared pursuant to regulation 3(3) above and—

- (a) it appears to the Secretary of State that such works are likely to have significant effects on the environment of another member State; or

- (b) another member State which considers its environment is likely to be significantly affected by such works so requests,

the Secretary of State shall send the member State in question as soon as possible and no later than the date on which the environmental statement in respect of the proposed pipe-line works is made available to the public (except in a case where a request is made by a member State after that date)–

- (i) a description of the proposed pipe-line works, together with any available information on the possible significant effects of the proposed pipe-line works on the environment of the other member State; and
- (ii) a notice explaining the nature of the decision to be taken as to whether or not to grant consent for the carrying out of the proposed pipe-line works and informing the member State in question that it may within such reasonable period as may be specified in the notice request to participate in the procedure relating to the taking of the decision pursuant to these Regulations.

(2) Where another member State requests to participate in the procedure under these Regulations in relation to particular proposed pipe-line works, the Secretary of State shall–

- (a) save to the extent that he has not already done so, send that member State–
 - (i) a copy of the application for consent in respect of the proposed pipe-line works;
 - (ii) the environmental statement in respect of the proposed pipe-line works; and
 - (iii) to the extent that it is not included in the items referred to in sub-sub-paragraph (i) or (ii) above and subject to paragraph (4) below, any other available information which is relevant to the procedure under these Regulations; and
- (b) enter into consultations with the member State concerned, for such reasonable period as may have been agreed with that member State, regarding, inter alia, the possible significant effects of the proposed pipe-line works on the environment of that member State and the measures envisaged to reduce or eliminate such effects.

(3) Where it appears to the Secretary of State that the carrying out of any proposed pipe-line works of the kind referred to in paragraph (1) above would be likely to have a significant effect on the environment of an EEA State other than a member State or such EEA State which considers that its environment is likely to be significantly affected by such works so requests, the Secretary of State shall send the State in question the environmental statement relating to the pipe-line works in question at the same time as it is made available to the public pursuant to these Regulations or where a request is made after the date on which the environmental statement is made available to the public, as soon as reasonably practicable after receipt of the request by the Secretary of State.

(4) Nothing in this regulation shall require the disclosure by the Secretary of State of any information which is by virtue of any rule of the law of any part of Great Britain subject to any obligation of confidentiality.

(5) Where the Secretary of State notifies a public gas transporter that the provisions of paragraph (1) or (3) of this regulation apply in respect of a particular application for consent under these Regulations, the public gas transporter, in any case where he has not already done so, shall not make available to the public in accordance with regulation 10 above (publicity for environmental statement) the items referred to in that regulation until the Secretary of State has notified the public gas transporter that he has sent to the EEA State concerned the information referred to either in paragraph (1)(i) and (ii) above or paragraph (3) above, as appropriate.

Consent to pipe-line works

14.—(1) In any case where a public gas transporter has made an application to the Secretary of State, accompanied by an environmental statement, for his consent to the carrying out of proposed pipe-line works, the Secretary of State–

- (a) being satisfied that the requirements of regulations 10 and 11 above (requirements as to consultation and publicity) have been substantially met; and

- (b) after considering–
 - (i) the environmental statement;
 - (ii) any information in respect of the proposed pipe-line works of the kind referred to in regulation 11(2) above (further information which ought to have been included in the environmental statement);
 - (iii) any representations made by the consultation bodies in respect of the proposed pipe-line works; and
 - (iv) any opinions expressed by the public; and
- (c) after having regard both to the effect of the proposed pipe-line works on the environment and to the desirability of those works being carried out in the interests of the development and maintenance of an efficient and economical system for the conveyance of gas as respects the public gas transporter's authorised area,

may, subject to paragraph (2) below, consent to the carrying out of the proposed pipe-line works either unconditionally or subject to such conditions as he considers appropriate or refuse consent to such works and shall state in his decision that he has taken the matters mentioned in subparagraph (b) above into consideration.

(2) In any case where another member State has, in relation to an application for consent for particular proposed pipe-line works, requested in accordance with regulation 13(2) above to participate in the procedure under these Regulations, the Secretary of State shall not grant any consent for such works pursuant to paragraph (1) above unless he–

- (a) is satisfied that the requirements of regulation 13(1) and (2) above (projects affecting other States) have been complied with;
- (b) has communicated to that member State the response that he proposes to make to the application for consent (including information as to any measures envisaged to reduce or eliminate any possible significant effects of the proposed pipe-line works on the environment of the other member State);
- (c) is satisfied that–
 - (i) the member State concerned has been consulted regarding the proposed pipe-line works for such reasonable period as may have been agreed with such member State pursuant to regulation 13(2)(b) above and in particular that it has been afforded a reasonable opportunity to make representations regarding the pipe-line works in question and the proposed response referred to in subparagraph (b) above; and
 - (ii) an opportunity has been afforded to the public in that member State and to those authorities which by reason of their particular environmental responsibilities in that member State are likely to be interested in the proposed pipe-line works to forward to the Secretary of State within a reasonable time representations regarding the information referred to in regulation 13(1) and (2)(a) above (information to be supplied to other member States); and
- (d) has taken into consideration any representations made by the member State, members of the public and authorities in that member State and any information regarding the proposed pipe-line works supplied by any of them.

(3) Any consent given by the Secretary of State pursuant to paragraph (1) above to the carrying out of the proposed works shall cease to have effect after the expiration of five years beginning with the date on which the consent is given unless the pipe-line works to which it relates have been substantially begun before the expiration of that period.

(4) The Secretary of State shall–

- (a) notify the public gas transporter, the relevant planning authority, any EEA State which has been sent a copy of the environmental statement pursuant to regulation 13 above (projects affecting other States) and such other persons as the Secretary of State considers appropriate, in writing of his decision; and

- (b) provide to such persons together with the notification mentioned in sub-paragraph (a) above a statement containing—
 - (i) the content of the decision and any conditions attached to it;
 - (ii) the main reasons and considerations upon which the decision is based;
 - (iii) 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.

(5) The public 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 in one or more local newspapers circulating in each area in which the proposed pipe-line works would be carried out stating—

- (a) the content of the decision and any conditions attached to it;
- (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 during a period of not less than 8 weeks immediately following the date on which the notice is to be last published,

and the public gas transporter shall satisfy all reasonable requests made during the period mentioned in sub-paragraph (b) above for copies of the statement referred to in paragraph (4)(b) above.

(6) The public gas transporter shall provide the Secretary of State with copies of each of the newspapers in which the notices referred to in paragraph (5) above appeared in each case by a date no later than 7 days after the date of publication of those newspapers.

(7) Where the Secretary of State sends a relevant planning authority the statement referred to in paragraph (4)(b) above, the relevant planning authority shall take steps to ensure that a copy of the statement is as soon as reasonably practicable made available for public inspection at all reasonable hours and free of charge at the place where the appropriate register (or relevant section of that register) is kept and that such copy remains so available for a period of two years.

Applications to court

15.—(1) Subject to paragraph (2) below, for the purposes of regulations 16 (application to court by person aggrieved) and 17 (application to court by Secretary of State) below, the expression “the court” means—

- (a) in respect of proposed pipe-line works in England and Wales, the High Court; and
- (b) in respect of proposed pipe-line works in Scotland, the Court of Session.

(2) Where any proposed pipe-line works are situated in both of the areas referred to in paragraph (1) above, then either of the courts having jurisdiction in those areas shall have jurisdiction in relation to any question arising under regulation 16 or 17 below.

Application to court by person aggrieved

16.—(1) On the application of any person aggrieved by—

- (a) the grant of consent in respect of any proposed pipe-line works under regulation 14 above (consent to pipe-line works), or
- (b) the attaching by the Secretary of State of a condition to such a consent under paragraph (1) of that regulation,

the court may grant an order quashing the grant of consent or, as the case may be, the attaching by the Secretary of State of the condition where it is satisfied that the consent was granted or, as the case may be, the condition was attached in contravention of regulation 14(1)(b) above (consideration of environmental statement etc.) or that the interests of the applicant have been substantially prejudiced by a failure to comply with any other requirement of these Regulations.

(2) An application to the court under this regulation shall be made no later than 6 weeks after the date of last publication by the public gas transporter of details of the consent or, as the case may be, the relevant condition pursuant to regulation 14(5) above.

(3) The court may by interim order, pending the determination of any question referred to in paragraph (1) above, stay the operation of the consent or, as the case may be, the relevant condition on such terms as it may think fit.

Application to the court by Secretary of State

17.—(1) If a public gas transporter carries out pipe-line works—

- (a) without all applicable requirements of these Regulations having first been complied with; or
- (b) without any necessary consent of the Secretary of State under regulation 14 above (consent to pipe-line works), or in breach of a condition attached to such a consent under paragraph (1) of that regulation,

the court may, on the application of the Secretary of State, make an order restraining the public gas transporter from proceeding or continuing with the works or compelling him to the performance of any act required of him by any such condition.

(2) Subject to paragraph (3) below, the court may, in addition to making such an order as is mentioned in paragraph (1) above, make an order requiring—

- (a) the removal, so far as is practicable in all the circumstances, of any pipe-line works already carried out—
 - (i) without any such requirements as are mentioned in paragraph (1)(a) above having been complied with; or
 - (ii) without any such consent or in breach of any such condition as are mentioned in paragraph (1)(b) above; and
- (b) where it orders the removal of any works, the reinstatement of the site where the works had been carried out.

(3) The court shall not make an order under this regulation in respect of a breach of any such condition as is mentioned in paragraph (1)(b) above where it is satisfied that—

- (a) the breach in question was due to circumstances beyond the control of the public gas transporter and the breach could not reasonably have been prevented by the public gas transporter; or
- (b) the breach occurred as a result of anything required to be done as a matter of urgency for the purposes of securing the safety of any person.

(4) Where the public gas transporter fails to comply with an order made pursuant to paragraph (2) above within such time as may be specified in it or, in default of such specification, within a reasonable time of the making of the order, the Secretary of State may himself take the action required by the order and the reasonable costs and expenses of doing so shall be recoverable as a debt from the public gas transporter.

(5) Where the Secretary of State takes action in accordance with paragraph (4) above, that action shall be without prejudice to any consequences which may flow from the public gas transporter's failure to comply with the order.

Offences

18.—(1) Subject to paragraph (3) below, any person who intentionally or recklessly submits to the Secretary of State—

- (a) an environmental statement;
- (b) appropriate particulars; or
- (c) any information required to be submitted by virtue of any provision of these Regulations,

which is false or misleading in a material particular shall be guilty of an offence.

(2) Subject to paragraph (3) below, a public gas transporter who—

- (a) intentionally acts in breach of the terms of a condition imposed by virtue of regulation 14(1) above; or
- (b) carries out any proposed pipe-line works without any necessary consent of the Secretary of State granted in accordance with these Regulations,

shall be guilty of an offence.

(3) It shall be a defence to a charge under paragraph (2)(a) above for the public gas transporter to show—

- (a) that he took all reasonable steps and exercised all due diligence to avoid committing the offence; or
- (b) that the acts in question were attributable to anything required to be done as a matter of urgency for the purposes of securing the safety of any person.

(4) A person guilty of an offence under this regulation shall on summary conviction be liable to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

(5) Where an offence under any provision of this regulation committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(6) Where the affairs of a body corporate are managed by its members, paragraph (5) above shall apply in relation to the acts or defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(7) No proceedings for an offence under this regulation shall be instituted in England and Wales except—

- (a) by or with the consent of the Director of Public Prosecutions; or
- (b) by the Secretary of State or a person authorised by him in that behalf.

Service of notices

19.—(1) Any notice or other document required or authorised to be given to or served on any person under these Regulations may be given or served by—

- (a) delivering it to that person; or
- (b) leaving it at his proper address; or
- (c) sending it to his proper address by the recorded delivery service.

(2) Any notice or other document required or authorised to be given to or served on any body corporate or unincorporated association other than a partnership shall be duly given to or served on the secretary or clerk or other similar officer of that body.

(3) Any notice or other document required or authorised to be given to or served on any partnership may be given to or served on a partner or a person having the control or management of the partnership business.

(4) Subject to paragraphs 5 and 6 below, for the purposes of this regulation, the proper address of any person to whom or on whom any such notice or document is to be given or served shall be his last known address except that such address shall be—

- (a) in the case of a body corporate or their secretary or clerk, the address of the registered office or principal office of the body corporate;
- (b) in the case of an unincorporated association (other than a partnership) or their secretary or clerk, the address of the principal office of the association; and
- (c) in the case of a partnership or a person having control or the management of the partnership business, the address of the principal office of the partnership,

and for the purposes of this paragraph the principal office of a company registered outside Great Britain or of a partnership carrying on business outside Great Britain shall be its principal office within Great Britain.

(5) If the person to be given or served with any such notice or document has furnished the person by whom the notice or document is to be given or served with an address pursuant to any provision of these Regulations, that address shall also be treated for the purposes of this regulation as his proper address.

(6) Any notice or other document relating to pipe-line works which is to be given to or served on a public gas transporter, who has for the purposes of section 46 of the 1986 Act fixed particular

offices as appropriate offices in relation to notices concerning matters arising in particular areas, may be given or served by delivering it at or sending it in a pre-paid letter to any office which is an appropriate office in relation to notices concerning matters arising in an area in which any part of the pipe-line works is to be carried out.

12th June 1999

John Battle
Minister for Energy and Industry,
Department of Trade and Industry

SCHEDULE 1

Regulation 2(1)—definition
of environmental statement

INFORMATION TO BE INCLUDED IN AN ENVIRONMENTAL STATEMENT

1. Description of the proposed pipe-line works, including in particular—
 - (a) a description of the physical characteristics of the proposed pipe-line works and the proposed pipe-line, and the land-use requirements during the construction and operational phases;
 - (b) a description of the main characteristics of the production processes proposed, for instance, the nature and quality of the materials to be used;
 - (c) an estimate, by type and quantity, of expected residues and emissions (including, without limitation, water, air and soil pollution, noise, vibration, light, heat, and radiation) resulting from the proposed pipe-line works and the proposed pipe-line when in operation.
2. A description of the aspects of the environment likely to be significantly affected by the proposed pipe-line works, including in particular, population, fauna, flora, soil, water, air, climatic factors, material assets, including the architectural and archaeological heritage, landscape and the inter-relationship between the above factors.
3. A description of the likely significant effects of the proposed pipe-line works on the environment which may result from—
 - (a) the existence of the proposed pipe-line works or the proposed pipe-line;
 - (b) the use of natural resources;
 - (c) the emission of pollutants, the creation of nuisances and the elimination of waste,and a description of the forecasting methods used to assess the effects on the environment.
4. A non-technical summary of the information provided under paragraphs 1 to 3 above.
5. An indication of any difficulties (technical deficiencies or lack of know-how) encountered by the public gas transporter in compiling the required information.

SCHEDULE 2

Regulation 2(1)—definition
of selection criteria

MATTERS TO BE TAKEN INTO ACCOUNT IN MAKING AN ENVIRONMENTAL DETERMINATION OR GIVING A DIRECTION UNDER REGULATION 3(3)

Characteristics of proposed pipe-line works

1. The characteristics of proposed pipe-line works must be considered having regard, in particular, to—
 - (a) the size of the proposed pipe-line works and of the proposed pipe-line;
 - (b) the cumulation with other developments;
 - (c) the use of natural resources;
 - (d) the production of waste;
 - (e) pollution and nuisances;
 - (f) the risk of accidents, having regard in particular to substances or technologies used.

Location of proposed pipe-line works

2. The environmental sensitivity of geographical areas likely to be affected by proposed pipe-line works must be considered, having regard, in particular, to—
 - (a) the existing land use;
 - (b) the relative abundance, quality and regenerative capacity of natural resources in the area;

- (c) the absorption capacity of the natural environment, paying particular attention to the following areas–
- (i) wetlands;
 - (ii) coastal zones;
 - (iii) mountain and forest areas;
 - (iv) nature reserves and parks;
 - (v) areas classified or protected under member States' legislation; special protection areas designated by member States pursuant to Council Directive 79/409/EEC on the conservation of wild birds^(a) and Council Directive 92/43/EEC on the conservation of natural habitats and wild fauna and flora^(b);
 - (vi) areas in which the environmental quality standards laid down in Community legislation have already been exceeded;
 - (vii) densely populated areas;
 - (viii) landscapes of historical, cultural or archaeological significance.

Characteristics of the potential impact

3. The potential significant effects of proposed pipe-line works must be considered in relation to criteria set out under paragraphs 1 and 2 above, and having regard in particular to–

- (a) the extent of the impact (geographical area and size of the affected population);
- (b) the transfrontier nature of the impact;
- (c) the magnitude and complexity of the impact;
- (d) the probability of the impact;
- (e) the duration, frequency and reversibility of the impact.

SCHEDULE 3

Regulation 3

DESCRIPTIONS OF PIPE-LINE WORKS FOR THE PURPOSES OF REGULATION 3 (ENVIRONMENTAL STATEMENTS)

PART 1

DESCRIPTIONS OF PIPE-LINE WORKS IN RESPECT OF WHICH AN ENVIRONMENTAL STATEMENT IS REQUIRED

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.

PART 2

DESCRIPTIONS OF PIPE-LINE WORKS IN RESPECT OF WHICH AN ENVIRONMENTAL STATEMENT MAY BE REQUIRED

Pipe-line works (other than works of the kind described in Part 1 above) in respect of a pipe-line–

- (a) the whole or any part of which, or the whole or any part of any working width for which, will be within a sensitive area; or
- (b) which will have a design operating pressure exceeding 7 bar gauge.

(a) O.J. No. L103, 25.4.1979, p. 1.
(b) O.J. No. L206, 22.7.1992, p. 7.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which do not apply to Northern Ireland, implement Council Directive 85/337/EEC (O.J. No. L175, 5.7.85, p. 40) as amended by Council Directive 97/11/EC (O.J. No. L73, 3.3.97, p. 5) on the assessment of the effects of certain public and private projects on the environment insofar as it relates to proposed pipe-line works by a public gas transporter. In the Regulations, the expression “public gas transporter” means the holder of a licence under section 7(1) of the Gas Act 1986 (c. 44) authorised to convey gas through pipes (regulation 2(1)).

Directive 85/337/EEC in its unamended form applies to the European Economic Area (“EEA”) (see Article 74 of, and paragraph 1 of Annex XX to the Agreement on the European Economic Area (Cm 2073) as adjusted by the Protocol signed at Brussels on 17th March 1993 (Cm 2183)—the Annexes to the Agreement have from time to time been amended by the EEA Joint Committee established under Article 92) with the result that there is only a requirement to provide a member of the EEA which is not a member of the European Union with information in respect of projects likely to have significant trans-boundary effects. Member States (of the European Union), however, are given rights to participate in the decision making process (regulation 13).

The Regulations require a public gas transporter proposing to undertake pipe-line works which meet criteria specified in Part 1 of Schedule 3 to submit an environmental statement in relation to those works and apply to the Secretary of State for consent to carrying them out (regulation 3(1) and (5)). (An environmental statement is a document or documents setting out the main features of the project in question and the likely environmental consequences of that project).

Where the proposed works instead meet criteria specified in Part 2 of Schedule 3, the public gas transporter must before commencing construction either—

- (a) obtain from the Secretary of State a determination as to whether the proposed works should be made the subject of an environmental statement by reason of the fact that they would be likely to have significant effects on the environment by virtue of factors such as their nature, size or location, or
- (b) give notice that he intends in any event to produce an environmental statement in respect of the pipe-line works (regulation 3(2)).

The matters to be covered by an environmental statement are specified in regulation 2(1) and Schedule 1.

In addition, where it appears to the Secretary of State that any pipe-line works falling outside the specified criteria would nevertheless be likely to have significant effects on the environment he is required to direct a public gas transporter to produce an environmental statement (regulation 3(3)). In any case where the Secretary of State has made a determination that an environmental statement is required, or has given a direction to that effect or the public gas transporter has given notice that he will provide an environmental statement, the consent of the Secretary of State is required before the works can be carried out (regulation 3(5)).

The Regulations set out the procedure to be followed by the Secretary of State in determining at the request of a public gas transporter whether an environmental statement is required (regulation 6), including a requirement for the Secretary of State to consult the relevant planning authorities.

Provision is made requiring the Secretary of State, when so requested, to give a preliminary opinion to a public gas transporter as to the information to be included in an environmental statement which the transporter is to submit (regulation 7). The Secretary of State is required to consult certain public bodies (defined in regulation 2(1) as “the consultation bodies”) and the public gas transporter before giving an opinion.

Provision is made for copies of determinations and directions by the Secretary of State as to the need for an environmental statement to be made available to the public by local planning authorities (regulation 8).

Provision is made to enable persons proposing to carry out pipe-line works to obtain information from the consultation bodies to assist in the preparation of environmental statements (regulation 9).

The Regulations also lay down requirements for publicity for and public consultation on the environmental statement and the application for consent (regulation 10), after which the Secretary of State may give a consent to the carrying out of the pipe-line works, with or without conditions, if he judges it appropriate (regulation 14). The Secretary of State must be satisfied before granting a consent that the requirements of the Regulations as to publicity and consultation have been substantially complied with and must consider the representations of the consultation bodies and the public. Provision is also made for consent decisions by the Secretary of State to be made public.

Power is conferred on the Secretary of State to require persons proposing to carry out pipe-line works to provide further information in relation to environmental statements submitted to him and for such information to be subject to publication requirements similar to those laid down by regulation 10 (regulation 11).

Provision is made for other member States to participate in the decision making process in relation to pipe-line works likely to have a significant effect on their environment (regulation 13).

Provision is made by the Regulations for the making of applications to the court by persons challenging certain decisions of the Secretary of State. Subject to certain exceptions, provision is also made for the Secretary of State to make applications to the court to seek remedies in respect of the carrying out of pipe-line works without a consent granted in accordance with these Regulations or in breach of any conditions attached to such a consent (regulations 15, 16 and 17).

Provision is made creating offences in respect of the intentional or reckless submission of false or misleading information pursuant to the Regulations and subject to certain exceptions, the carrying out of pipe-line works without a consent granted pursuant to the Regulations or in breach of any conditions attached to such a consent (regulation 18).

Provision is made in relation to the service of notices and other documents pursuant to the Regulations (regulation 19).

Finally, regulations 4 and 5 deal with the interaction between these Regulations and the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (S.I. 1999/293) and the Environmental Assessment (Scotland) Regulations 1988 (S.I. 1988/1221) in cases where planning permission is required in respect of proposed pipe-line works by virtue of directions given under article 4 of the Town and Country Planning (General Permitted Development) Order 1995 (S.I. 1995/418) or, in Scotland, article 4 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (S.I. 1992/223).

A regulatory impact assessment is available from Oil and Gas Directorate, Department of Trade and Industry, 1 Victoria Street, London SW1H 0ET (Tel: 0171 215 5151).

Command Paper 9424 (the UNESCO Convention referred to in paragraph (f) of the definition of "sensitive area" in regulation 2(1)) is out of print but photocopies of the document can be obtained by HMSO from the British Lending Library Division (BLLD). Customers, unless already registered with BLLD, should order via HMSO (Photocopies), PO Box 276, London SW8 5DT, enclosing £5.50 per complete copy required.

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GAS

PIPE-LINES

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