

2000 No. 1928

PIPE-LINES

**The Pipe-line Works (Environmental Impact Assessment)
Regulations 2000**

<i>Made</i> - - - -	<i>17th July 2000</i>
<i>Laid before Parliament</i>	<i>20th July 2000</i>
<i>Coming into force</i>	<i>1st September 2000</i>

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, application, transitional provisions and saving

1.—(1) These Regulations may be cited as the Pipe-line Works (Environmental Impact Assessment) Regulations 2000 and shall come into force on 1st September 2000.

(2) These Regulations apply to any EIA application received by the Secretary of State after the coming into force of these Regulations.

(3) Notwithstanding their revocation by the Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2000(c), the Electricity and Pipe-line Works (Assessment of Environmental Effects) Regulations 1990(d) shall continue to apply to any application under section 1 of the 1962 Act in respect of a pipe-line which is intended to convey oil or gas which is received by the Secretary of State before the coming into force of these Regulations.

Interpretation

2. In these Regulations—

“the 1962 Act” means the Pipe-lines Act 1962(e);

“applicant” means a person making an EIA application, and “prospective applicant” shall be construed accordingly;

(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).

(c) S.I. 2000/1927.

(d) S.I. 1990/442, amended by S.I. 1996/422, 1997/629, 1999/416.

(e) 1962 c. 58.

“appropriate particulars” means—

- (a) the name and address of the applicant or prospective applicant;
- (b) a plan sufficient to identify the relevant pipe-line works and the land in which the relevant pipe-line works are to be carried out; and
- (c) a brief description of the nature and purpose of the relevant pipe-line works and what the applicant or prospective applicant considers to be likely to be their main effects on the environment;

“business day” means any day except a Saturday, a Sunday, Christmas Day, Good Friday or a bank holiday in any part of the United Kingdom by virtue of the Banking and Financial Dealings Act 1971 **(a)**;

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

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

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

“contravention” includes a failure to comply;

“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 **(h)** as adjusted by the Protocol signed at Brussels on 17th March 1993 **(i)**;

“EIA application” means an application for a pipe-line construction authorisation in respect of relevant pipe-line works;

“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;

“environmental statement” means a statement prepared in respect of relevant 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 applicant 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;

(a) 1971. c. 80.

(b) 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 and as amended by S.I. 1999/416.

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

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

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

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

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

(h) Cm 2073.

(i) Cm 2183.

- (iv) an outline of the main alternatives studied by the applicant 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;

“the Gazette” has the same meaning as in paragraph 3(2) of the First Schedule to the 1962 Act;

“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(a);

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

“pipe-line” means a pipe-line within the meaning of section 65 of the 1962 Act the purpose of which is the conveyance of oil, gas or chemicals;

“pipe-line construction authorisation” means an authorisation for the construction of a cross-country pipe-line granted under section 1(1) of the 1962 Act;

“pipe-line works” means the carrying out of building, engineering or other operations in land for the construction of a pipe-line;

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

“public notice period” means, in relation to an application for a pipe-line construction authorisation, the period stated in the notices required to be published by the applicant under paragraph 3 of the First Schedule to the 1962 Act within which objections to the application can be sent to the Secretary of State;

“relevant planning authority” means, in the case of relevant pipe-line works, each local planning authority or planning authority within whose area any of the works are proposed to be carried out;

“relevant pipe-line works” means pipe-line works to which section 1(1) of the 1962 Act applies in respect of either any pipe-line which is intended to convey oil or gas or any pipe-line exceeding 40 kilometres in length and 800 millimetres in diameter which is intended to convey chemicals.

Grant of pipe-line construction authorisation by Secretary of State in respect of relevant pipe-line works

3.—(1) The Secretary of State shall not grant a pipe-line construction authorisation in respect of relevant pipe-line works unless—

- (a) the applicant submits to the Secretary of State an environmental statement in respect of the relevant pipe-line works in question; or
- (b) the EIA application in question is the subject of a direction given under regulation 4 below.

(2) Where an environmental statement is submitted to the Secretary of State in connection with an EIA application, the Secretary of State shall not grant a pipe-line construction authorisation in respect of the relevant pipe-line works to which that application relates unless he—

- (a) is satisfied that the requirements of regulations 7 and 8 below, as appropriate, have been substantially complied with; and
- (b) has taken into consideration—
 - (i) the environmental statement;
 - (ii) any information in respect of the relevant pipe-line works of the kind referred to in regulation 8(2) below;

(a) 1990 c. 8.
(b) 1994 c. 39.

- (iii) any representations in respect of the relevant pipe-line works made by any person to whom a copy of the environmental statement was required to be sent pursuant to these Regulations; and
- (iv) any opinions expressed by the public.

(3) In any case where another EEA State has requested as described in regulation 10(2) below to participate in the procedure under these Regulations in relation to an EIA application, the Secretary of State shall not grant a pipe-line construction authorisation for the relevant pipe-line works the subject of that application unless he—

- (a) is satisfied that the requirements of regulation 10(1) and (2) below have been complied with;
- (b) has communicated to that EEA State the response that he proposes to make to the EIA application in question (including information as to any measures envisaged to reduce or eliminate any possible significant effects of the relevant pipe-line works concerned on the environment of the other EEA State);
- (c) is satisfied that—
 - (i) the EEA State concerned has been consulted regarding the relevant pipe-line works for such reasonable period as may have been agreed with such EEA State pursuant to regulation 10(2)(b) below and in particular that it has been afforded a reasonable opportunity to make representations regarding the relevant pipe-line works and the proposed response referred to in sub-paragraph (b) above; and
 - (ii) an opportunity has been afforded to the public in that EEA State and to those authorities which by reason of their particular environmental responsibilities in that EEA State are likely to be interested in the relevant pipe-line works to forward to the Secretary of State within a reasonable time representations regarding the documents and information referred to in regulation 10(1) and (2)(a) below; and
- (d) has taken into consideration any representations made by the EEA State, members of the public and authorities in that EEA State and any information regarding the relevant pipe-line works supplied by any of them.

(4) In any case where an environmental statement is submitted to the Secretary of State in connection with an EIA application, the Secretary of State shall—

- (a) notify the applicant, any EEA State which has been sent a copy of the environmental statement pursuant to regulation 10 below and such other persons as the Secretary of State considers appropriate, of his decision in relation to the EIA application; and
- (b) provide to such persons together with the notification mentioned in sub-paragraph (a) above a statement setting out—
 - (i) the content of the decision and, where applicable, any conditions to which the carrying out of the relevant pipe-line works is to be subject;
 - (ii) the main reasons and considerations upon which the decision is based;
 - (iii) a description, where necessary, of the main measures required to be taken to avoid, reduce and, if possible, offset the major adverse effects of the relevant pipe-line works.

(5) The applicant for the pipe-line construction authorisation in question 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 in one or more local newspapers circulating in each area in which the relevant pipe-line works would be carried out a notice which—

- (a) sets out the decision and any conditions to which the carrying out of the relevant pipe-line works is to be subject;
- (b) gives 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 states 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 applicant 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 applicant 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 no later than 7 days after the date of publication of those newspapers.

Directions that no environmental statement need be prepared

4.—(1) Where—

- (a) a prospective applicant makes an application containing the appropriate particulars to the Secretary of State for him to exercise the power conferred by this paragraph (1); and
- (b) the Secretary of State is satisfied that either—
 - (i) the carrying out of the relevant pipe-line works described in that application; or
 - (ii) the carrying out of the relevant pipe-line works as modified or carried out in a particular way or carried out at a particular time,

is not likely to have a significant effect on the environment, he may, subject to paragraph (4) below, give a direction that any EIA application made while the direction remains in force in respect of those relevant pipe-line works or those relevant pipe-line works as modified or to be carried out in the manner or at the time specified in the direction need not be accompanied by an environmental statement.

(2) In deciding whether or not to give a direction under paragraph (1) above, the Secretary of State shall consult the relevant planning authority and take into consideration such of the matters set out in Schedule 2 to these Regulations as appear to him to be relevant.

(3) A prospective applicant shall provide to the Secretary of State such further information in relation to an application made by him under paragraph (1)(a) above as the Secretary of State may require.

(4) No direction shall be given under paragraph (1) above in respect of any application for a pipe-line construction authorisation—

- (a) for the execution of works for the construction of a pipe-line of more than 40 kilometres in length and of more than 800 millimetres in diameter; or
- (b) in respect of which another EEA State has requested to participate in the procedure as described in regulation 10(2) below.

(5) Any direction given under this regulation shall remain in force for 12 months (or such shorter period as may be specified in the direction) from the date on which it was given.

(6) The Secretary of State shall give notice to the prospective applicant concerned of his decision in relation to any application made under this regulation.

(7) The Secretary of State shall publish in the Gazette notice of every direction given by him under this regulation.

Pre-application opinion by the Secretary of State as to content of environmental statement

5.—(1) This regulation applies where a prospective applicant 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 an environmental statement in respect of the relevant pipe-line works referred to in the request.

(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 relevant 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 relevant pipe-line works; and
 - (iv) the extent to which it is reasonable to require the prospective applicant who has made the request under paragraph (1) above to compile the information referred to in that paragraph, having regard, inter alia, to current knowledge and methods of assessment; and

(b) consulted the prospective applicant and the consultation bodies.

(3) Where the Secretary of State, having received a request under paragraph (1) above, 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, he shall notify the prospective applicant of the particular points on which he requires further information.

(4) The prospective applicant making the request under paragraph (1) above 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) The prospective applicant and the consultation bodies shall communicate their views (if any) on the consultation carried out by the Secretary of State under paragraph (2)(b) above no later than four weeks after the date on which they were consulted.

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

- (a) the date of receipt by him of further information pursuant to a notice under paragraph (3) above; or
- (b) the expiry of the period for the prospective applicant 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 prospective applicant and all the consultation bodies consulted under paragraph (2)(b) above,

or by such later date as may be agreed in writing between him and the prospective applicant.

(7) An opinion given by the Secretary of State under paragraph (2) above shall be without prejudice to the power of the Secretary of State to request further information under regulation 8 below.

Provision of information

6.—(1) This regulation applies where a prospective applicant makes a request to the Secretary of State accompanied by the appropriate particulars for the provision to him of any information which—

- (a) would assist him in the preparation of an environmental statement in respect of the relevant pipe-line works referred to in the appropriate particulars; and
- (b) but for the provisions of this paragraph, could not readily be obtained by him.

(2) Where the Secretary of State receives a request under paragraph (1) above, he shall—

- (a) provide to the prospective applicant the name and address of any consultation body which he considers may have any information of the kind referred to in paragraph (1) above; and
- (b) at the same time as he provides the name and address of any consultation body to the prospective applicant, serve on that body a notice which—
 - (i) states that he has provided the name and address of the consultation body to the prospective applicant;
 - (ii) refers to the duty imposed on the consultation body concerned by paragraph (3) below; and
 - (iii) is accompanied by a copy of the request made under paragraph (1) above.

(3) Any consultation body on which a notice in accordance with paragraph (2) above has been served shall, if so requested in writing by the prospective applicant, enter into consultation with him to determine whether the body has in its possession any information which it or the prospective applicant considers is of the kind referred to in paragraph (1) above, and if it has such information, the body shall, subject to paragraphs (4) and (5) below, make it available to the prospective applicant.

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

(5) 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

7.—(1) In any case where an environmental statement has been submitted to the Secretary of State in connection with an EIA application and the Secretary of State has notified the applicant that the application is to be allowed to proceed, the following provisions of this regulation shall apply.

(2) The Secretary of State shall serve on the applicant concerned a notice specifying those persons on whom the applicant is to serve the documents referred to in paragraph (3) below, which persons shall include—

- (a) the consultation bodies; and
- (b) any other persons on whom environmental responsibilities are conferred by or under any enactment other than these Regulations who in the opinion of the Secretary of State are likely to be interested in the particular relevant pipe-line works.

(3) The applicant shall serve on each person notified to him under paragraph (2) above—

- (a) a copy of the EIA application in question (excluding any material which the applicant is not entitled to make available for public inspection or which the Secretary of State has agreed should not be made available for public inspection) and any plan submitted with it (unless he has already served those documents on the person concerned);
- (b) a copy of the environmental statement submitted in connection with the application; and
- (c) 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 environmental statement was served on the person concerned,

and he shall notify the Secretary of State of the name of every person he has served under this paragraph, and of the dates of such service, in each case no later than 7 days after such date.

(4) The applicant shall—

- (a) ensure that any notice which he is required to publish or serve under paragraph 3 of the First Schedule to the 1962 Act satisfies the requirements of paragraph (5) below;
- (b) make available for public inspection at an address in the locality in which the land to which the application relates is situated between the hours of 10 a.m. and 4 p.m. on business days during the public notice period a copy of—
 - (i) the application and any plan submitted with it (excluding any material which the applicant is not entitled to make available for public inspection or which the Secretary of State has agreed should not be made available for public inspection); and
 - (ii) the environmental statement which accompanied it;
- (c) make available at an address (whether or not the same as that referred to in sub-paragraph (b) above) in the locality in which the land to which the application relates is situated enough copies of the environmental statement to be likely to satisfy all reasonable demands for copies pursuant to sub-paragraph (d) below; and
- (d) subject to sub-paragraph (c) above and to the receipt by the applicant of any payment specified in accordance with paragraph (5)(d) below, supply during the public notice period to any person on request a copy of the environmental statement.

(5) A notice to which paragraph (4)(a) above applies, shall—

- (a) describe the application in question and state that it is accompanied by an environmental statement;
- (b) state that a copy of the application, any plan submitted with it and the environmental statement may be inspected by members of the public;
- (c) give the address referred to in paragraph (4)(b) above at which the copy documents referred to in that paragraph may be inspected and the dates and times when they will be available for inspection; and
- (d) give the address referred to in paragraph (4)(c) above at which copies of the environmental statement may be obtained and state that copies of the environmental statement may be obtained there, specifying, subject to regulation 9 below, the amount of any payment required to be tendered for the statement.

(6) The applicant shall provide the Secretary of State with copies of each of the newspapers and the Gazette in which the notices referred to in paragraph (4)(a) above appeared, in each case no later than 7 days after the date of publication of those newspapers and the Gazette.

Further information and evidence respecting environmental statements

8.—(1) Where the Secretary of State has been provided with an environmental statement in connection with an EIA application, he may in writing require the applicant concerned to provide such further information as he may specify, including such evidence as he may reasonably require in support of anything contained in such statement.

(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 applicant 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 applicant shall serve a copy of the further information on any person on whom the environmental statement was required to be served under regulation 7(3)(b) above, together with a notice referring to the material previously served on that person 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 that person and the applicant shall notify the Secretary of State of the name of every such person on whom he has served those documents and the date of such service.

(4) The applicant shall make available to the public copies of the EIA application, the environmental statement and the further information in the same way as the applicant 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 applicant shall publish in two successive weeks in one or more local newspapers circulating in each area in which the relevant 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;
- (c) giving the address and times 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 9 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 applicant shall also publish a copy of the notice referred to in paragraph (5) above in the Gazette.

(7) The applicant shall provide the Secretary of State with copies of each of the newspapers and the Gazette 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 the Gazette.

Charges

9. An applicant may make the supply, in accordance with regulations 7(4)(d) and 8(4) above, to any person of a copy of an environmental statement or any further information conditional on the receipt by the applicant, 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 EEA States

10.—(1) Where an environmental statement is submitted to the Secretary of State in connection with an EIA application, he receives an application pursuant to regulation 4(1)(a) above or gives an opinion pursuant to regulation 5(2) above and—

- (a) it appears to him that the relevant pipe-line works in question are likely to have significant effects on the environment of another EEA State; or
- (b) another EEA State which considers its environment is likely to be significantly affected by such works so requests,

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

- (i) a description of the relevant pipe-line works, together with any available information on the possible significant effects of the relevant pipe-line works on the environment of the other EEA 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 relevant pipe-line works and informing the EEA 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 EEA State requests to participate in the procedure under these Regulations in relation to particular relevant pipe-line works, the Secretary of State shall—

- (a) save to the extent that he has not already done so, send that EEA State—
 - (i) a copy of the EIA application (excluding any material which the applicant is not entitled to make available for public inspection or which the Secretary of State has agreed should not be made available for public inspection) and any plan submitted with it;
 - (ii) the environmental statement in respect of the relevant 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 (3) below, any other available information which is relevant to the procedure under these Regulations; and
- (b) enter into consultations with the EEA State concerned, for such reasonable period as may have been agreed with that EEA State, regarding, inter alia, the possible significant effects of the relevant pipe-line works on the environment of that EEA State and the measures envisaged to reduce or eliminate such effects.

(3) Nothing in this regulation shall require the disclosure by the Secretary of State of any material which is subject to an obligation of confidentiality under the law of any part of Great Britain.

Applications to court

11.—(1) Subject to paragraph (2) below, for the purposes of regulations 12 and 13 below, the expression “the court” means—

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

(2) Where any relevant pipe-line works are carried out or are to be carried out in both England and Wales and Scotland, then the High Court and the Court of Session shall both have jurisdiction in relation to any application under regulation 12 or 13 below.

Application to court by person aggrieved

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

- (a) the grant of a pipe-line construction authorisation in respect of relevant pipe-line works, or
- (b) the attaching by the Secretary of State, for reasons arising from his consideration of the environmental statement submitted by the applicant, of a condition to the permission deemed to be granted in respect of relevant pipe-line works under a direction by the Secretary of State under section 5 of the 1962 Act,

the court may grant an order quashing the authorisation or, as the case may be, the condition where it is satisfied that the authorisation was granted or the condition attached, as the case may be, in contravention of regulation 3(2)(b) above or that the interests of the person applying to the court have been substantially prejudiced by any contravention of 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 applicant of details of the Secretary of State's decision in respect of the EIA application in question in accordance with regulation 3(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 authorisation or, as the case may be, any condition of the kind referred to in paragraph (1)(b) above on such terms as it may think fit.

Application to the court by Secretary of State

13.—(1) Subject to paragraph (3) below, where an applicant carries out relevant pipe-line works in breach of a condition of the kind referred to in regulation 12(1)(b) above the court may, on the application of the Secretary of State, make an order restraining the applicant from proceeding or continuing with the works or compelling him to the performance of any act required of him by any such condition.

(2) 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-lines, structures or other things placed in land as a result of the carrying out of any relevant pipe-line works;
- (b) where it so orders such removal, 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 condition of the kind referred to in regulation 12(1)(b) above where it is satisfied that—

- (a) the breach in question was due to circumstances beyond the control of the applicant and the breach could not reasonably have been prevented by him; 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 applicant 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 applicant.

(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 applicant's failure to comply with the order.

Offences

14.—(1) 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, an applicant who intentionally contravenes a condition of the kind referred to in regulation 12(1)(b) above shall be guilty of an offence.

(3) It shall be a defence to a charge under paragraph (2) above for the applicant 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

15.—(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 paragraph (5) 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.

17th July 2000

Helen Liddell,
Minister for Energy and Competitiveness in Europe,
Department of Trade and Industry

SCHEDULE 1

Regulation 2—definition of
“environmental statement”

INFORMATION TO BE INCLUDED IN AN ENVIRONMENTAL STATEMENT

1. A 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 applicant in compiling the required information.

SCHEDULE 2

Regulation 4(2)

MATTERS TO BE TAKEN INTO ACCOUNT IN GIVING A DIRECTION UNDER
REGULATION 4(1)

1. Characteristics of proposed pipe-line works

The characteristics of proposed pipe-line works 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.

2. Location of proposed pipe-line works

The environmental sensitivity of geographical areas likely to be affected by proposed pipe-line works, 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 of 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.

3. Characteristics of the potential impact

The potential significant effects of proposed pipe-line works in relation to criteria set out under paragraphs 1 and 2 above, 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.

^(a) O.J. No. L 103, 25.4.1979, p. 1.
^(b) O.J. No. L 206, 22.7.1992, p.7.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations 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 authorisations for the construction of oil, gas or chemical pipe-lines on land in Great Britain.

The Electricity and Pipe-line Works (Assessment of Environmental Effects) Regulations 1990 (S.I. 1990/442) (to which there are amendments not relevant to these Regulations) implemented Directive 85/337/EEC in its unamended form insofar as it related both to authorisations under the Pipe-lines Act 1962 in respect of pipe-line works and to certain consents required under the Electricity Act 1989 (c. 29). The 1990 Regulations are revoked by the Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2000 (S.I. 2000/1927) which re-enact the provisions of the 1990 Regulations in respect of electricity consents with the amendments necessary to implement Directive 97/11/EC. These Regulations make separate provision for pipe-line works requiring the authorisation of the Secretary of State under the Pipe-lines Act 1962 and implement Directive 85/337/EEC, as amended by Directive 97/11/EC.

Notwithstanding the revocation of the 1990 Regulations by the Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2000, these Regulations make provision for the 1990 Regulations to continue to apply to any relevant application for an authorisation under the Pipe-lines Act 1962 which was received before these Regulations came into force (regulation 1(3)).

Directive 85/337/EEC, as amended by Directive 97/11/EC, applies to the European Economic Area ("EEA") (see Article 74 of, and 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)) with the result that member States of the EEA are given rights to participate in the decision making process in respect of projects likely to have significant trans-boundary effects (regulation 10).

Provision is made requiring applications for authorisation for the construction of certain pipe-lines to be accompanied by an environmental statement (regulation 3). (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. The matters to be covered by an environmental statement are specified in regulation 2(1) and Schedule 1.) The relevant applications are those in respect of pipe-lines of more than 40 kilometres in length and more than 800 millimetres in diameter which carry oil, gas or chemicals (for which an environmental statement is mandatory) or any other pipe-line requiring authorisation which carries either oil or gas.

Provision is made, in respect of those cases where an environmental statement is not mandatory, for the Secretary of State, where he is satisfied that the pipe-line works in question will not have a significant effect on the environment, to direct that an application need not be accompanied by an environmental statement (regulation 4). The applicant is required to submit particulars of the pipe-line works in question for consideration by the Secretary of State, who must consult the relevant planning authorities before giving a direction. Provision is made for copies of directions by the Secretary of State as to the need for an environmental statement to be made available to the public.

Where an application is accompanied by an environmental statement, the Secretary of State must be satisfied before granting an authorisation that the requirements of the Regulations as to publicity and consultation have been substantially complied with and must consider any representations by environmental bodies interested in the works by reason of their environmental responsibilities and any representations by the public (regulation 3). Provision is also made for decisions by the Secretary of State in respect of authorisations to be made public.

Provision is made requiring the Secretary of State, when so requested, to give a preliminary opinion to an applicant as to the information to be included in an environmental statement which the applicant is to submit (regulation 5). The Secretary of State is required to consult certain

public bodies (defined in regulation 2(1) as “the consultation bodies”) and the applicant before giving an opinion.

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 6).

The Regulations also lay down requirements for publicity for and public consultation on the environmental statement and the application for authorisation (regulation 7). 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 7 (regulation 8).

Provision is made for other EEA 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 10).

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 in breach of any conditions imposed to protect the environment (regulations 11, 12 and 13).

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 in breach of any conditions imposed to protect the environment (regulation 14).

Provision is made in relation to the service of notices and other documents pursuant to the Regulations (regulation 15).

A regulatory impact assessment has been prepared in relation to these Regulations. It has been placed in the Library of each House of Parliament and copies are available from Oil and Gas Directorate, Department of Trade and Industry, 1 Victoria Street, London SW1H 0ET (Tel: 020 7215 5151).

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