

1989 No. 167

**ELECTRICITY  
PIPE-LINES**

**The Electricity and Pipe-line Works (Assessment of  
Environmental Effects) Regulations 1989**

*Made* - - - - - *6th February 1989*

*Coming into force* *9th February 1989*

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 by that section, hereby makes the following Regulations:—

**Citation, commencement, application and extent**

1.—(1) These Regulations may be cited as the Electricity and Pipe-line Works (Assessment of Environmental Effects) Regulations 1989 and shall come into force on the third day after the day on which they are made.

(2) These Regulations apply in the case of —

- (a) any application under section 2 of the Electric Lighting Act 1909(c) for consent to construct or extend a generating station on any land;
- (b) any application under section 10(b) of the Schedule to the Electric Lighting (Clauses) Act 1899(d) for consent to place an electric line other than a service line above ground;
- (c) any application under section 1 of the Pipe-lines Act 1962(e) for a pipe-line construction authorisation in respect of a pipe-line which is intended to convey oil or gas; or
- (d) any application under section 3 of the Pipe-lines Act 1962 for a pipe-line diversion authorisation in respect of a pipe-line which is or has been used to convey oil or gas,

which is received by the Secretary of State on or after the date on which these Regulations come into force.

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(a) S.I. 1988/785. (b) 1972 c.68. (c) 1909 c.34. (d) 1899 c.19, as incorporated with the Electricity Act 1947 (c.54). (e) 1962 c.58.

(3) These Regulations –

- (a) so far as they apply in relation to applications of the kind referred to in sub-paragraphs (a) and (b) of paragraph (2), extend throughout England and Wales;
- (b) so far as they apply in relation to applications of the kind referred to in sub-paragraphs (c) and (d) of paragraph (2), extend throughout Great Britain.

**Interpretation**

2.—(1) In these Regulations, unless the contrary intention appears –

“the 1899 Act” means the Electric Lighting (Clauses) Act 1899;

“the 1909 Act” means the Electric Lighting Act 1909;

“the 1962 Act” means the Pipe-Lines Act 1962;

“development” means the carrying out of building, engineering or other operations in, on, over or under land in pursuance of any application to which these Regulations apply;

“electric line” has the same meaning as in section 32 of the Electric Lighting Act 1882(a);

“environmental information” means the environmental statement prepared by the applicant, any representations made by any body required by these Regulations to be consulted, and any representations duly made by any other person about the likely environmental effects of a proposed development;

“environmental statement” means such a statement as is described in the Schedule to these Regulations;

“generating station” has the same meaning as in section 36 of the Electricity (Supply) Act 1919(b);

“local planning authority”, in relation to an application for a section 2 consent or a section 10(b) consent, has the meaning assigned to it by section 34(1A) of the Electricity Act 1957(c), and, in relation to an application for a pipe-line authorisation, has the meaning assigned to it by paragraph 8 of Schedule 1 to the 1962 Act;

“pipe-line authorisation” means a pipe-line construction authorisation under section 1 of the 1962 Act in respect of a pipe-line which is intended to convey oil or gas or a pipe-line diversion authorisation under section 3 of the 1962 Act in respect of a pipe-line which is or has been used to convey oil or gas;

“section 2 consent” means a consent under section 2 of the 1909 Act for the construction or extension of a generating station;

“section 10(b) consent” means a consent under section 10(b) of the Schedule to the 1899 Act for consent to place any electric line other than a service line above ground.

(2) Except where the context otherwise requires, in these Regulations any reference in a regulation to a paragraph is a reference to a paragraph of that regulation.

**Prohibition of grant of consent or authorisation without consideration of environmental information**

3.—(1) Subject to paragraph (2), the Secretary of State shall not grant –

- (a) a section 2 consent;
- (b) a section 10(b) consent; or
- (c) a pipe-line authorisation,

unless the Secretary of State shall first have taken the environmental information into consideration.

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(a) 1882 c.56. (b) 1919 c.100. (c) 1957 c.48; section 34(1A) was inserted by section 44(2) of the Housing and Planning Act 1986 (c.63).

(2) In relation to –

- (a) an application for consent falling within paragraph (1)(a) to construct a non-nuclear generating station with a heat output of less than 300 megawatts, or to extend a non-nuclear generating station which, after completion of the works of extension, will have a heat output of less than 300 megawatts; or
- (b) an application for consent or authorisation falling within paragraph (1)(b) or (1)(c),

an environmental statement shall be required only where, in relation to the application, the Secretary of State determines that in his opinion the proposed development would be likely to have significant effects on the environment by virtue of factors such as its nature, size or location.

#### **Opinion of Secretary of State in advance of application**

4.—(1) A person who is minded to apply –

- (a) for a section 2 consent falling within subparagraph (a) of regulation 3(2) above;
- (b) for a section 10(b) consent; or
- (c) for a pipe-line authorisation,

may make a written request to the Secretary of State for his opinion as to whether, in relation to the application, the Secretary of State would wish to take an environmental statement into account.

(2) A request made pursuant to paragraph (1) shall be accompanied by –

- (a) a plan sufficient to identify the land the subject of the proposed application;
- (b) a brief description of the nature and purpose of the proposed development and of its possible effects on the environment;
- (c) such further information or representations as the person making the request may wish to provide or make.

(3) The Secretary of State, on receiving a request under paragraph (1) shall, if he considers that he has not been provided with sufficient information to give an opinion on the questions raised, notify the person making the request of the particular points on which he requires further information.

(4) When the Secretary of State considers that he has sufficient information he shall consult the local planning authority within whose area the land the subject of the proposed application is situated, unless the person making the request under paragraph (1) has already conveyed the authority's views to the Secretary of State.

(5) A local planning authority shall give its views to the Secretary of State within three weeks of the date on which it was consulted under paragraph (4).

(6) The Secretary of State shall respond to a request under paragraph (1) within three weeks of 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);
- (c) the receipt by him of the views of the local planning authority under paragraph (4),

or within such longer period as may be agreed in writing with the person making the request.

(7) Where the Secretary of State expresses an opinion to the effect that an environmental statement is required, the Secretary of State shall provide with the opinion a written statement giving his full reasons for his conclusion.

#### **Application made without statement**

- 5.—(1) Where an application is made to the Secretary of State –
- (a) for any section 2 consent not falling within paragraph (a) of regulation 3(2) above; or
  - (b) for any section 2 consent falling within the said paragraph (a) or for any section 10(b) consent, in a case where the Secretary of State determines that consideration of an environmental statement is required,

but the application is not accompanied by an environmental statement, the Secretary of State shall, within three weeks beginning with the date of receipt of the application, or such longer period as the Secretary of State may agree with the applicant in writing, notify the applicant in writing that the submission of an environmental statement is required, giving his full reasons for his view.

(2) Where an application is made to the Secretary of State for a pipe-line authorisation, and –

- (a) the application is not accompanied by an environmental statement;
- (b) the Secretary of State determines that consideration of an environmental statement is required; and
- (c) the Secretary of State gives notice to the applicant under paragraph 2 of Schedule 1 to the 1962 Act that the application is to be allowed to proceed,

the Secretary of State shall also notify the applicant in writing that the submission of an environmental statement is required, giving his full reasons for his view.

(3) The applicant may within three weeks beginning with the date of notification mentioned in paragraph (1) or paragraph (2) write to the Secretary of State to inform him that he proposes to provide an environmental statement.

(4) If the applicant takes no action in accordance with paragraph (3) the consent or authorisation sought shall be deemed to be refused at the end of the three week period.

#### **Publicity where an application is accompanied by an environmental statement**

- 6.—(1) In any case where an applicant for—
- (a) a section 2 consent; or
  - (b) a section 10(b) consent,

has provided the Secretary of State with an environmental statement, the applicant shall publish in two successive weeks in one or more newspapers circulating in the locality in which the land to which the application relates is situated a notice containing the information specified in paragraph (3).

(2) In any case where –

- (a) an applicant for a pipe-line authorisation has provided the Secretary of State with an environmental statement; and
- (b) the Secretary of State has notified the applicant that the application is to be allowed to proceed,

the applicant shall include in the notices which he is required to publish and serve under paragraph 3 of Schedule 1 to the 1962 Act the information specified in paragraph (3):

(3) A notice to which paragraph (1) or (2) applies –

- (a) shall describe the application in question and state that it is accompanied by an environmental statement;
- (b) shall give an address in the locality in which the land to which the application relates is situated at which copies of the environmental statement may be obtained, shall state that a copy may be obtained there while stocks last and, if a charge is to be made for a copy of the environmental statement, shall specify the amount of the charge.

(4) A notice under paragraph (1) of this regulation may be combined with any other notice which the applicant may be required to publish in respect of his application.

(5) In a case to which this regulation applies, the applicant shall ensure that a reasonable number of copies of the statement is available at the address specified pursuant to paragraph (3)(b) as the address at which such copies may be obtained.

#### **Charges**

7. A reasonable charge reflecting printing and distribution costs may be made to a member of the public for a copy of an environmental statement made available in accordance with regulation 6.

#### **Further information and evidence respecting environmental statements.**

8.—(1) The Secretary of State, when dealing with an application in relation to which an environmental statement has been provided, may in writing require the applicant to provide such further information as may be specified concerning any matter which is required to be, or may be, dealt with in the environmental statement.

(2) The Secretary of State may in writing require an applicant to produce such evidence as he may reasonably call for to verify any information in the applicant's environmental statement.

Dated 6th February 1989

*Cecil Parkinson*  
Secretary of State for Energy

## SCHEDULE

## Regulation 2

1. An environmental statement comprises a document or series of documents providing, for the purpose of assessing the likely impact upon the environment of the development proposed to be carried out, the information specified in paragraph 2 below (referred to in this Schedule as "the specified information").

2. The specified information is –

- (a) a description of the development proposed, comprising information about the site and the design and size or scale of the development;
- (b) the data necessary to identify and assess the main effects which that development is likely to have on the environment;
- (c) a description of the likely significant effects, direct and indirect, on the environment of the development, explained by reference to its possible impact on –

human beings;

flora;

fauna;

soil;

water;

air;

climate;

the landscape;

the inter-action between any of the foregoing;

material assets;

the cultural heritage;

- (d) where significant effects are identified with respect to any of the foregoing, a description of the measures envisaged in order to avoid, reduce or remedy those effects; and
- (e) a summary in non-technical language of the information specified above.

3. An environmental statement may include, by way of explanation or amplification of any specified information, further information on any of the following matters –

- (a) the physical characteristics of the proposed development, and the land-use requirements during the construction and operational phases;
- (b) the main characteristics of the production processes proposed, including the nature and quality of the materials to be used;
- (c) the estimated type and quantity of any expected residues and emissions (including pollutants of water, air or soil, and including noise, vibration, light, heat and radiation) resulting from the proposed development when in operation;
- (d) (in outline) the main alternatives (if any) studied by the applicant and an indication of the main reasons for choosing the development proposed, taking into account the environmental effects;
- (e) the likely significant direct and indirect effects on the environment of the development proposed which may result from –
  - (i) the use of natural resources;
  - (ii) any emission of pollutants, creation of nuisances, or elimination of waste;
- (f) the forecasting methods used to assess any effects on the environment about which information is given under sub-paragraph (e); and
- (g) any difficulties, such as technical deficiencies or lack of know-how, encountered in compiling any specified information.

In sub-paragraph (e), "effects" includes secondary, cumulative, short, medium and long term, permanent, temporary, positive and negative effects.

4. Where further information is included in an environmental statement pursuant to paragraph 3 above, a non-technical summary of that information shall also be provided.

## EXPLANATORY NOTE

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

These Regulations are concerned with the implementation of Council Directive 85/337/EEC (OJ No. L175, 5.7.85, p.40) on the assessment of the effects of certain public and private projects on the environment.

The Regulations impose new procedural requirements in connection with the consideration of applications for consent for the construction or extension of generating stations or for the placing of electric lines in England and Wales, and in connection with the consideration of applications for authorisations to construct or divert an oil or gas pipe-line on land in Great Britain.

By regulation 3, the Secretary of State must not grant an application for the construction or extension of a nuclear generating station, or an application for the construction or extension of a non-nuclear generating station which will result in a station with a heat output of 300 megawatts or more, unless the Secretary of State has taken into consideration the environmental information (as defined in regulation 2); this includes a statement by the applicant of the likely significant effects on the environment of the proposed development. Such a statement ("an environmental statement") must conform with the Schedule to the Regulations. In the case of an application for consent to construct or extend a non-nuclear generating station with a heat output of less than 300 megawatts, an application for consent to place an overhead line or an application for consent to construct or divert a pipe-line on land, an environmental statement will only be required where the Secretary of State determines that in his opinion the proposed development would be likely to have significant effects on the environment by virtue of factors such as its nature, size or location. The Regulations apply to applications received by the Secretary of State on or after the date on which the Regulations come into force.

Persons proposing to apply for consents or authorisations to which the Regulations apply may ask the Secretary of State for his opinion whether he would wish to take an environmental statement into account. The Secretary of State is required to consult the local planning authority before giving such an opinion. Regulation 5 deals with the position where an application is submitted without an environmental statement and the Secretary of State determines that one is required.

The remaining regulations deal with publicity, charges and requests for further information.