

2007 No. 1992

GAS

PIPE-LINES

**The Pipe-line Works (Environmental Impact Assessment)
(Amendment) Regulations 2007**

<i>Made</i>	- - - -	<i>9th July 2007</i>
<i>Laid before Parliament</i>		<i>12th July 2007</i>
<i>Coming into force</i>	- -	<i>20th August 2007</i>

The Secretary of State has been designated for the purposes of section 2(2) of the European Communities Act 1972(a) 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(b).

In exercise of the powers conferred upon him by section 2(2) of that Act, he makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Pipe-line Works (Environmental Impact Assessment) (Amendment) Regulations 2007 and shall come into force on 20th August 2007.

Interpretation

2. In these Regulations “the 2000 Regulations” means the Pipe-line Works (Environmental Impact Assessment) Regulations 2000(c).

Amendment of the 2000 Regulations

3. The 2000 Regulations are amended as follows.

4. In regulation 2 (Interpretation)—

(a) before the definition of “applicant”, insert—

““additional information” means information which—

(a) is made available to the Secretary of State—

(a) 1972 c. 68; section 2 is amended by section 27(1) of the Legislative and Regulatory Reform Act 2006 (c. 51).

(b) SI 1988/785, to which there is an amendment not relevant to these Regulations.

(c) SI 2000/1928; amended by section 73(2) of the Countryside and Rights of Way Act 2000 (c. 37). Certain functions under the 2000 Regulations are transferred, in so far as they are exercisable in or as regards Scotland, to the Scottish Ministers, by regulation 3 of, and Schedule 2 to, the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) (No 2) Order 2000 (SI 2000/3253); that Order was made under sections 30(3), 63, 113 and 124(2) of the Scotland Act 1998 (c. 46).

- (i) after the date on which the EIA application, accompanied by the environmental statement, is received by the Secretary of State; and
- (ii) before his decision on whether to grant a pipe-line construction authorisation pursuant to regulation 3(2) or (3) below;
- (b) is of material relevance to the environmental statement; and
- (c) is not further information or supplementary information;”;
- (b) in the definition of “the consultation bodies”, after sub-paragraph (d), insert—
 - “and
 - (e) any other body designated by statutory provision as having specific environmental responsibilities which the Secretary of State considers is likely to have an interest in the pipe-line works in question;”;
- (c) for the definition of “EEA State” substitute—
 - ““EEA State” means a member State, Norway, Iceland or Liechtenstein;”;
- (d) before the definition of “the Gazette”, insert—
 - ““further information” is to be construed in accordance with regulation 8(1);”;
- (e) for the definition of “relevant pipe-line works” substitute—
 - ““relevant pipe-line works” means pipe-line works to which section 1(1) of the 1962 Act applies in respect of—
 - (a) any pipe-line which is intended to convey oil or gas;
 - (b) any pipe-line exceeding 40 kilometres in length and 800 millimetres in diameter which is intended to convey chemicals; or
 - (c) any extension to a pipe-line which would in itself fall within sub-paragraph (b) above; and”;
- (f) after the definition of “relevant pipe-line works”, insert—
 - ““supplementary information” means information which is—
 - (a) provided to the Secretary of State by the applicant in order to supplement the environmental statement; and
 - (b) submitted to the Secretary of State no later than 14 days after the date of receipt by the Secretary of State of the environmental statement.”.

5. In regulation 3 (Grant of pipe-line construction authorisation by Secretary of State in respect of relevant pipe-line works)—

- (a) in paragraph (2)—
 - (i) in sub-paragraph (a), for “regulations 7 and 8 below” substitute “regulations 7, 8 and 8A below”;
 - (ii) in sub-paragraph (b), for paragraphs (i) and (ii) substitute—
 - “(i) the environmental statement and any supplementary information;
 - (ii) any further information or additional information;”;
- (b) in paragraph (4), for sub-paragraphs (a) and (b) substitute—
 - “(a) notify the applicant, the consultation bodies specified in the notice given pursuant to regulation 7(2) below, and any EEA State which has been sent a copy of the environmental statement pursuant to regulation 10 below, 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) a summary of the main concerns and opinions expressed by the persons affected or likely to be affected by, or having an interest in, the decision;
- (iii) the main reasons and considerations upon which the decision is based;
- (iv) 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; and
- (v) an explanation of the right of a person aggrieved by a decision of the Secretary of State to make an application pursuant to regulation 12 below.”;

(c) for paragraph (5) substitute—

“(5) No later than 14 days after the date of the notification given pursuant to paragraph (4)(a) above, the applicant shall inform the public of the decision by publishing a notice containing the information specified in paragraph (5A) below—

- (a) in the Gazette; and
- (b) in one or more local newspapers circulating in each area in which the relevant pipe-line works would be carried out.”;

(d) before paragraph (6), insert—

“(5A) A notice published pursuant to paragraph (5) above shall—

- (a) set out the decision and any conditions to which the carrying out of the relevant pipe-line works is to be subject; and
- (b) give 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 state that such copies may be obtained free of charge by making a request to the applicant during a period of not less than 8 weeks immediately following the date on which the notice is to be last published pursuant to paragraph (5) above.

(5B) The applicant shall satisfy all reasonable requests for copies of the statement referred to in paragraph (4)(b) above made during the period mentioned in paragraph (5A)(b) above.”; and

(e) in paragraph (6)—

- (i) after “each of the newspapers”, insert “and the Gazette”; and
- (ii) after “publication of those newspapers”, insert “or the Gazette”.

6. For paragraph (4) of regulation 4 (Directions that no environmental statement need be prepared) substitute—

“(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 exceeding 40 kilometres in length and 800 millimetres in diameter;
- (b) for the execution of works for the extension of a pipe-line which would in itself fall within sub-paragraph (a) above; or
- (c) in respect of which another EEA State has requested as described in regulation 10(2) below to participate in the procedure under these Regulations.”.

7. In regulation 7 (Publicity for environmental statements)—

(a) for paragraph (2) substitute—

“(2) The Secretary of State shall serve on the applicant a notice specifying those consultation bodies on whom the applicant is to serve the documents referred to in paragraph (3) below.”;

(b) in paragraph (3)—

- (i) for the words above sub-paragraph (a) substitute—

“The applicant shall, as soon as is reasonably practicable after the date of the notice referred to in paragraph (2) above, serve on each consultation body specified in that notice—”;

- (ii) in sub-paragraph (b), after “environmental statement”, insert “and any supplementary information”;
- (iii) in sub-paragraph (c), after “environmental statement”, insert “and any supplementary information”;
- (c) in paragraph (4)—
 - (i) in sub-paragraph (b)(ii), after “environmental statement”, insert “and any supplementary information”;
 - (ii) in sub-paragraph (c), after “environmental statement”, insert “and any supplementary information”;
 - (iii) in sub-paragraph (d), after “environmental statement”, insert “and any supplementary information”;
- (d) in paragraph (5)—
 - (i) for sub-paragraphs (a) and (b) substitute—
 - “(a) describe the application in question, state that it is accompanied by an environmental statement and any supplementary information and, where relevant, state that it is likely to have significant effects on the environment in another EEA State;
 - (b) state that a copy of the application, any plan submitted with it, the environmental statement and any supplementary information may be inspected by members of the public;”;
 - (ii) at the end of sub-paragraph (c) omit “and”;
 - (iii) in sub-paragraph (d), after “environmental statement”, at both places at which it occurs, insert “and any supplementary information”; and
 - (iv) after sub-paragraph (d), insert—
 - “;
 - (e) state that any person wishing to make representations in relation to the application should make them in writing and send them to the Secretary of State within the public notice period, and specify the address to which any such representations should be sent;
 - (f) set out the nature of possible decisions to be taken in response to the application;
 - (g) describe the circumstances in which the Secretary of State may require a public inquiry into the application pursuant to the 1962 Act;
 - (h) be published as soon as reasonably practicable after the Secretary of State serves notice on the applicant in accordance with paragraph (2) above; and
 - (i) set out the arrangements made for consulting the public pursuant to this regulation ”.

8. In regulation 8 (Further information and evidence respecting environmental statements)—

- (a) in paragraph (1), for “including such evidence as he may reasonably require in support of anything contained in such statement” substitute—

“and such information provided by the applicant is referred to in this regulation, and regulations 2, 3 and 9, as “further information””;
- (b) in paragraph (2)—
 - (i) for “of the information provided pursuant to a requirement imposed under paragraph (1) above” substitute “further information”;
 - (ii) for “specifying the information” substitute “specifying the further information”; and
 - (iii) for “such information” substitute “such further information”;

- (c) for paragraph (3) substitute—
- “(3) The applicant shall serve a copy of the further information on those consultation bodies specified in the notice given pursuant to regulation 7(2) above, together with a notice which—
- (a) refers to the information previously served on that person; and
 - (b) states 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.”;
- (d) before paragraph (4), insert—
- “(3A) The applicant shall notify the Secretary of State of the name of every person on whom he has served the further information pursuant to paragraph (3) above, and the date of such service.”;
- (e) for paragraph (4) substitute—
- “(4) The applicant shall make available to the public copies of the EIA application, the environmental statement, any supplementary information and the further information in the same way as the applicant previously made available the application, the environmental statement, and any supplementary information for the period commencing with the date of first publication of the notice referred to in paragraph (5) below and ending with a date not less than 28 days after the date on which the notice is to be last published pursuant to that paragraph.”;
- (f) for paragraph (5) substitute—
- “(5) The applicant shall publish a notice containing the information specified in paragraph (6) below in two successive weeks—
- (a) in the Gazette; and
 - (b) in one or more local newspapers circulating in each area in which the relevant pipe-line works would be carried out.”;
- (g) for paragraph (6) substitute—
- “(6) A notice published pursuant to paragraph (5) above shall—
- (a) refer to the previous notice in respect of the application, the environmental statement and any supplementary information and state that further information has been provided;
 - (b) state that a copy of the application, the environmental statement, any supplementary information and the further information may be inspected by members of the public;
 - (c) give the address and times at which copies of the documents referred to in sub-paragraph (b) above 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 pursuant to paragraph (5) above) on which they will be available for inspection;
 - (d) give the address at which copies of the documents referred to in sub-paragraph (b) above may be obtained and state that copies of those documents may be obtained there and, where any charge is to be made pursuant to regulation 9 below for a copy of the environmental statement, any supplementary information or further information, specify the amount of any such charge; and
 - (e) state 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 pursuant to paragraph (5) above, and specify the address to which any such representations should be sent.”;
- and
- (h) in paragraph (7), for “notices referred to in paragraphs (5) and (6) above” substitute “notice referred to in paragraph (5) above”.

9. Before regulation 9, insert—

“Additional information and publicity

8A.—(1) Where additional information is received by the Secretary of State, he shall serve a copy of the additional information on the consultation bodies and either—

- (a) in any case where the additional information is provided to the Secretary of State by the applicant, notify the applicant that the information has been served on the consultation bodies; or
- (b) in any case where the additional information is provided to the Secretary of State by a person other than the applicant, serve a copy of the additional information on the applicant.

(2) Where the applicant has been notified that additional information has been served on the consultation bodies in accordance with paragraph (1)(a) above, or has been served with a copy of the additional information pursuant to paragraph (1)(b) above, the applicant shall—

- (a) publish in accordance with paragraph (4) below a notice containing the information specified in paragraph (5) below; and
- (b) serve a copy of that notice on the Secretary of State.

(3) Where the Secretary of State receives a notice which has been served on him by the applicant pursuant to paragraph (2)(b) above, he shall serve a copy of that notice on the consultation bodies.

(4) The notice referred to in paragraph (2)(a) above shall be published in two successive weeks—

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

(5) The notice referred to in paragraph (2)(a) above shall—

- (a) describe the application in question and state that the Secretary of State has received additional information;
- (b) identify the relevant planning authority on whom the Secretary of State is required to serve a copy of the additional information pursuant to paragraph (1) above;
- (c) state that the relevant planning authority identified in sub-paragraph (b) of this paragraph is required to take steps to ensure that the additional information is made available for inspection by the public at all reasonable hours;
- (d) state that requests for copies of the additional information may be sent to the Secretary of State and specify an address for that purpose;
- (e) state a date not less than four weeks after the date on which the notice is to be last published in accordance with paragraph (4) above by which any person may make representations to the Secretary of State in relation to the additional information, and specify the address to which any such representations are to be sent; and
- (f) state that the requirements set out in sub-paragraphs (b) to (d) above will also apply in respect of any additional information received by the Secretary of State after the date of the notice.

(6) Paragraphs (2) to (5) above shall not apply where a notice containing the information specified in paragraph (5) has previously been—

- (a) published by the applicant in accordance with paragraph (4); and
- (b) served on the Secretary of State pursuant to paragraph (2)(b) above.

(7) The applicant shall provide the Secretary of State with copies of each of the newspapers and Gazette in which the notice referred to in paragraph (2)(a) above appeared

in each case no later than 7 days after the date of publication of those newspapers and Gazette.

(8) The Secretary of State shall not determine the application for consent until the later of—

- (a) fourteen days after the last date on which a copy of the notice published pursuant to paragraph (2)(a) above was served by the Secretary of State in accordance with paragraph (3) above; or
- (b) the date stated in the notice pursuant to paragraph (5)(e) above.”.

10. In regulation 9 (Charges), after “a copy of an environmental statement”, insert “, any supplementary information,”.

11. In paragraph (1) of regulation 14 (Offences), for sub-paragraphs (a), (b) and (c) substitute—

- “(a) an environmental statement;
- (b) supplementary information;
- (c) appropriate particulars;
- (d) additional information; or
- (e) any information required to be submitted by virtue of any provision of these Regulations,”.

Transitional provision

12. The amendments made by regulations 3 to 11 above shall not apply in relation to any application made under the 2000 Regulations which is received by the Secretary of State prior to the coming into force of these Regulations.

9th July 2007

Malcolm Wicks
Minister of State for Energy and Sustainable Development
Department for Business, Enterprise and Regulatory Reform

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Pipe-line Works (Environmental Impact Assessment) Regulations 2000 (“the 2000 Regulations”). The 2000 Regulations implement, in relation to pipe-line installations, Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment as amended by Council Directive 97/11/EC of 3 March 1997. These Regulations implement Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003. Directive 2003/35/EC provides for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amends, with regard to public participation and access to justice, Council Directives 85/337/EEC and 96/61/EC.

Regulation 4 of these Regulations amends regulation 2 of the 2000 Regulations by inserting definitions for “additional information”, “further information” and “supplementary information”. Regulation 4 also amends the definitions of “the consultation bodies”, “EEA State” and “relevant pipe-line works”.

Regulation 5 amends regulation 3 of the 2000 Regulations. Before making a decision on whether to grant a pipe-line construction authorisation, the Secretary of State must now be satisfied that the publicity requirements relating to the environmental statement, further information and additional information have been substantially complied with and must also take into consideration such information. Regulation 3 is also amended as regards the information to be contained in the statement accompanying the Secretary of State’s decision, and the publicity requirements relating to that decision and the accompanying statement.

Regulation 6 amends regulation 4 of the 2000 Regulations by amending the circumstances in which the Secretary of State can direct that an environmental statement need not be prepared in respect of an application for a pipe-line construction authorisation.

Regulation 7 amends regulation 7 of the 2000 Regulations to reflect the new definitions of “the consultation bodies” and “supplementary information” (see regulation 4 of these Regulations). It also makes amendments as to the information to be contained in the notice to be made public where an EIA application is submitted to the Secretary of State along with an environmental statement.

Regulation 8 amends regulation 8 of the 2000 Regulations; it provides a new definition of “further information” and amends the manner in which such “further information” is to be drawn to the attention of the public.

Regulation 9 inserts a new regulation 8A into the 2000 Regulations. This sets out the procedure which the Secretary of State must follow when he receives “additional information” and the steps that the applicant must take to bring such “additional information” to the attention of the public.

Regulation 11 amends regulation 14 of the 2000 Regulations so that a person who intentionally or recklessly submits supplementary information or additional information which is false or misleading in a material particular is guilty of an offence.

An impact assessment covering changes to the pipe-line works environmental impact assessment (“EIA”) regime as well as the EIA regimes for gas transporter pipe-line works and electricity works, is available from the Energy Development Unit, Department for Business, Enterprise and Regulatory Reform, 1 Victoria Street, London SW1H 0ET.

A Transposition Note is available and can also be obtained from the Energy Development Unit, Department for Business, Enterprise and Regulatory Reform, 1 Victoria Street, London SW1H 0ET.

The impact assessment and Transposition Note are also annexed to the Explanatory Memorandum, which is available alongside the instrument on the Office of Public Sector Information website: www.opsi.gov.uk.

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